

**IMPORTANT NOTICE**

NOT FOR DISTRIBUTION TO ANY U.S. PERSON OR TO ANY PERSON OR ADDRESS IN THE U.S.

**IMPORTANT: You must read the following before continuing.** The following applies to the offering circular following this page, and you are therefore advised to read this carefully before reading, accessing or making any other use of the offering circular. In accessing the offering circular, you agree to be bound by the following terms and conditions, including any modifications to them any time you receive any information from us as a result of such access.

NOTHING IN THIS ELECTRONIC TRANSMISSION CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY THE SECURITIES OF THE ISSUER. THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE **SECURITIES ACT**), OR THE SECURITIES LAWS OR "BLUE SKY" LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES AND THEREFORE MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ANY APPLICABLE STATE OR FEDERAL SECURITIES LAWS. ACCORDINGLY, THE NOTES ARE BEING OFFERED AND SOLD OUTSIDE THE UNITED STATES TO PERSONS OTHER THAN U.S. PERSONS IN RELIANCE ON REGULATION S UNDER THE SECURITIES ACT. IN ADDITION, THE ISSUER HAS NOT BEEN REGISTERED AND DOES NOT INTEND TO REGISTER AS AN INVESTMENT COMPANY UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE **INVESTMENT COMPANY ACT**). THE NOTES ARE NOT TRANSFERABLE EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS AS DESCRIBED UNDER "*TRANSFER RESTRICTIONS*" HEREIN.

THE FOLLOWING OFFERING CIRCULAR MAY NOT BE FORWARDED OR DISTRIBUTED TO ANY OTHER PERSON AND MAY NOT BE REPRODUCED IN ANY MANNER WHATSOEVER, AND, IN PARTICULAR, MAY NOT BE FORWARDED TO ANY U.S. PERSON OR TO ANY U.S. ADDRESS. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF THE SECURITIES ACT, OR THE APPLICABLE LAWS OF OTHER JURISDICTIONS.

This offering circular has been delivered to you on the basis that you are a person into whose possession this offering circular may be lawfully delivered in accordance with the laws of the jurisdiction in which you are located. By accessing the offering circular, you shall be deemed to have confirmed and represented to us that (a) you have understood and agree to the terms set out herein, (b) you consent to delivery of the offering circular by electronic transmission, (c) you are not a U.S. person (within the meaning of Regulation S under the Securities Act) or acting for the account or benefit of a U.S. person and the electronic mail address that you have given to us and to which this email has been delivered is not located in the United States, its territories and possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands) or the District of Columbia and (d) if you are a person in the United Kingdom, then you are a person who (i) has professional experience in matters relating to investments or (ii) is a high net worth entity falling within Articles 49(2)(a) to (d) of the Financial Services and Markets Act (Financial Promotion) Order 2005.

This offering circular has been sent to you in an electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of electronic transmission

and consequently neither Arrow CMBS 2018 DAC nor Deutsche Bank AG, London Branch nor Société Générale, London Branch nor any person who controls it nor any director, officer, employee nor agent of it or affiliate of any such person accepts any liability or responsibility whatsoever in respect of any difference between the offering circular distributed to you in electronic format and the hard copy version available to you on request from Deutsche Bank AG, London Branch or Société Générale, London Branch.

# NOT FOR DISTRIBUTION IN OR INTO THE UNITED STATES

## ARROW CMBS 2018 DAC

(incorporated as a designated activity company with limited liability in Ireland with registered number 635518  
(the *Issuer*))

**€135,800,000 Class A1 Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class A1 Notes**)  
**€19,000,000 Class A2 Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class A2 Notes**)  
**€23,000,000 Class B Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class B Notes**)  
**€29,300,000 Class C Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class C Notes**)  
**€32,000,000 Class D Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class D Notes**)  
**€32,700,000 Class E Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class E Notes**)  
**€20,900,000 Class F Commercial Mortgage Backed Floating Rate Notes due 2030** (the **Class F Notes**)  
**€400,000 Class X Commercial Mortgage Backed Notes due 2030** (the **Class X Notes**)  
 (together, the **Notes**)

This document (the **Offering Circular**) constitutes listing particulars in respect of the admission of the Notes to the Official List and to trading on the Irish Stock Exchange plc trading as Euronext Dublin (**Euronext Dublin**) and has been approved by Euronext Dublin. Application has been made to Euronext Dublin for the Notes to be admitted to its Official List and trading on the Global Exchange Market. The **Global Exchange Market** is the exchange regulated market of Euronext Dublin. The Global Exchange Market is not a regulated market for the purposes of the Prospectus Directive.

### Key characteristics of the Notes

	Class A1 Notes	Class A2 Notes	Class B Notes	Class C Notes	Class D Notes <sup>(3)</sup>	Class E Notes <sup>(4)</sup>	Class F Notes <sup>(5)</sup>	Class X Notes
<b>Initial principal amount</b>	€135,800,000	€19,000,000	€23,000,000	€29,300,000	€32,000,000	€32,700,000	€20,900,000	€400,000
<b>Issue price</b>	100 per cent.	100 per cent.	100 per cent.	100 per cent.	100 per cent.	100 per cent.	100 per cent.	100 per cent.
<b>Relevant Margin (p.a.)<sup>(1)</sup></b>	1.10 per cent.	1.20 per cent.	1.50 per cent.	2.05 per cent.	2.70 per cent.	3.40 per cent.	4.75 per cent.	Class X Amount
<b>Reference rate<sup>(1)</sup></b>	3-month EURIBOR	3-month EURIBOR	3-month EURIBOR	3-month EURIBOR	3-month EURIBOR	3-month EURIBOR	3-month EURIBOR	N/A
<b>Expected Note Maturity Date</b>	If no Senior Loan Extension Option is exercised, 22 November 2020 If the First Senior Loan Extension Option is exercised, 22 November 2021 If the Second Senior Loan Extension Option is exercised, 22 November 2022 If the Third Senior Loan Extension Option is exercised, 22 November 2023 The Expected Note Maturity Date is subject to the Business Day Convention							
<b>Final Note Maturity Date</b>	22 May 2030							
<b>Ratings<sup>(2)</sup></b>	<b>DBRS</b>	AAA (sf)	AAA (sf)	AA (sf)	A (low) (sf)	BBB (low) (sf)	BB (high) (sf)	BB (low) (sf)
	<b>Fitch</b>	AAA (sf)	AA+ (sf)	AA- (sf)	A- (sf)	BBB- (sf)	BB- (sf)	B- (sf)
<b>Interest accrual method</b>	Actual/360	Actual/360	Actual/360	Actual/360	Actual/360	Actual/360	Actual/360	Actual/360
<b>Note Payment Dates</b>	Quarterly on 22 February, 22 May, 22 August and 22 November in each year, subject to the Business Day Convention							
<b>First Note Payment Date</b>	22 February 2019							
<b>Application of Principal Receipts</b>	Prior to the occurrence of a Sequential Payment Trigger or the delivery of a Note Acceleration Notice, principal is applied <i>pro rata</i> . Following the occurrence of a Sequential Payment Trigger or the delivery of a Note Acceleration Notice, principal is applied sequentially.							
<b>Business Day Convention</b>	Modified following							
<b>Minimum denominations</b>	€100,000 and integral multiples of €1,000 in excess thereof							
<b>ISIN</b>	XS1906449019	XS1906449282	XS1906450025	XS1906450454	XS1906450611	XS1906450884	XS1906450967	XS1906451189
<b>Common Code</b>	190644901	190644928	190645002	190645045	190645061	190645088	190645096	190645118

**Arrangers and Lead Managers**  
**Deutsche Bank and Société Générale, London Branch**

**The date of this Offering Circular is 21 November 2018**

- (1) For each Note Interest Period beginning prior to the Senior Loan Maturity Date, all of the Notes (other than the Class X Notes) will bear interest at (a) three-month EURIBOR (subject to a floor of zero) plus (b) the Relevant Margin specified above. For each Note Interest Period beginning on or after the Senior Loan Maturity Date, the EURIBOR component of the Rate of Interest payable on the Notes (other than the Class X Notes) will be capped at 5 per cent. per annum. To the extent that EURIBOR exceeds 5 per cent. per annum (such excess amount, the **EURIBOR Excess Amount**), the EURIBOR Excess Amount will be payable to Noteholders but such amount will be subordinated and will be deferred to the extent that insufficient funds are available to the Issuer to make the payment in accordance with the relevant Issuer Priority of Payments. The ratings assigned to the Notes do not address the likelihood of receipt of any such EURIBOR Excess Amount. The Class X Notes will bear interest in an amount equal to the Class X Amount as set out in Condition 5.4(d) (Rates of Interest).
- (2) The ratings assigned by Fitch address the likelihood of: (a) timely payment of any interest due to the Noteholders in respect of the Notes on each Note Payment Date; and (b) full repayment of principal on the Notes by a date that is not later than the Final Note Maturity Date. The ratings assigned by DBRS address the likelihood of timely payment of interest and ultimate payment of principal on the Notes in accordance with the terms under which the Notes have been issued. The ratings assigned to the Notes do not address payment of any EURIBOR Excess Amounts or Note Prepayment Fees in respect of the Notes. The assignment of ratings to the Notes is not a recommendation to invest in the Notes. Any credit rating assigned to the Notes may be revised, suspended or withdrawn at any time. The Rating Agencies have informed the Issuer that the "sf" designation in the ratings represents an identifier of structured finance product ratings and was implemented by the Rating Agencies for the ratings of structured finance products as of August 2010. For additional information about this identifier, prospective investors can go to [www.fitchratings.com](http://www.fitchratings.com) and [www.dbrs.com](http://www.dbrs.com). Each of the Rating Agencies is established in the European Union and is registered under the CRA Regulation. As such, each Rating Agency is included in the list of credit rating agencies published by the European Securities and Markets Authority on its website (at <http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>) in accordance with the CRA Regulation. The Class X Notes are not rated.
- (3) Interest on the Class D Notes will be subject to an available funds cap (the **Class D Available Funds Cap**). If on any Note Payment Date prior to the service of a Note Acceleration Notice, the aggregate amount of interest that would otherwise be due and payable on the Class D Notes on that date is in excess of the Class D Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class D Notes will be subject to a cap at the Class D Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any amount in respect of interest on the Class D Notes that would otherwise be due on such Note Payment Date.
- (4) Interest on the Class E Notes will be subject to an available funds cap (the **Class E Available Funds Cap**). If on any Note Payment Date prior to the service of a Note Acceleration Notice, the aggregate amount of interest that would otherwise be due and payable on the Class E Notes on that date is in excess of the Class E Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class E Notes will be subject to a cap at the Class E Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any amount in respect of interest on the Class E Notes that would otherwise be due on such Note Payment Date.
- (5) Interest on the Class F Notes will be subject to an available funds cap (the **Class F Available Funds Cap**). If on any Note Payment Date prior to the service of a Note Acceleration Notice, the aggregate amount of interest that would otherwise be due and payable on the Class F Notes on that date is in excess of the Class F Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class F Notes will be subject to a cap at the Class F Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any amount in respect of interest on the Class F Notes that would otherwise be due on such Note Payment Date.

***This Offering Circular and any documents incorporated by reference herein or therein will be published in electronic form on the website of Euronext Dublin ([www.ise.ie](http://www.ise.ie)).***

***THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE SECURITIES ACT), OR THE SECURITIES LAWS OR "BLUE SKY" LAWS OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES AND THEREFORE MAY NOT BE OFFERED OR SOLD IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ANY APPLICABLE STATE OR FEDERAL SECURITIES LAWS. ACCORDINGLY, THE NOTES ARE BEING OFFERED AND SOLD OUTSIDE THE UNITED STATES TO PERSONS OTHER THAN U.S. PERSONS IN RELIANCE ON REGULATION S UNDER THE SECURITIES ACT. IN ADDITION, THE ISSUER HAS NOT BEEN REGISTERED AND DOES NOT INTEND TO REGISTER AS AN INVESTMENT COMPANY UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE INVESTMENT COMPANY ACT). THE NOTES ARE NOT TRANSFERABLE EXCEPT UPON SATISFACTION OF CERTAIN CONDITIONS AS DESCRIBED UNDER "TRANSFER RESTRICTIONS" HEREIN.***

***Before making any decision to invest in the Notes, potential Noteholders should pay particular attention to the section herein entitled "Risk Factors" starting on page 51.***

<i>Closing Date</i>	The Issuer expects to issue the Notes in the classes set out above on or about 22 November 2018 (or such later date as the Issuer and the Lead Managers may agree) (the <b>Closing Date</b> ).
<i>Underlying assets</i>	<p>The Loan Sellers advanced a loan to the Senior Borrowers pursuant to the Common Terms Agreement and the French Facility Agreement (the <b>Senior Loan</b>). On the Closing Date, the Issuer will acquire from the Loan Sellers a €292,700,000 interest in the Senior Loan (being approximately 95 per cent. of the Senior Loan) pursuant to the Securitised Senior Loan Sale Documents (the Senior Loan so acquired by the Issuer being the <b>Securitised Senior Loan</b>).</p> <p>Payments under the Securitised Senior Loan due to the Issuer will, after payment of certain senior ranking costs and expenses, be allocated to the Notes and will be applied in accordance with the Issuer Priorities of Payments. The Loan Sellers will continue to hold an approximately 5 per cent. interest in the Senior Loan, which each of the Loan Sellers is free to deal with in its sole discretion (subject to the EU Risk Retention Requirements).</p> <p>The Issuer will make payments on the Notes from, <i>inter alia</i>, payments of principal and interest received by the Issuer under the Securitised Senior Loan.</p> <p>There is also a mezzanine facility which is structurally and contractually subordinated to the Senior Loan. See the section entitled "<i>Description of the Mezzanine Facility Agreement</i>". The Issuer will only acquire the Securitised Senior Loan and not the Mezzanine Loan.</p> <p>The Senior Loan will be secured by, among other things, a portfolio of:</p> <ul style="list-style-type: none"> <li>(a) 53 commercial properties located throughout France;</li> <li>(b) 9 commercial properties located throughout the Netherlands; and</li> <li>(c) 27 commercial properties located throughout Germany,</li> </ul> <p>(each a <b>Property</b> and together the <b>Property Portfolio</b>).</p> <p>See sections entitled "<i>Description of the Common Terms Agreement</i>", "<i>The Key Characteristics of the Common Transaction Security</i>" and "<i>Description of the Property Portfolio</i>" for more detail.</p>
<i>Use of proceeds</i>	To acquire the Securitised Senior Loan from the Loan Sellers pursuant to the Securitised Senior Loan Sale Documents and to fund the Class X Account.
<i>Credit enhancement</i>	Subordination of junior ranking Notes, except that prior to the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, principal is applied <i>pro rata</i> . See Condition 3 (Status and Relationship between the Notes and the Issuer Security) in the section entitled " <i>Terms and Conditions of the Notes</i> " for more detail.
<i>Liquidity support</i>	A liquidity facility in the amount of €6,750,000 will be provided by Société Générale, London Branch and a liquidity facility in the amount of €6,750,000 will be provided by Deutsche Bank AG, London Branch (such DB Liquidity Facility to be drawn as a Stand-by Drawing within seven Business Days of the

	Closing Date). The liquidity facilities will each be available to fund, <i>inter alia</i> , payments of interest in respect of the Class A1 Notes, the Class A2 Notes and the Class B Notes. See " <i>Description of the Liquidity Facility Agreements</i> " for more detail.
<i>Redemption provisions</i>	Information on the optional and mandatory redemption of the Notes is summarised in the section entitled " <i>Transaction Overview – Overview of the key provisions of the Notes</i> " and is set out in full in Condition 7 (Redemption) in the section entitled " <i>Terms and Conditions of the Notes</i> ". Unless previously redeemed in full in accordance with the Conditions, the Notes will be redeemed in full on the Final Note Maturity Date.
<i>Rating Agencies</i>	<p>DBRS Ratings Limited (<b>DBRS</b>) and Fitch Ratings Ltd (<b>Fitch</b>).</p> <p>The ratings assigned to the Notes by Fitch address the likelihood of: (a) timely payment of any interest due to the Noteholders in respect of the Notes on each Note Payment Date; and (b) full repayment of principal on the Notes by a date that is not later than the Final Note Maturity Date. The ratings assigned to the Notes by DBRS address the likelihood of timely payment of interest and ultimate payment of principal on the Notes in accordance with the terms under which the Notes have been issued. The ratings assigned to the Notes reflect only the views of the Rating Agencies and an assignment of ratings to the Notes is not a recommendation to invest in the Notes. The ratings assigned to the Notes do not address payment of any EURIBOR Excess Amounts or Note Prepayment Fees in respect of the Notes.</p> <p>In general, European regulated investors are restricted from using a rating for regulatory purposes other than a rating issued by a credit rating agency established in the European Union and registered under the CRA Regulation, unless the rating is provided by a credit rating agency that operated in the European Union before 7 June 2010 and which has submitted an application for registration in accordance with the CRA Regulation and such application for registration has not been refused. As at the date of this Offering Circular, each of the Rating Agencies is established in the European Union and has been registered in accordance with the CRA Regulation.</p>
<i>Listing</i>	The Global Exchange Market of Euronext Dublin.
<i>Limited recourse obligations</i>	The Notes will be limited recourse obligations of the Issuer alone and will not be guaranteed by, or be the responsibility of, any other entity. The Notes will not be obligations of Deutsche Bank AG, London Branch, Société Générale, London Branch, the Lead Managers, the Arrangers, the Loan Sellers, any of their respective affiliates or any other party, other than the Issuer, named in this Offering Circular.
<i>EU retention undertaking</i>	See the section entitled " <i>Regulatory Disclosure</i> " for information.
<i>U.S. risk retention</i>	See the section entitled " <i>Regulatory Disclosure</i> " for information.
<i>Risk factors</i>	The section entitled " <i>Risk Factors</i> " contains details of certain risks and other factors to which prospective investors should give particular consideration before investing in the Notes. Prospective investors should be aware of the issues summarised within that section. An investment in the Notes is suitable

	only for sophisticated investors who are capable of evaluating the merits and risks of such investment and who have sufficient resources to bear any loss which may result from such investment.
<i>Definitions</i>	A list of the defined terms used in this Offering Circular is set out in Appendix 3 (Glossary of Defined Terms).

If any withholding or deduction for or on account of tax is applicable to payments in respect of the Notes, such payments will be made subject to such withholding or deduction, without the Issuer being obliged to pay any additional amounts as a consequence.

The Notes of each Class will initially be represented by a global note in registered form for such Class of Notes, which will be deposited on or about the Closing Date with a common safekeeper for Euroclear and Clearstream, Luxembourg and registered in the name of a nominee of the common safekeeper. Ownership interests in the Global Notes will be shown on, and transfers thereof will only be effected through, records maintained by Euroclear and Clearstream, Luxembourg and their respective participants. The Global Notes will be exchangeable for Definitive Notes in registered form only in certain limited circumstances set out herein.

## INVESTOR NOTICES

### IMPORTANT NOTICE

The distribution of this Offering Circular and the offering of the Notes in certain jurisdictions may be restricted by law. No representation is made by the Issuer, the Note Trustee, the Issuer Security Trustee, the Agents, the Arrangers or the Lead Managers or any other person that this Offering Circular may be lawfully distributed, or that the Notes may be lawfully offered in compliance with any applicable registration or other requirements, in any such jurisdiction, or pursuant to an exemption available thereunder, and none of them assumes any responsibility for facilitating any such distribution or offering.

No action has been or will be taken to permit a public offering of the Notes or the distribution of this Offering Circular in any jurisdiction where action for that purpose is required. Persons into whose possession this Offering Circular (or any part hereof) comes are required by the Issuer, the Arrangers and the Lead Managers to inform themselves about, and to observe, any such restrictions. Neither this Offering Circular nor any part hereof constitutes an offer of, or an invitation by or on behalf of the Issuer, the Note Trustee, the Issuer Security Trustee, the Agents, the Arrangers or the Lead Managers or any other person to subscribe for or purchase any of, the Notes and neither this Offering Circular nor any part hereof may be used for or in connection with an offer to, or solicitation by, any person in any jurisdiction or in any circumstances in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation.

For a further description of certain restrictions on offers and sales of the Notes and distribution of this Offering Circular (or any part hereof), see the sections entitled "*Subscription and Sale*" and "*Transfer Restrictions*".

The Issuer accepts responsibility for the information contained in this Offering Circular. To the best of the knowledge and belief of the Issuer (having taken all reasonable care to ensure that such is the case), the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of such information.

Where information has been indicated to have been sourced from a third party, the Issuer confirms that this information has been accurately reproduced and that, as far as the Issuer is aware and is able to ascertain from information published by such third party, no facts have been omitted which would render the reproduced information inaccurate or misleading. The Issuer has not verified the figures, market data and other information contained in the publicly available sources and does not assume any responsibility for the accuracy of the figures, market data or other information from the publicly available sources.

The Hedge Counterparty accepts responsibility for the information contained in the section of this Offering Circular entitled "*Description of the Hedge Counterparty*". To the best of the knowledge and belief of the Hedge Counterparty (having taken all reasonable care to ensure that such is the case), the information contained in the section of this Offering Circular entitled "*Description of the Hedge Counterparty*" is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Liquidity Facility Providers each accept responsibility for the information contained in the section of this Offering Circular entitled "*Description of the Issuer Liquidity Facility Providers*", insofar as the same relates to each of them respectively. To the best of the knowledge and belief of each Liquidity Facility Provider (having taken all reasonable care to ensure that such is the case), the information contained in the section of this Offering Circular entitled "*Description of the Issuer*"



*Liquidity Facility Providers*" (insofar as the same relates to each of them respectively) is in accordance with the facts and does not omit anything likely to affect the import of such information.

Situs Asset Management Limited accepts responsibility for the information contained in the section of this Offering Circular entitled "*Description of the Servicer and the Special Servicer*". To the best of the knowledge and belief of Situs Asset Management Limited (having taken all reasonable care to ensure that such is the case), the information contained in the section of this Offering Circular entitled "*Description of the Servicer and the Special Servicer*" is in accordance with the facts and does not omit anything likely to affect the import of such information.

U.S. Bank Trustees Limited and Elavon Financial Services DAC, UK Branch both accept joint and several responsibility for the information contained in the sections of this Offering Circular entitled "*Description of the Note Trustee and the Issuer Security Trustee*" and "*Description of the Issuer Cash Manager and the Issuer Account Bank*", insofar as the same relates to each of them respectively. To the best of the knowledge and belief of U.S. Bank Trustees Limited and Elavon Financial Services DAC, UK Branch (each having taken all reasonable care to ensure that such is the case), the information contained in the sections of this Offering Circular entitled "*Description of the Note Trustee and the Issuer Security Trustee*" and "*Description of the Issuer Cash Manager and the Issuer Account Bank*" (insofar as the same relates to each of them respectively) is in accordance with the facts and does not omit anything likely to affect the import of such information.

Cushman & Wakefield accepts responsibility for the Initial Valuation incorporated by reference in this Offering Circular. To the best of Cushman & Wakefield's knowledge and belief (having taken all reasonable care to ensure that such is the case), the information contained in the Initial Valuation is in accordance with the facts and does not omit anything likely to affect its import.

Other than as described above in relation to the Initial Valuation and the sections entitled "*Description of the Hedge Counterparty*", "*Description of the Issuer Liquidity Facility Providers*", "*Description of the Servicer and the Special Servicer*", "*Description of the Note Trustee and the Issuer Security Trustee*" and "*Description of the Issuer Cash Manager and the Issuer Account Bank*", none of the Arrangers, the Lead Managers, the Loan Sellers or the Issuer Related Parties has separately verified the information contained in this Offering Circular. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Arrangers, the Lead Managers, the Loan Sellers or the Issuer Related Parties as to the accuracy or completeness of the information contained in this Offering Circular or any other document or agreement relating to the Notes or any Issuer Transaction Document or information supplied in connection with the Notes. None of the Arrangers or the Lead Managers shall be responsible for any matter which is the subject of any statement, representation, warranty or covenant of the Issuer contained in the Notes or any Issuer Transaction Documents, or any other agreement or document relating to the Notes or any Issuer Transaction Document, or for the execution, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence thereof. Each person receiving this Offering Circular acknowledges that such person has not relied on the Arrangers, the Lead Managers, the Loan Sellers or the Issuer Related Parties or on any person affiliated with any of them in connection with its investigation of the accuracy of such information or its investment decision.

No person is or has been authorised in connection with the issue and sale of the Notes to give any information or to make any representation not contained in this Offering Circular 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 or by or on behalf of the Arrangers, the Lead Managers, the Loan Sellers, the Issuer Related Parties or any of their respective affiliates, associated bodies or shareholders or the shareholders of the Issuer. Neither the delivery of this Offering Circular nor any sale or allotment made in connection with the offering of any of the Notes will, under any circumstances, constitute a representation or create any implication that there has been any change in the information contained

herein since the date hereof or that the information contained herein is correct as of any time subsequent to its date.

The Notes will not be obligations or responsibilities of any person other than the Issuer, which obligations will be limited recourse obligations in accordance with the terms thereof. In particular, the Notes will not be obligations or responsibilities of, or be guaranteed by, the Arrangers, the Lead Managers, the Issuer Related Parties, the Loan Sellers, any associated body of the Arrangers, the Lead Managers, the Issuer Related Parties or the Loan Sellers or any of their respective affiliates or shareholders or the shareholders of the Issuer and none of such persons accepts any liability whatsoever in respect of any failure by the Issuer to make payment of any amount due on the Notes.

The Issuer is not, and will not be, regulated by the Central Bank of Ireland (the **Central Bank**) by virtue of the issuance of the Notes. Any investment in the Notes does not have the status of a bank deposit and is not subject to the deposit protection scheme operated by the Central Bank.

The Notes are intended to be held in a manner which will allow Eurosystem eligibility. This means that the Notes are intended upon issue to be deposited with one of Euroclear or Clearstream, Luxembourg as Common Safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that the Eurosystem eligibility criteria have been met.

Any websites referred to in this Offering Circular are for information purposes only and do not form part of this Offering Circular.

Any purchase or repurchase of securitisation positions by the originator or sponsor beyond its contractual obligations (if any) is exceptional and may only be made at arm's length.

## **PRIIPS REGULATION/PROHIBITION SALES TO EEA RETAIL INVESTORS**

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (the **EEA**). For these purposes, a **retail investor** means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, **MiFID II**); or (ii) a customer within the meaning of Directive 2002/92/EC (as amended, the **Insurance Mediation Directive**), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Directive 2003/17/EC (as amended, the **Prospectus Directive**). Consequently, no key information document required by Regulation (EU) No. 1286/2014 (the **PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

## **MIFID II PRODUCT GOVERNANCE/PROFESSIONAL INVESTOR AND ECP ONLY TARGET MARKET**

Solely for the purposes of each manufacturer's product approval process, the target market assessment in respect of the Notes has led to the conclusion that: (i) the target market for the Notes is eligible counterparties and professional clients only, each as defined in MiFID II; and (ii) all channels for distribution of the Notes to eligible counterparties and professional clients are appropriate. Any person subsequently offering, selling or recommending the Notes (a **Distributor**) should take into consideration the manufacturers' target market assessment; however, a Distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either

adopting or refining the manufacturers' target market assessment) and for determining appropriate distribution channels.

## **RESTRICTIONS OF SALES TO U.S. PERSONS (AS DEFINED BY THE U.S. RISK RETENTION RULES)**

Except with the prior written consent of the Loan Sellers (a **U.S. Risk Retention Consent**) and where such sale falls within the exemption provided by Section 20 of the final rules promulgated under Section 15g of the Securities Exchange Act of 1934, as amended (the **U.S. Risk Retention Rules**), the Notes offered and sold in the initial distribution of the Notes may not be purchased by, or for the account or benefit of, any "U.S. Person" as defined in the U.S. Risk Retention Rules (**Risk Retention U.S. Persons**). Prospective investors should note that the definition of "U.S. Person" in the U.S. Risk Retention Rules is substantially similar to, but not identical to, the definition of "U.S. Person" in Regulation S. Each purchaser of the Notes or a beneficial interest therein acquired in the initial distribution of the Notes, by its acquisition of the Notes or a beneficial interest therein will be deemed, and in certain circumstances will be required, to have made certain representations and agreements, including that it (1) either (i) is not a Risk Retention U.S. Person or (ii) it has obtained a U.S. Risk Retention Consent from the Seller, (2) is acquiring such Note or a beneficial interest therein for its own account and not with a view to distribute such Note, and (3) is not acquiring such Note or a beneficial interest therein as part of a scheme to evade the requirements of the U.S. Risk Retention Rules (including acquiring such note through a non-Risk Retention U.S. Person, rather than a Risk Retention U.S. Person, as part of a scheme to evade the 10 per cent. Risk Retention U.S. Person limitation in the exemption provided for in Section 20 of the U.S. Risk Retention Rules).

THE NOTES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER U.S. OR STATE REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED UPON THE ACCURACY OR ADEQUACY OF THIS OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENCE.

Amounts payable on the Notes are calculated by reference to EURIBOR. As at the date of this Offering Circular, the administrator of EURIBOR is not included in ESMA's register of administrators under the Benchmarks Regulation. As far as the Issuer is aware, the transitional provisions in Article 51 of the Benchmarks Regulation apply, such that the administrator of EURIBOR is not currently required to obtain authorisation/registration (or, if located outside the European Union, recognition, endorsement or equivalence).

## **OFFEREE ACKNOWLEDGEMENTS**

Each person receiving this Offering Circular, by acceptance hereof, hereby acknowledges that this Offering Circular has been prepared by the Issuer solely for the purpose of offering the Notes described herein. Notwithstanding any investigation that the Arrangers or the Lead Managers may have made with respect to the information set out herein, this Offering Circular does not constitute, and will not be construed as, any representation or warranty by the Arrangers or the Lead Managers to the adequacy or accuracy of the information set out herein. Delivery of this Offering Circular to any person other than the prospective investor and those persons, if any, retained to advise such prospective investor with respect to the possible offer and sale of the Notes is unauthorised, and any disclosure of any of its contents for any purpose other than considering an investment in the Notes is strictly prohibited. A prospective investor will not be entitled to, and must not rely on, this Offering Circular unless it was furnished to such prospective investor directly by the Issuer or the Lead Managers or the Arrangers.

The obligations of the parties to the transactions contemplated herein are set out in and will be governed by certain documents described in this Offering Circular, and all of the statements and information contained in this Offering Circular are qualified in their entirety by reference to such documents. This Offering Circular contains summaries, which the Issuer believes to be accurate, of certain of these documents, but for a complete description of the rights and obligations summarised herein, reference is hereby made to the actual documents, copies of some of which may (on giving reasonable notice) be obtained from the Paying Agents (refer to Condition 4.3 (Issuer Transaction Documents) for more details).

EACH PERSON RECEIVING THIS OFFERING CIRCULAR ACKNOWLEDGES THAT: (A) SUCH PERSON HAS BEEN AFFORDED AN OPPORTUNITY TO REQUEST AND TO REVIEW, AND HAS RECEIVED, ALL ADDITIONAL INFORMATION CONSIDERED BY IT TO BE NECESSARY TO VERIFY THE ACCURACY OF OR TO SUPPLEMENT THE INFORMATION HEREIN; (B) SUCH PERSON HAS NOT RELIED ON THE ARRANGERS OR THE LEAD MANAGERS OR ANY PERSON AFFILIATED WITH THE ARRANGERS OR THE LEAD MANAGERS IN CONNECTION WITH ITS INVESTIGATION OF THE ACCURACY OF SUCH INFORMATION OR ITS INVESTMENT DECISION; (C) NO PERSON HAS BEEN AUTHORISED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATION REGARDING THE NOTES OTHER THAN AS CONTAINED HEREIN, AND, IF GIVEN OR MADE, ANY SUCH OTHER INFORMATION OR REPRESENTATION SHOULD NOT BE RELIED UPON AS HAVING BEEN AUTHORISED; AND (D) NEITHER THE DELIVERY OF THIS OFFERING CIRCULAR NOR ANY SALE MADE HEREUNDER WILL CREATE ANY IMPLICATION THAT THE INFORMATION HEREIN IS CORRECT AS AT ANY TIME SINCE THE DATE HEREOF. EACH PROSPECTIVE PURCHASER SHOULD CONSULT ITS OWN BUSINESS, LEGAL AND TAX ADVISERS FOR INVESTMENT, LEGAL AND TAX ADVICE AND AS TO THE DESIRABILITY AND CONSEQUENCES OF AN INVESTMENT IN THE NOTES.

## **FORWARD-LOOKING STATEMENTS**

Certain matters contained herein are forward-looking statements. Such statements appear in a number of places in this Offering Circular, including with respect to assumptions on repayment, prepayment and certain other characteristics of the Senior Loan and reflect significant assumptions and subjective judgements by the Issuer and the Senior Obligors that may or may not prove to be correct. Such statements may be identified by reference to a future period or periods and the use of forward-looking terminology such as "may", "will", "could", "believes", "expects", "projects", "anticipates", "continues", "intends", "plans" or similar terms. Consequently, future results may differ from the expectations of the Issuer and the Senior Obligors generally due to a variety of factors, including (but not limited to) the economic environment and changes in governmental regulations, fiscal policy, planning or tax laws in Ireland, Luxembourg, Germany, France or the Netherlands and other relevant jurisdictions. Other factors not presently known to the Issuer and the Senior Obligors generally or that the Issuer and the Senior Obligors presently believe are not material could also cause results to differ materially from those expressed in the forward-looking statements included in this Offering Circular. Moreover, past financial performance should not be considered a reliable indicator of future performance and prospective purchasers of the Notes are cautioned that any such statements are not guarantees of performance and involve risks and uncertainties, many of which are beyond the control of the Issuer and the Senior Obligors. Neither the Arrangers nor the Lead Managers have attempted to verify any such statements, nor do they make any representation, express or implied, with respect thereto.

Prospective investors should not therefore place undue reliance on any of these forward-looking statements. None of the Issuer, the Senior Obligors, the Arrangers or the Lead Managers or any other person assumes any obligation to update these forward-looking statements or to update the reasons for which actual results could differ materially from those anticipated in the forward-looking statements.

## REGULATORY DISCLOSURE

### *EU risk retention requirements*

Deutsche Bank AG, London Branch and Société Générale, London Branch, each as originators, will retain a material net economic interest of not less than 5 per cent. in the securitisation in accordance with the text of each of Article 405 of the Capital Requirements Regulation, Article 51 of the AIFM Regulation and Article 254 of the Solvency II Regulation (in each case, as such articles are interpreted and applied on the date hereof and not taking into account any relevant national measures) (the **EU Risk Retention Requirements**). As at the Closing Date, such interest will be held in the form of a *pari passu* interest of not less than 5 per cent. of the nominal value of the Senior Loan in accordance with Article 5(1)(a) of Regulation (EU) No. 625/2014 (the **Retention Technical Standards**). It should be noted that it is not clear that the Retention Technical Standards apply for the purposes of interpreting the requirements which apply under the Solvency II Regulation. Any change to the manner in which such interest is held will be notified to the Noteholders.

Each of Deutsche Bank AG, London Branch and Société Générale, London Branch, as originators, have provided an undertaking with respect to the interest to be retained by each of them to the Issuer in the Securitised Senior Loan Sale Agreement.

As to the information made available to prospective investors by the Issuer, reference is made to the information set out herein and forming part of this Offering Circular and, after the Closing Date, to the quarterly investor reports (a general description of which is set out in the sections entitled "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*" and "*Cash Management*").

### *Investors to assess compliance*

Each prospective investor is required to independently assess and determine the sufficiency of the information described above and in this Offering Circular generally for the purposes of complying with each of Part Five of the Capital Requirements Regulation (including Article 405), Section Five of Chapter III of the AIFM Regulation (including Article 51) and Chapter VIII of Title I of the Solvency II Regulation (including Article 254) and any national measures which may be relevant, and none of the Issuer, Deutsche Bank AG, London Branch nor Société Générale, London Branch (each in its capacity as Loan Seller) nor the Lead Managers or the Arrangers or any Issuer Related Party makes any representation that the information described above or in this Offering Circular is sufficient in all circumstances for such purposes.

For further information on the requirements referred to above and the corresponding risks, please refer to the section entitled "*Risk Factors – Regulatory initiatives may have an adverse impact on the regulatory capital treatment of the Notes*".

### *U.S. Credit Risk Retention*

The Loan Sellers, as co-sponsors under the U.S. Risk Retention Rules, do not intend to retain at least 5 per cent. of the credit risk of the securitised assets for purposes of compliance with the final rules promulgated under Section 15G of the Securities Exchange Act of 1934, as amended (the **U.S. Risk Retention Rules**), but rather intend to rely on an exemption provided for in Section 20 of the U.S. Risk Retention Rules regarding non-U.S. transactions. See the section entitled "*Risk Factors – Considerations relating to Tax, Regulatory and Legal issues – U.S. Risk Retention Requirements*".

## ***CRA Regulation***

The credit ratings included or referred to in this Offering Circular have (unless stated otherwise) been issued by the Rating Agencies, each of which is established in the European Union, and has been registered in accordance with the CRA Regulation.

## ***Volcker Rule considerations***

The Issuer is of the view that it is not now, and immediately following the issuance of the Notes and the application of the proceeds thereof it will not be, a "covered fund" as defined in the regulations adopted under Section 13 of the Bank Holding Company Act of 1956, as amended, commonly known as the "Volcker Rule" (the **Volcker Rule**). Although other exclusions may be available to the Issuer, this conclusion is based on the determination that the Issuer may rely on the exemption from the definition of "investment company" in the Investment Company Act of 1940, as amended, provided by Section 3(c)(5)(c) thereunder. Any prospective investor in the Notes, including a bank or a subsidiary or other affiliate thereof, should consult its own legal advisers regarding the Volcker Rule and its effects.

The enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the **Dodd-Frank Act**), which was signed into law on 21 July 2010, imposed a new regulatory framework over the U.S. financial services industry and the U.S. consumer credit markets in general. On 10 December 2013, U.S. regulators adopted final regulations to implement Section 619 of the Dodd-Frank Act. Section 619 of the Dodd-Frank Act added a new Section 13 to the Bank Holding Company Act of 1956, commonly referred to as the "Volcker Rule".

The Volcker Rule generally prohibits "banking entities" (broadly defined to include U.S. banks, bank holding companies and foreign banking organisations, together with their respective subsidiaries and other affiliates) from (i) engaging in proprietary trading, (ii) acquiring or retaining an ownership interest in, or sponsoring, a "covered fund", and (iii) entering into certain relationships with such funds, subject to certain exceptions and exclusions.

The Issuer is of the view that it is not now and, immediately following the issuance of the Notes and the application of the proceeds thereof, it will not be, a "covered fund" as defined in the regulations adopted under Section 13 of the Volcker Rule. Although other exclusions may be available to the Issuer, this conclusion is based on the determination that the Issuer satisfies the requirements of the exclusion from the definition of "investment company" in the Investment Company Act of 1940, as amended, provided by Section 3(c)(5)(c) thereunder. Any prospective investor in the Notes, including a bank or a subsidiary or other affiliate thereof, should consult its own legal advisers regarding the Volcker Rule and its effects.

There is limited interpretive guidance regarding the Volcker Rule, and implementation of the regulatory framework for the Volcker Rule is still evolving. The Volcker Rule's prohibitions and lack of interpretive guidance could negatively impact the liquidity and value of the Notes. Any entity that is a "banking entity" as defined under the Volcker Rule and is considering an investment in the Notes should consider the potential impact of the Volcker Rule in respect of such investment and on its portfolio generally. Each prospective investor must determine for itself whether it is a banking entity subject to regulation under the Volcker Rule. None of the Issuer, the Senior Obligors, the Arrangers or the Lead Managers or any other person makes any representation to any prospective investor regarding the application of the Volcker Rule to the Issuer or to such prospective investor's investment in the Notes, as of the date hereof or at any time in the future. Any prospective investor in the Notes, including a U.S. or foreign bank or a subsidiary or other affiliate thereof, should consult its own legal advisers regarding such matters and other effects of the Volcker Rule.

## INITIAL VALUATION DISCLAIMER

The Initial Valuation has been filed with Euronext Dublin and is incorporated by reference into this Offering Circular. The Initial Valuation has been published at the website:

<http://www.ise.ie/Market-Data-Announcements/Debt/Individual-Debt-Instrument-Data/Dept-Security-Documents/?progID=-1&uID=10175&FIELDSORT=docName>

The Initial Valuation relating to the Property Portfolio was produced by Cushman & Wakefield (a RICS registered valuer). The Initial Valuation is dated 11 September 2018 (and is as at 30 June 2018) and was produced in accordance with RICS Valuation – Professional Standards (published by RICS and effective from 1 July 2017). The Initial Valuation was compiled prior to the advance of the Senior Loan for the purposes of ascertaining the market value of the Property Portfolio, including the cashflows and income streams of the Property Portfolio, at the request of the Loan Sellers. In preparing the Initial Valuation, Cushman & Wakefield acted through its office at 43/45 Portman Square, London W1A 3BG. Cushman & Wakefield valued the Properties individually and no account was taken of any discount or premium that may be negotiated in the market if all or part of the Property Portfolio was to be marketed simultaneously, either in lots or as a whole.

The Initial Valuation has been used for the purposes of this transaction and throughout this Offering Circular. Cushman & Wakefield has given and has not withdrawn its written consent both to the inclusion in this Offering Circular of the Initial Valuation (as incorporated by reference into this Offering Circular) and to references to the Initial Valuation in the form and context in which they appear. Cushman & Wakefield accepts responsibility for the information contained in the Initial Valuation. Furthermore, Cushman & Wakefield has provided confirmation that it is not aware of any material change in any matter relating to the Property Portfolio since the date of the Initial Valuation which would have a significant effect on the Initial Valuation.

Prospective investors should be aware that the Initial Valuation was prepared prior to the date of this Offering Circular. Cushman & Wakefield has not been requested to update or revise any of the information contained therein, nor will it be asked to do so prior to the issue of the Notes. Accordingly, the information included in the Initial Valuation may not reflect the current physical, economic, competitive, market or other conditions with respect to the Property Portfolio. None of the Lead Managers, the Loan Sellers, the Arrangers, the Servicer, the Special Servicer, the Liquidity Facility Providers, the Note Trustee, the Issuer Security Trustee, the Senior Loan Facility Agent, the Common Security Agent, the Corporate Services Provider, the Principal Paying Agent, the Issuer Account Bank or the Issuer Related Parties are responsible for the information contained in the Initial Valuation.

The information contained in the Initial Valuation must be considered together with all of the information contained elsewhere in this Offering Circular, including, without limitation, the statements made in the section entitled "*Risk Factors – Considerations relating to the Property Portfolio – Limitations of valuations*".

All of the information contained in the Initial Valuation is subject to the same limitations, qualifications and restrictions contained in the other portions of this Offering Circular. Prospective investors are strongly urged to read this Offering Circular in its entirety prior to accessing the Initial Valuation.

Cushman & Wakefield does not have any material interest in the Issuer or any Senior Obligor.



## TABLE OF CONTENTS

Transaction Overview .....	1
Risk Factors .....	51
The Issuer .....	123
The Senior Borrowers and the Senior Guarantors .....	126
Description of the Servicer and the Special Servicer .....	131
Description of the Note Trustee and the Issuer Security Trustee .....	132
Description of the Issuer Cash Manager and the Issuer Account Bank .....	133
Description of the Hedge Counterparty .....	134
Description of the Issuer Liquidity Facility Providers .....	135
Description of the Property Portfolio .....	137
Management and Administration of the Properties .....	143
The Origination and Due Diligence Process .....	149
The Key Characteristics of the Common Transaction Security .....	154
Description of the Securitised Senior Loan Sale Agreement .....	160
Description of the Common Terms Agreement .....	168
Description of the Mezzanine Facility Agreement .....	216
Description of the Intercreditor Agreement .....	221
The Structure of the Issuer Accounts .....	244
Cash Management .....	246
Cashflow and Issuer Priorities of Payments .....	250
Description of the Hedging Arrangements .....	264
Description of the Liquidity Facility Agreements .....	267
Key Terms of the Servicing Arrangements for the Securitised Senior Loan .....	275
Maturity Considerations of the Notes .....	306
Description of the Notes .....	309
Description of Note Trust Deed and Issuer Security Documents .....	314
Noteholder Communications .....	317
Terms and Conditions of the Notes .....	318
Certain Matters of German Law .....	374
Certain Matters of Dutch Law .....	391
Certain Matters of Luxembourg Law .....	398
Certain Matters of French Law .....	403
Certain Matters of Irish Law .....	429
Irish Taxation .....	432
German Taxation .....	436
Luxembourg Taxation .....	440
United Kingdom Taxation .....	441
Foreign Account Tax Compliance Act .....	442
Subscription and Sale .....	444
Transfer Restrictions .....	447
Documents Incorporated by Reference .....	449
General Information .....	450
Appendix 1 – Collateral Term Sheet .....	452
Appendix 2 – The Properties .....	453
Appendix 3 – Glossary of Defined Terms .....	471

## TRANSACTION OVERVIEW

*The information set out below is an overview of various aspects of the transaction. This overview does not purport to be complete and should be read in conjunction with, and is qualified in its entirety by, references to the detailed information presented elsewhere in this Offering Circular.*

A glossary of defined terms is included at page 471 of this Offering Circular.

### 1. The parties

*The Issuer and other parties related to the transaction on the Closing Date*

Party	Name	Address	Document under which appointed/further information
<b>Issuer</b>	Arrow CMBS 2018 DAC	5th Floor, The Exchange George's Dock I.F.S.C. Dublin 1 Ireland	N/A. See " <i>The Issuer</i> " for further information.
<b>Loan Sellers</b>	Deutsche Bank AG, London Branch  Société Générale, London Branch	Winchester House 1 Great Winchester Street London EC2N 2DB United Kingdom  41 Tower Hill London EC3N 4SG United Kingdom	N/A
<b>Senior Loan Arrangers</b>	Deutsche Bank AG, London Branch  Société Générale, London Branch	Winchester House 1 Great Winchester Street London EC2N 2DB United Kingdom  41 Tower Hill London EC3N 4SG United Kingdom	N/A
<b>Lead Managers</b>	Deutsche Bank AG, London Branch  Société Générale,	Winchester House 1 Great Winchester Street London EC2N 2DB United Kingdom  41 Tower Hill	N/A

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Document under which appointed/further information</b>
	London Branch	London EC3N 4SG United Kingdom	
<b>Servicer</b>	Situs Asset Management Limited	34th floor, 25 Canada Square Canary Wharf London E14 5LB United Kingdom	The Servicer will act as servicer of the Securitised Senior Loan pursuant to the Servicing Agreement. See " <i>Key Terms of the Servicing Arrangements for the Securitised Senior Loan</i> " for further information.
<b>Special Servicer</b>	Situs Asset Management Limited	34th floor, 25 Canada Square Canary Wharf London E14 5LB United Kingdom	The Special Servicer will act as special servicer of the Securitised Senior Loan pursuant to the Servicing Agreement. See " <i>Key Terms of the Servicing Arrangements for the Securitised Senior Loan</i> " for further information.
<b>Issuer Cash Manager</b>	Elavon Financial Services DAC, UK Branch	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	The Issuer Cash Manager will be appointed pursuant to the Cash Management Agreement. See " <i>Cash Management</i> " for further information.
<b>Issuer Account Bank</b>	Elavon Financial Services DAC, UK Branch	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	The Issuer Account Bank will be appointed pursuant to the Issuer Account Bank Agreement. See " <i>Cash Management</i> " for further information.
<b>Agent Bank and Principal Paying Agent</b>	Elavon Financial Services DAC, UK Branch	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	The Principal Paying Agent will act as paying agent in respect of the Notes and the Agent Bank will act as agent bank, each pursuant to the Agency Agreement. See " <i>Terms and Conditions of the Notes</i> " for further information.
<b>Liquidity Facility Providers</b>	Deutsche Bank AG, London Branch	Winchester House 1 Great Winchester Street London EC2N 2DB United Kingdom	The Liquidity Facility Providers will act as liquidity facility providers in respect of the Class A1 Notes, the Class A2 Notes and the Class B Notes pursuant to the Liquidity Facility Agreements. See " <i>Description of the Liquidity Facility Agreements</i> " for further information.

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Document under which appointed/further information</b>
	Société Générale, London Branch	41 Tower Hill London EC3N 4SG United Kingdom	
<b>Note Trustee</b>	U.S. Bank Trustees Limited	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	The Note Trustee will act as trustee for the holders of the Notes pursuant to the Note Trust Deed.  <i>See "Description of Note Trust Deed and Issuer Security Documents – Note Trust Deed" for further information.</i>
<b>Issuer Security Trustee</b>	U.S. Bank Trustees Limited	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	The Issuer Security Trustee will act as security trustee and will hold on trust for itself and the other Issuer Secured Creditors the security granted to it by the Issuer pursuant to the Issuer Deed of Charge and the German Security Agreement.  <i>See "Description of Note Trust Deed and Issuer Security Documents – Issuer Security Documents – Issuer Deed of Charge" for further information.</i>
<b>Issuer Secured Creditors</b>	The Issuer Security Trustee on trust for itself, any appointee appointed by it (including any receiver appointed by it), the Noteholders, the Note Trustee (and any appointee appointed by it), the Servicer, the Special Servicer, the Issuer Cash Manager, the Issuer Account Bank, the Agent Bank, the Principal Paying Agent, any Paying Agent, the Registrar, the Liquidity Facility Providers, the Corporate Services Provider, the Deferred Consideration Holders, any other person acceding to the Issuer Deed of Charge and any other Issuer		Issuer Deed of Charge and the German Security Agreement.  <i>See "Description of Note Trust Deed and Issuer Deed of Charge" and "Cashflow and Issuer Priorities of Payments" for further information.</i>

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Document under which appointed/further information</b>
	Security Documents as beneficiary from time to time and any other person designated as such by the Issuer and the Issuer Security Trustee (the <b>Issuer Secured Creditors</b> ).		
<b>Registrar</b>	Elavon Financial Services DAC	Building 8 Cherrywood Business Park Loughlinstown Dublin Ireland	The Registrar will act as registrar of the Notes pursuant to the Agency Agreement. <i>See "Terms and Conditions of the Notes" for further information.</i>
<b>Corporate Services Provider</b>	Walkers Corporate Services (Ireland) Limited	5th Floor, The Exchange George's Dock, I.F.S.C. Dublin 1 Ireland	The Corporate Services Provider will act as corporate services provider to the Issuer pursuant to the Corporate Services Agreement. <i>See "The Issuer" for further information.</i>
<b>Common Security Agent</b>	Elavon Financial Services DAC, UK Branch	125 Old Broad Street Fifth Floor London EC2N 1AR United Kingdom	Pursuant to the Common Terms Agreement and the Intercreditor Agreement, the Common Security Agent acts as security trustee for the Senior Finance Parties and the Mezzanine Finance Parties in respect of the security granted by the Senior Obligors in favour of the Common Security Agent. <i>See "The Key Characteristics of the Common Transaction Security" for further information.</i>
<b>Senior Loan Facility Agent</b>	Situs Asset Management Limited	34th floor, 25 Canada Square Canary Wharf London E14 5LB United Kingdom	The Senior Loan Facility Agent is appointed by the Senior Finance Parties pursuant to the Common Terms Agreement. <i>See "Description of the Common Terms Agreement" for further information.</i>

The ongoing fees, costs and expenses of the Issuer (excluding any fees, costs and expenses payable to the Servicer and the Special Servicer) are estimated to be approximately €434,850 (excluding VAT) per annum.

*Other parties involved in connection with the Notes*

Party	Name	Address
<b>Listing Agent</b>	Walkers Listing Services Limited	5th Floor, The Exchange George's Dock, I.F.S.C. Dublin 1 Ireland
<b>Euronext Dublin</b>	The Irish Stock Exchange plc trading as Euronext Dublin	28 Anglesea Street Dublin 2 Ireland
<b>Clearing Systems</b>	Clearstream, Luxembourg	42 Avenue J.F. Kennedy L-1855 Luxembourg Luxembourg
	Euroclear Bank S.A./N.V.	1 Boulevard du Roi Albert II B-1210 Brussels Belgium
<b>Rating Agencies</b>	DBRS Ratings Limited	20 Fenchurch Street, 31st Floor London, EC3M 3BY United Kingdom
	Fitch Ratings Ltd	30 North Colonnade, Canary Wharf London E14 5GN United Kingdom

## 2. Issuance of the Notes and use of proceeds

On the Closing Date, the Issuer will issue the Notes subject to satisfaction of the conditions precedent set out in the Subscription Agreement.

The proceeds of the issuance of the Notes (other than the Class X Notes) will be used by the Issuer to acquire a €292,700,000 interest in the Senior Loan (being approximately 95 per cent. of the Senior Loan) (the **Securitised Senior Loan**) from the Loan Sellers, on the Closing Date, pursuant to the terms of the Securitised Senior Loan Sale Documents. The Securitised Senior Loan benefits from a *pari passu* interest in the various security interests granted in respect of the Senior Loan. The remaining approximately 5 per cent. (equal to €15,450,278.96 of the Senior Loan) interest in the Senior Loan (the **Senior Retained Loan**) will be retained by the Loan Sellers. There is no restriction on the Loan Sellers disposing of, entering into sub-participation arrangements or otherwise dealing with the Senior Retained Loan (subject to the EU Risk Retention Requirements).

The proceeds of the issuance of the Class X Notes will be deposited into the Class X Account on the Closing Date.

The Issuer will use receipts of principal and interest due to it under the Securitised Senior Loan to make payments of, among other things, principal and interest due on the Notes. Principal and interest received by the Issuer under the Securitised Senior Loan will be applied in accordance with the Issuer Priorities of Payments (see the section entitled "*Cashflow and Issuer Priorities of Payments*" for further details).

### 3. The Senior Loan, the Mezzanine Loan and servicing of the Securitised Senior Loan

*The Senior Loan has been advanced by the Loan Sellers to the Senior Borrowers. Only the Securitised Senior Loan will be sold to the Issuer.*

*The following is an overview of certain features of the Senior Loan (including the portion of the Senior Loan comprising the Securitised Senior Loan) and the Mezzanine Loan and the servicing arrangements for the Securitised Senior Loan. Investors should refer to, and carefully consider, the further details in respect of the Senior Loan, the Securitised Senior Loan and the Common Transaction Security set out in the sections entitled "Description of the Common Terms Agreement", "The Key Characteristics of the Common Transaction Security", "Description of the Mezzanine Facility Agreement", "Description of the Intercreditor Agreement" and "Key Terms of the Servicing Arrangements for the Securitised Senior Loan".*

Key terms of the Senior Loan	
Original Senior Loan balance:	€308,150,278.96
Senior Loan balance as at the date of this Offering Circular:	€308,150,278.96
Securitised Senior Loan balance as at the date of this Offering Circular:	€292,700,000
Senior LTV Ratio as at the date of this Offering Circular:	69.72 per cent. (please refer to "Risk Factors – Considerations relating to the Senior Loan and the Common Transaction Security – Asymmetric allocation of debt" for further details).
Senior Loan purpose:	Refinancing of the indebtedness of the Group (including, without limitation, accrued interest, hedge termination costs, break costs, prepayment fees and any other fees, costs and expenses in relation thereto), and financing or refinancing all fees, costs and expenses and stamp, transfer, registration, notarial and other taxes incurred by a member of the Group and each Mezzanine Borrower and each Mezzanine Holdco directly or indirectly in connection with the Senior Finance Documents and the Mezzanine Finance Documents.
Common Terms Agreement:	The Senior Loan was made available to the Dutch Senior Borrowers and the Luxembourg Senior Borrowers pursuant to a common terms agreement governed by English law entered into by, among others, the Dutch Senior Borrowers and the Luxembourg Senior Borrowers on 19 September 2018 (the <b>Common Terms Agreement</b> ).
French Facility Agreement:	The Senior Loan was made available to the French Senior Borrowers pursuant to a loan agreement governed by French law entered into by, among others, the French Senior Borrowers on the Senior Utilisation Date as a notary deed (the <b>French Facility Agreement</b> ).
Senior Utilisation Date:	20 September 2018

Key terms of the Senior Loan		
Senior Loan Payment Dates:		15 February, 15 May, 15 August and 15 November in each year and the Senior Loan Maturity Date, with the first Senior Loan Payment Date being 15 November 2018. If, however, any such day is not a Business Day, the Senior Loan Payment Date will instead be the next Business Day in that calendar Month (if there is one) or the preceding Business Day (if there is not) (the <b>Business Day Convention</b> ).
Senior Loan Maturity Date:		<p>The latest to occur of:</p> <ul style="list-style-type: none"> <li>(a) 15 November 2020;</li> <li>(b) if the First Senior Loan Extension Option is exercised and each of the First Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of First Senior Loan Extension Option Conditions, 15 November 2021;</li> <li>(c) if the Second Senior Loan Extension Option is exercised and each of the Second Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Second Senior Loan Extension Option Conditions, 15 November 2022; and</li> <li>(d) if the Third Senior Loan Extension Option is exercised and each of the Third Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Third Senior Loan Extension Option Conditions, 15 November 2023,</li> </ul> <p>in each case, subject to the Business Day Convention.</p>
Interest rate:		Three-month Senior Loan EURIBOR (subject to a floor of zero) plus the Senior Loan Margin.
Senior Loan Margin:		2.075 per cent. per annum. (the <b>Senior Loan Margin</b> ).
Default interest:		Default interest will apply on any Unpaid Sums from the due date up to the date of actual payment at a rate of 1 per cent. per annum plus the rate of interest which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Senior Loan for successive Senior Loan Interest Periods, each of a duration selected by the Senior Loan Facility Agent (acting reasonably).
Scheduled amortisation:		There is no scheduled amortisation with respect to the Senior Loan which is due to be repaid on the Senior Loan Maturity Date, unless a Permitted Senior Change of Control has completed, in which case the Senior Loan shall start to amortise and each Senior Borrower will repay the aggregate outstanding principal amount of the Senior Loan made available to it, on each Senior Loan Payment Date (i.e. quarterly) falling on or after such completion, in instalments equal to 0.25 per cent. of the aggregate outstanding principal amount of the Senior Loan made to it on the Senior Utilisation Date.
Governing law:		The Common Terms Agreement is governed by English law (certain of the Common Transaction Security Documents are governed by Luxembourg, French, German and Dutch law (as applicable) and the French Facility Agreement is governed by French law).



Key terms of the Senior Loan		
Common Security:	Transaction	<p>By way of summary, the following security is created pursuant to the Common Transaction Security Documents:</p> <p><i>English law security</i> English law assignment of rights in respect of hedging agreements, the Acquisition Agreement and under the warranty and indemnity insurance in relation to the Acquisition Agreements.</p> <p><i>Luxembourg law security</i> Luxembourg law account pledges, receivables pledge and pledges over shares and equity certificates.</p> <p><i>German law security</i> German law land charges in respect of the German Properties, account pledges, assignment of receivables and assignment of rental income.</p> <p><i>Dutch law security</i> Dutch law account and receivables pledge, share pledge and mortgage deed in respect of the Dutch Properties.</p> <p><i>French law security</i> French law account and receivables security, share pledge and French mortgage security in respect of the French Properties.</p> <p>The French law Common Transaction Security has been directly granted in favour of the relevant Senior Finance Parties (being the Senior Lenders only for mortgage security and Dailly law assignments) except for French law Common Transaction Security granted by a Luxembourg Senior Obligor which has been granted in favour of the Common Secured Parties in respect of the Common Secured Obligations.</p> <p><i>Other</i> In addition, a guarantee has been provided in relation to (a) the initiation of Safeguard Proceedings and (b) the application of certain insurance proceeds, and each such guarantee is held by the Common Security Agent for the benefit of the Common Secured Parties.</p> <p>See the section entitled "<i>Common Transaction Security</i>" below for further details.</p>
Sponsor:		The Blackstone Group L.P.
Senior Borrowers:		<p><i>Luxembourg Senior Borrowers:</i></p> <p>Ger Log 1 S.à r.l. Ger Log 4 S.à r.l. Ger Log 5 S.à r.l. Ger Log 6 S.à r.l. Ger Log 7 S.à r.l. Ger Log 8 S.à r.l. Ger Log 9 S.à r.l. IT 1 S.à r.l.,</p>

Key terms of the Senior Loan	
	<p>(the <b>Luxembourg Senior Borrowers</b>)</p> <p><i>French Senior Borrowers:</i>  Abervest SARL  Chapelyon S.a r.l.  Digem SARL  Foncière Trinité Dix Neuf SCI  Foncière Trinité Vingt et Un SCI  IF Three Log 1 SCI  Industrial Securities Onnaing SAS  MPITS 1 SCI  MPITS 2 SCI  MPITS 21 SCI  MPITS 22 SCI  MPITS 23 SARL  MPITS 3 SARL  Nescourt SCI  Paned SARL  S.L.P.1. SARL  SARL Innovalisses  (the <b>French Senior Borrowers</b>)</p> <p><i>Dutch Senior Borrowers:</i>  Dutchprop 5 B.V.  Dutchprop 6 B.V.  MPIT Netherlands 1 B.V.  (the <b>Dutch Senior Borrowers</b>)</p>
Senior Borrower locations:	Luxembourg Senior Borrowers, Luxembourg French Senior Borrowers, France Dutch Senior Borrowers, the Netherlands
Senior Guarantors:	Each Senior Borrower Aberdonia France A S.à r.l. Aberdonia France One S.à r.l. Aberdonia France Two S.à r.l. Aberdonia Holding S.à r.l. Aberdonia Properties SPPICAV Dutchprop 1 B.V. Dutchprop 4 B.V. Dutchprop 9 B.V. IG Log 2 S.à r.l. IG Log 3 S.à r.l. IG Log A S.à r.l. IG Log B S.à r.l. IG Log S.à r.l. INL 1 S.à r.l. INL Top S.à r.l. IS EF One S.à r.l. IS EF Three S.à r.l. IS EF Two S.à r.l. IT Top S.à r.l. Mistral Properties 1 SPPICAV

Key terms of the Senior Loan	
	Mistral Properties 2 SPPICAV MPIT France 2 SCI MPIT Lux 1 S.à r.l. MPIT Lux 2 S.à r.l. Spear Bidco SCA Spear German 2018 Holdco S.à r.l. Spear German 2018 Pledgeco S.à r.l. Spear GP (Bidco) S.à r.l. Spear Investment 2018 Holdco S.à r.l. Spear Investment 2018 Pledgeco S.à r.l. Spear Pledgeco S.à r.l.
Senior Obligors:	The Senior Borrowers and the Senior Guarantors.
Permitted Senior Change of Control financial covenants:	<p>Subject to cure rights:</p> <p>(a) on each Senior Loan Payment Date falling on or after the occurrence of a Permitted Senior Change of Control (the <b>CoC Date</b>), each Senior Obligor shall ensure that the Senior LTV Ratio is not greater than the proportion expressed as a percentage which Net Senior Debt on the CoC Date bears to an amount equal to 85 per cent. of the Market Valuation set out in the most recent Valuation delivered on or before the CoC Date; and</p> <p>(b) on each Senior Loan Payment Date falling on or after the CoC Date, each Senior Obligor shall ensure that the Debt Yield is not less than the proportion expressed as a percentage which an amount equal to 82.5 per cent. of the Net Rental Income received by the Senior Obligors for the Relevant Period ending on the Financial Quarter Date immediately preceding the CoC Date bears to Net Senior Debt on the CoC Date.</p> <p>The above financial covenants only apply following a Permitted Senior Change of Control.</p>
Cash trap:	<p>A <b>Cash Trap Event</b> occurs if, on any Senior Loan Payment Date:</p> <p>(a) the Senior LTV Ratio is greater than 77.2194659921355 per cent.; and/or</p> <p>(b) the Debt Yield is less than 9.45 per cent.</p>
Prepayment:	Voluntary and mandatory in certain circumstances, including, among others, illegality, Senior Change of Control, expropriation of a Property and disposal of a Property (for more details, see " <i>Description of the Common Terms Agreement – Prepayments</i> ").

<b>Key terms of the Senior Loan</b>	
Prepayment fee:	<p>A prepayment fee is, in some circumstances only, payable by the Senior Company in respect of certain prepayments of the Senior Loan. See "<i>Description of the Common Terms Agreement – Fees and prepayment fee</i>" for further details.</p> <p>If a prepayment fee is payable pursuant to the terms of the Common Terms Agreement, the amount of the prepayment fee is equal to 100 per cent. of the Senior Loan Margin (excluding any other amount of the Senior Loan Margin included in the calculation of any Break Costs payable in connection with the relevant prepayment) which would, had no prepayment taken place, have accrued on the amount of the Senior Loan so prepaid from the date of such prepayment until the date which is the earlier of: (a) the date falling 12 months after the date of the first Securitisation (if any) of all or part of a Senior Loan; and (b) the date falling 15 months after the Senior Utilisation Date.</p>
Senior Borrower hedging:	100 per cent. of the aggregate outstanding principal amount of the Senior Loan at any time is hedged by interest rate caps at a strike rate of 2.00 per cent. per annum.

See the section entitled "*Description of the Common Terms Agreement*" for further information regarding the Senior Loan features referred to in the table above.

#### ***Cashflow under the Senior Loan***

The tenants under leases of the Properties make periodic rental payments in respect of the Properties. Rental Income payable by the tenants is paid directly into the relevant Senior Rent Collection Account.

Each Pledgeco will ensure that all Net Rental Income (save for dilapidations under any Lease which may be paid directly to the relevant Senior General Account when no Cash Trap Event is outstanding and which must be paid into the Senior Cash Trap Account when a Cash Trap Event is outstanding) is transferred into the relevant Senior Rental Income Account. Amounts standing to the credit of the Senior Rental Income Account are transferred by the Senior Loan Facility Agent, on the last Business Day of each Month, to the Senior Debt Service Account and (in respect of any surplus, after the required amounts are paid into the Senior Debt Service Account, refer to "*Description of the Common Terms Agreement – Bank accounts*" for more details) the Senior Cash Trap Account, if a Cash Trap Event occurred on the previous Senior Loan Payment Date, or a Senior General Account.

On each Senior Loan Payment Date amounts standing to the credit of the Senior Debt Service Account are applied by the Senior Loan Facility Agent in accordance with the order of priority set out in the section "*Description of the Common Terms Agreement – Bank accounts*".

Following the acquisition of the Securitised Senior Loan by the Issuer, on each Senior Loan Payment Date, the Senior Loan Facility Agent will transfer (to the extent funds are available for such purpose) all amounts then due to the Issuer (as lender as to the Securitised Senior Loan), under the Common Terms Agreement, from the relevant Senior Obligor Account directly or indirectly, as the case may be, to the Issuer Transaction Account.

Appendix 2 (The Properties) lists all of the Properties that secured the Senior Loan on the date of its origination and to which the Initial Valuation relates.

Refer to the section entitled "*Description of the Common Terms Agreement – Bank accounts*" for details in relation to the cashflow under the Senior Loan.

### ***Hedging***

With a view to protecting the Senior Obligors against interest rate fluctuations under the Common Terms Agreement and the French Facility Agreement, each Hedging Obligor has entered into the Interest Rate Cap Transactions with the Hedge Counterparty.

Pursuant to the Interest Rate Cap Transactions, the Hedge Counterparty, against payment of an initial fixed amount to be made by each Hedging Obligor on or about 20 November 2018, shall make payments to each Hedging Obligor on each Senior Loan Payment Date if and to the extent that three month EURIBOR for the relevant calculation period exceeds the cap strike rate of 2.00 per cent. per annum. The Interest Rate Cap Transactions are scheduled to terminate on 15 November 2020. If the Senior Loan is not repaid by the initial Senior Loan Maturity Date falling on 15 November 2020, interest rate fluctuation risk will be unhedged. If the initial Senior Loan Maturity Date is extended pursuant to a Senior Loan Extension Option, one of the conditions to each of such extensions is that hedging arrangements consistent with the requirements of the Common Terms Agreement are entered into in respect of the additional year.

See the section entitled "*Description of the Hedging Arrangements*" for further information.

### ***The Mezzanine Loan***

On the date of the Common Terms Agreement, the Mezzanine Lenders and the Mezzanine Borrowers (among others) entered into the Mezzanine Facility Agreement. Many of the principal terms (other than obligors, facility amounts, margin and fees) of the Mezzanine Facility Agreement are substantially the same as the principal terms of the Common Terms Agreement. The major differences in principal terms between the Mezzanine Facility Agreement and the Common Terms Agreement are summarised in the section entitled "*Description of the Mezzanine Facility Agreement*".

<b>Key terms of Mezzanine Facility Agreement</b>		
Mezzanine Utilisation Date:		20 September 2018.
Mezzanine Borrowers:		Spear Mezzco S.à r.l. – this is the only Mezzanine Borrower that borrowed a Mezzanine Loan. Spear German 2018 Mezzco S.à r.l. Spear Investment 2018 Mezzco S.à r.l.
Mezzanine Obligors:		Each Mezzanine Borrower and each Senior Obligor (other than the French Senior Obligors).
Mezzanine Finance Parties:		The Mezzanine Loan Facility Agent, any Mezzanine Lender, the Mezzanine Loan Arranger and the Mezzanine Security Agent.
Aggregate outstanding principal balance as at the date of this Offering Circular:		€78,088,770.00.
Mezzanine Loan Payment Dates:		17 February, 17 May, 17 August and 17 November in each year, with the first Mezzanine Loan Payment Date being 17 November 2018 (the <b>Mezzanine Loan Payment Dates</b> ), subject to the Business Day Convention.

Key terms of Mezzanine Facility Agreement		
Repayment and prepayment:		<p>The Mezzanine Loan Maturity Date is the latest to occur of:</p> <ul style="list-style-type: none"> <li>(a) 17 November 2020;</li> <li>(b) if the first mezzanine extension option is exercised and each of the First Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of First Mezzanine Loan Extension Option Conditions, 17 November 2021;</li> <li>(c) if the second mezzanine extension option is exercised and each of the Second Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Second Mezzanine Loan Extension Option Conditions, 17 November 2022; and</li> <li>(d) if the third mezzanine extension option is exercised and each of the Third Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Third Mezzanine Loan Extension Option Conditions, 17 November 2023,</li> </ul> <p>subject in each case to the Business Day Convention.</p> <p>Prepayments under the Mezzanine Facility Agreement are on substantially the same terms of the Common Terms Agreement, except as described in the section entitled "<i>Description of the Mezzanine Facility Agreement</i>".</p>
Interest rate:		Three-month Mezzanine Loan EURIBOR (subject to a floor of zero) plus the Mezzanine Loan Margin.
Mezzanine Loan Margin:		6.80 per cent. per annum. (the <b>Mezzanine Loan Margin</b> ).
Scheduled amortisation:		There is no scheduled amortisation with respect to the Mezzanine Loan which is due to be repaid on the Mezzanine Loan Maturity Date, unless a Permitted Mezzanine Change of Control has completed, in which case the Mezzanine Loan shall start to amortise and each Mezzanine Borrower will repay the aggregate outstanding principal amount of the Mezzanine Loan made available to it, on each Mezzanine Loan Payment Date (i.e. quarterly) falling on or after such completion, in instalments equal to 0.25 per cent. of the aggregate outstanding principal amount of the Mezzanine Loan made to it on the Mezzanine Utilisation Date.
Mezzanine financial covenants:		None.
Mezzanine cash trap:		None.
Governing law:		English law (certain of the Mezzanine Only Security Documents are governed by Luxembourg law).
Mezzanine Only Security:		By way of summary, the following security is created pursuant to the Mezzanine Only Security Documents:

Key terms of Mezzanine Facility Agreement	
	<p><i>English law security</i></p> <p>Each Mezzanine Borrower has granted an English law assignment of rights in respect of hedging agreements.</p> <p><i>Luxembourg law security</i></p> <p>Each Mezzanine Borrower has granted a Luxembourg law account pledge and each Mezzanine Borrower and each Mezzanine Holdco has granted a receivables pledge and pledges over shares.</p> <p>The Mezzanine Only Security is held by the Mezzanine Security Agent for the benefit of the Mezzanine Secured Parties only.</p>

### ***The Intercreditor Agreement***

On the date of the Common Terms Agreement, the Loan Sellers (as Senior Lenders under the Common Terms Agreement), the Original Mezzanine Lenders, the Senior Loan Facility Agent, the Common Security Agent, the Mezzanine Security Agent and the Senior Company, among others, entered into the Intercreditor Agreement in respect of the Common Terms Agreement and the Mezzanine Facility Agreement. The Issuer will accede to the Intercreditor Agreement as a Senior Lender on the Closing Date. The Intercreditor Agreement governs the interrelationship between the Senior Lenders under the Common Terms Agreement (including the Issuer, once it accedes to the Intercreditor Agreement) and the Mezzanine Lenders.

As a general principle, the rights of the Senior Finance Parties to be paid the Senior Secured Liabilities rank in priority to the rights of the Mezzanine Finance Parties to be paid the liabilities owed by the Mezzanine Obligors to the Mezzanine Finance Parties under or in connection with the Mezzanine Finance Documents (the **Mezzanine Facility Liabilities**).

Prior to the Senior Discharge Date, no Senior Obligor or Mezzanine Obligor will make any payment of the Mezzanine Facility Liabilities unless such payment is permitted to be made or received pursuant to the Intercreditor Agreement. For a description of the circumstance, in which amounts may be paid in respect of the Mezzanine Facility Liabilities, see "*Description of the Intercreditor Agreement – Payment restrictions*".

The Intercreditor Agreement also contains certain restrictions on the rights of the Senior Finance Parties and the Mezzanine Finance Parties and the rights of the Mezzanine Lenders which should be noted, including (i) restrictions on Senior Finance Parties agreeing to certain amendments and waivers without the consent of the Mezzanine Majority Lenders, (ii) cure rights of the Mezzanine Lenders with respect to certain curable defaults under the Common Terms Agreement, (iii) certain limitations on the Senior Finance Parties and the Mezzanine Finance Parties taking enforcement action with respect to curable defaults and (iv) the Mezzanine Lender option to purchase the Senior Loan. See "*Description of the Intercreditor Agreement*" for further details.

### ***Servicing of the Securitised Senior Loan***

The Issuer will appoint the Servicer to service and administer the Securitised Senior Loan until the occurrence of a Special Servicing Transfer Event. In addition, the Issuer will appoint the Special Servicer as special servicer of the Securitised Senior Loan. Following the occurrence (if any) of a Special Servicing Transfer Event, the Special Servicer will formally assume special servicing duties in respect of the Securitised Senior Loan and the Securitised Senior Loan will become a Specially

Serviced Loan. Following the occurrence of a Special Servicing Transfer Event, the Servicer's duties will continue with respect to certain administrative functions.

Pursuant to the Servicing Agreement, the Servicer and the Special Servicer will exercise all rights, powers and discretions of the Issuer with respect to the Securitised Senior Loan in accordance with the Servicing Standard and subject to the provisions relating to the appointment of an Operating Adviser. The Servicer will also be required to prepare and provide the Servicer Quarterly Report containing information with respect to the Securitised Senior Loan, and make the same available to the Issuer Cash Manager, which will make the same publicly available at <https://pivot.usbank.com>.

The appointment of the Servicer and/or the Special Servicer can be terminated at the option of the Issuer, or, following the delivery of a Note Acceleration Notice, the option of the Issuer Security Trustee, upon the occurrence of certain termination events. Following the occurrence of such termination events, if the Issuer or the Issuer Security Trustee, as applicable, is instructed to terminate the appointment of the Servicer or the Special Servicer by:

- (a) the Operating Adviser (on behalf of, and at the direction of, the Controlling Class); or
- (b) by way of an Ordinary Resolution of each Class of Noteholders,

the Issuer or the Issuer Security Trustee must terminate the relevant appointment.

The appointment of the Servicer can also be terminated at any time pursuant to a direction of the Noteholders (acting by Extraordinary Resolution of each Relevant Class of Noteholders).

If the Securitised Senior Loan has been (and remains) designated a Specially Serviced Loan and the Issuer is instructed by:

- (a) the Controlling Class; or
- (b) the Operating Adviser (on behalf of, and at the direction of, the Controlling Class),

then the Issuer must terminate the appointment of the Special Servicer.

Each of the Servicer and the Special Servicer may resign from its appointment as such by giving to the Issuer and the Issuer Security Trustee at least three months' written notice to this effect.

No such termination or resignation will be effective until (among other conditions) a replacement servicer or special servicer, as the case may be, has been appointed under the terms of the Servicing Agreement.

See the section entitled "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*" for further information.

### ***Common Transaction Security***

The obligations of the Senior Obligors under the Common Secured Debt Documents are secured in favour of the Common Security Agent pursuant to the Common Transaction Security Documents as follows:

#### ***Dutch law security***

The following Dutch law security agreements were entered into:



- (a) each Dutch Senior Obligor and the Lux Dutch Propco granted a disclosed pledge, in favour of the Common Security Agent, over all its present and future rights under or in connection with any bank account, insurance, or agreement (including any lease receivables) specified in the pledge, and an undisclosed pledge over all its rights;
- (b) each Dutch Senior Obligor and the Lux Dutch Propco granted a mortgage, in favour of the Common Security Agent, over each Dutch Property owned by it; and
- (c) each relevant Senior Obligor granted a disclosed pledge over its shares held in the capital of the relevant Dutch Senior Obligor,

(each a **Dutch Law Security Agreement** and, together, the **Dutch Law Security Agreements**).

#### *English law security*

The following English law security agreements were entered into:

- (a) each Senior Obligor (other than a French Senior Obligor) assigned absolutely (subject to a proviso for re-assignment on redemption), in favour of the Common Security Agent, all of its rights under the Acquisition Agreements, Insurance Policies governed by English law and Hedge Documents; and
- (b) each French Senior Obligor assigned absolutely (subject to a proviso for re-assignment on redemption), in favour of the Common Security Agent, all of its rights under Insurance Policies governed by English law and Hedge Documents,

(each an **English Law Security Agreement** and, together, the **English Law Security Agreements**).

#### *French law security*

The following French law security agreements were entered into:

- (a) each French Senior Borrower, each OPCI, MPIT France 2 SCI. granted an account pledge (*nantissement de comptes bancaires*) in respect of each of its Senior Control Accounts located in France;
- (b) each French Senior Borrower entered into a master agreement for the assignment of receivables by way of security (*Cession de créances professionnelles à titre de garantie*) arising among others under any lease agreements and related guarantees, insurances governed by French law and Property Management Agreements governed by French law;
- (c) each relevant Senior Obligor granted a receivables pledge over any right and claims under the Cash Management Agreement;
- (d) each French Senior Borrower granted a French mortgage security over each French Property owned by it;
- (e) each relevant French Senior Obligor granted a financial securities account pledge in respect of the shares in the relevant French Senior Obligor; and
- (f) each relevant Senior Obligor granted a pledge over its shares held in the capital of the relevant French Senior Obligor,

(each a **French Law Security Agreement** and, together, the **French Law Security Agreements**).

### *German law security*

The following German law security agreements were entered into:

- (a) each relevant Senior Obligor granted (with a corresponding German Security Agreement), in favour of the Common Security Agent, a German New Land Charge over each German Property;
- (b) each relevant Senior Obligor granted a pledge, in favour of the Common Security Agent, over each Senior Control Account located in Germany;
- (c) each relevant Senior Obligor assigned, in favour of the Common Security Agent, certain of its rights pursuant to a global assignment agreement (relating to, among others, rights to receivables);
- (d) each relevant Senior Obligor assigned, in favour of the Common Security Agent, its rights to rental income under leases (in respect of the German Properties); and
- (e) each relevant Senior Obligor entered into a German security trust agreement, under which the Common Security Agent is appointed and the German law trust is created under which the Common Security Agent holds the German law governed Common Transaction Security on trust,

(each a **German Law Security Agreement** and, together, the **German Law Security Agreements**).

### *Luxembourg law security*

The following Luxembourg law security agreements were entered into:

- (a) each Luxembourg Senior Obligor granted a pledge, in favour of the Common Security Agent, over each Senior Control Account located in Luxembourg;
- (b) each Luxembourg Senior Obligor granted a pledge, in favour of the Common Security Agent, over the receivables owed by them to each other, including, without limitation, under any Subordinated Loans; and
- (c) each relevant Senior Obligor granted a pledge in favour of the Common Security Agent, over the shares each owns in each Luxembourg Senior Obligor,

(each, a **Luxembourg Law Security Agreement** and, together, the **Luxembourg Law Security Agreements**).

See the section entitled "*The Key Characteristics of the Common Transaction Security*" for more details.

### *General*

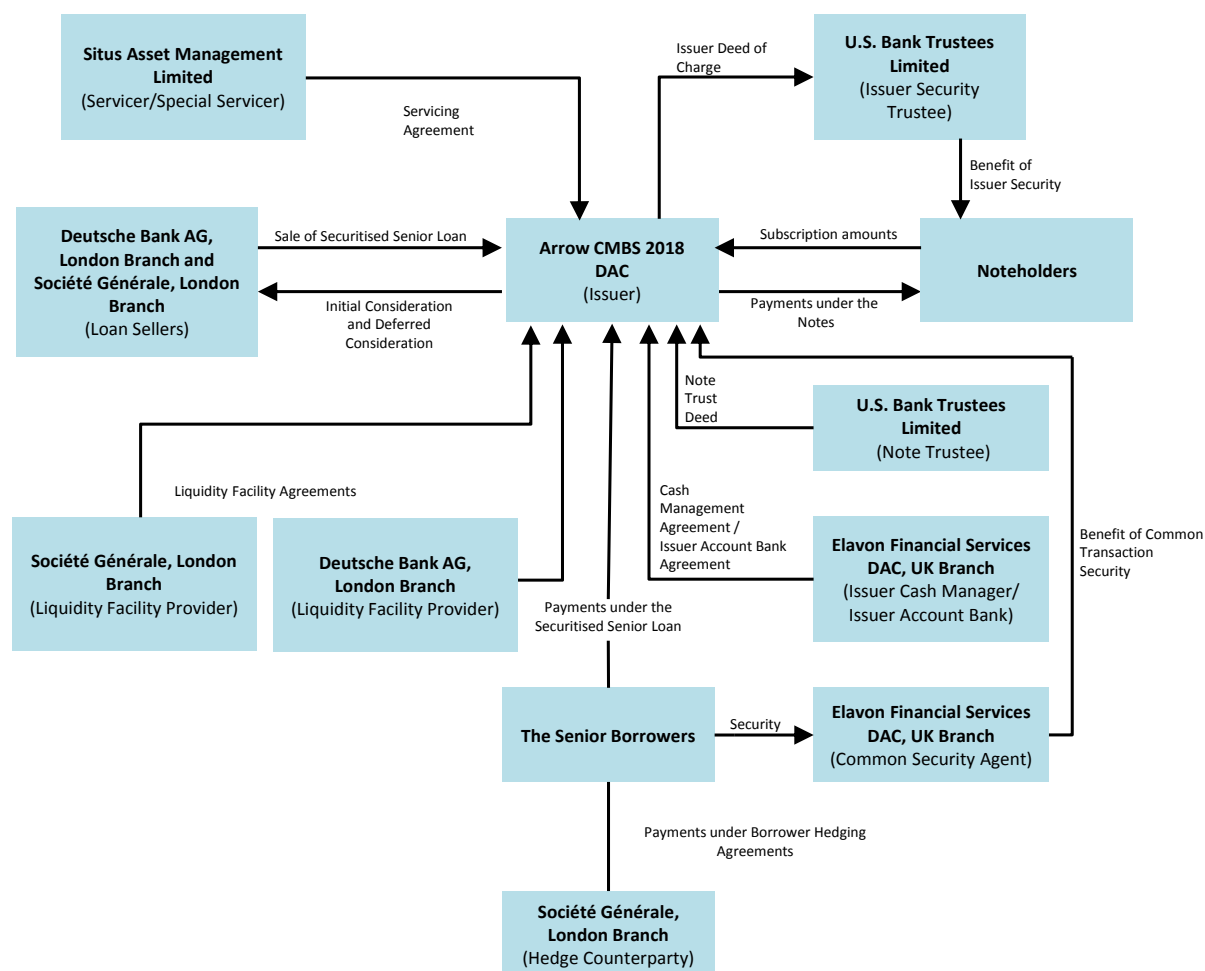
The Senior Lenders and the Mezzanine Lenders (among others) both benefit from the Common Transaction Security (which as a result is also referred to herein as the **Common Transaction Security**), with the exception of any Common Transaction Security granted by a French Senior Obligor which is granted only in respect of the Senior Secured Liabilities. In addition, the Mezzanine Lenders' ability to enforce the Common Transaction Security is limited by the terms of the Intercreditor Agreement (see the section entitled "*Description of the Intercreditor Agreement*").

### ***Issuer Security***

As security for its obligations under, among other things, the Notes, the Issuer will grant fixed and floating security interests over substantially all its assets and undertakings (other than the Issuer Proceeds Account and the Class X Account) (which assets and undertakings comprise, primarily, its rights in respect of the Securitised Senior Loan and the associated Common Transaction Security) in favour of the Issuer Security Trustee under the Issuer Deed of Charge and the German Security Agreement. The Issuer Security Trustee will hold the benefit of this security on trust for itself, the Noteholders and the other Issuer Secured Creditors pursuant to the Issuer Deed of Charge. The priority of claims of the Issuer Secured Creditors will be subject to the Issuer Priorities of Payments. See the section entitled "*Cashflow and Issuer Priorities of Payments*" and "*Description of Note Trust Deed and Issuer Security Documents*" for further details.

#### 4. Transaction structure diagram

The diagram below is intended to highlight the structure of this transaction. It is not intended to be an exhaustive description of the same. Prospective Noteholders should review the detailed information set out elsewhere in this Offering Circular for a description of the transaction structure and relevant cashflows prior to making any investment decision.



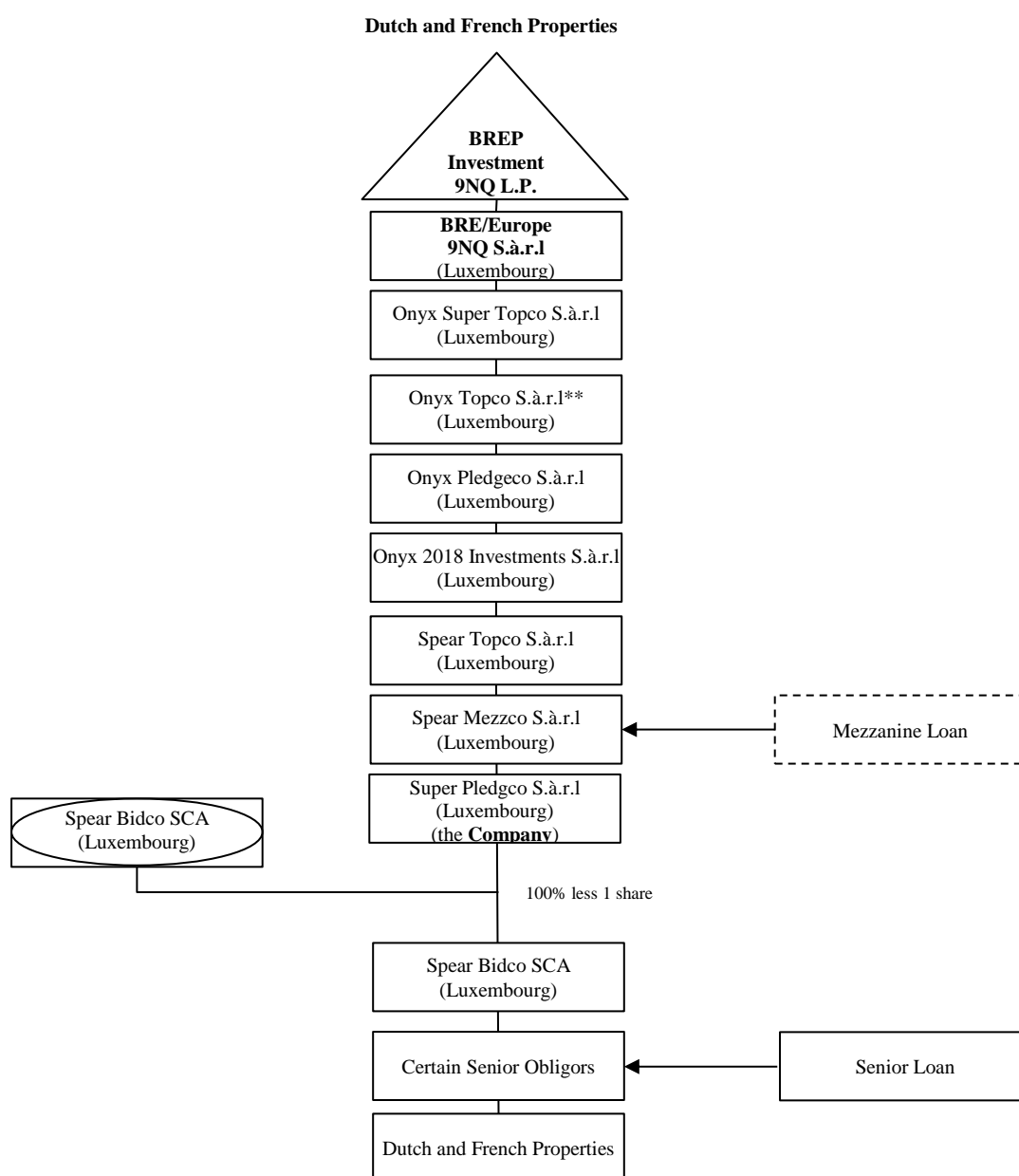
## 5. Group structure diagrams

The diagrams on the following pages set out the corporate structure of the Group and certain of its Affiliates. The diagrams are not intended to be an exhaustive description or depiction of the Group.

Prospective investors in the Notes should note that only the Property Portfolio will stand as security for the Senior Loan and, ultimately, the Notes. Only the Senior Obligors and not any other entity depicted on this diagram have any obligations under the Senior Loan.

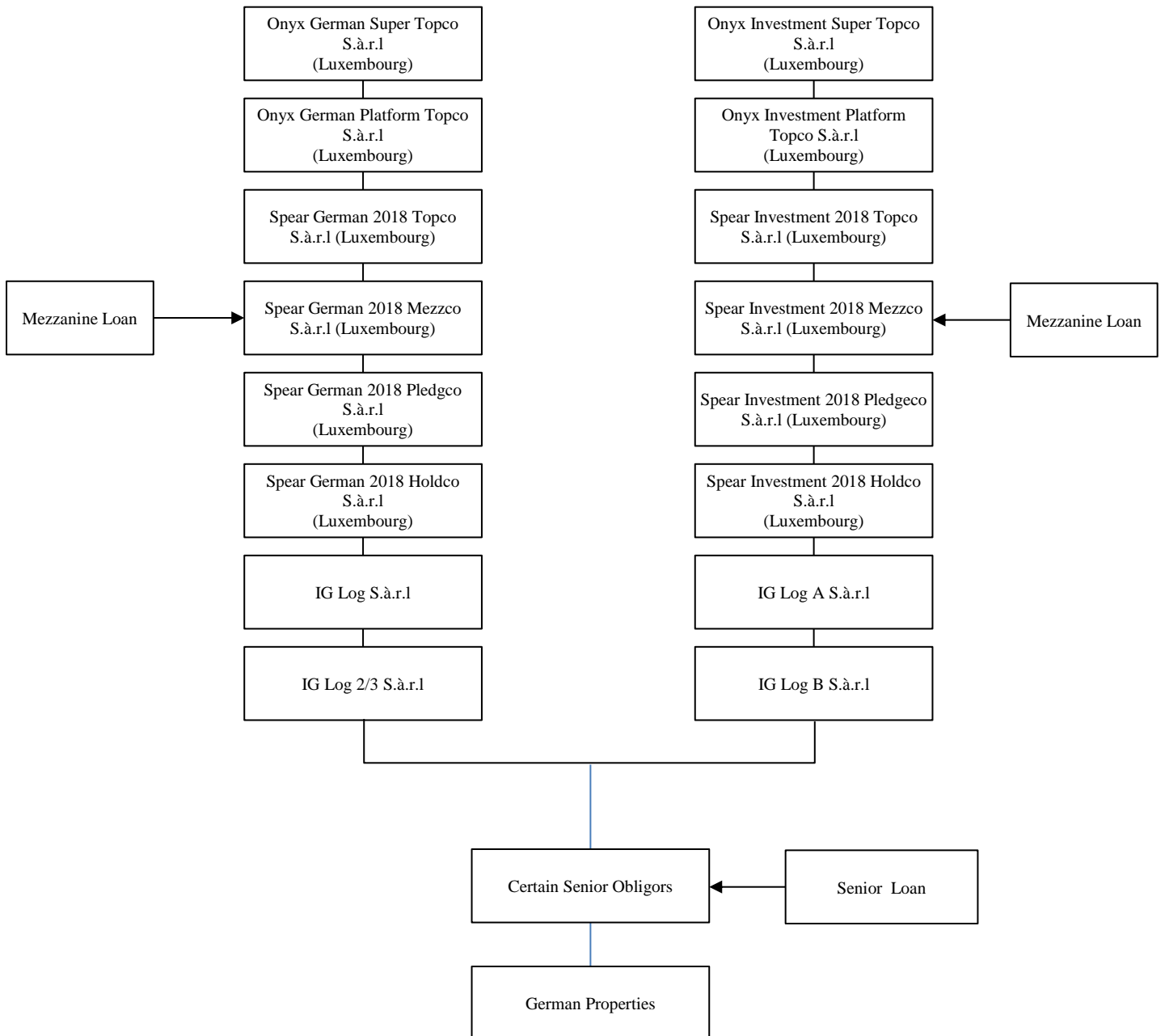
None of the entities depicted in this diagram have any obligations under the Notes.

Prospective Noteholders should review the detailed information set out elsewhere in this Offering Circular for a description of the transaction structure and relevant cashflows prior to making any investment decision.



\*\* M7 Real Estate Ltd owns minority shares in this company

## German Properties



## **6. Securitised Senior Loan Sale Agreement**

*The following is an overview of certain features of the Securitised Senior Loan Sale Agreement. Investors should refer to, and carefully consider, the further details set out in the section entitled "Description of the Securitised Senior Loan Sale Agreement" for further information in respect of the terms of the Securitised Senior Loan Sale Agreement.*

### **Securitised Senior Loan Sale Agreement**

#### ***Sale of the Securitised Senior Loan***

Pursuant to the terms of the Securitised Senior Loan Sale Agreement, the Loan Sellers will sell and the Issuer will purchase, by way of assignment, the Securitised Senior Loan and all right, title and interest of each Loan Seller (as Senior Lender) in respect thereof (including as to Common Transaction Security) under the Senior Finance Documents.

Consequently, and as from the Closing Date, the Issuer will be a Senior Lender under the Common Terms Agreement. In addition, the Issuer will also accede to the Intercreditor Agreement on the Closing Date.

On the Closing Date, the Securitised Senior Loan will represent an approximately 95 per cent. (equal to €292,700,000 of the Senior Loan) *pari passu* interest in the Senior Loan under the Common Terms Agreement. The remaining approximately 5 per cent. (equal to €15,450,278.96 of the Senior Loan) interest in the Senior Loan will be retained by the Loan Sellers. There is no restriction on the Loan Sellers in respect of, disposing of, entering into sub-participation arrangements or otherwise dealing (subject to the EU Risk Retention Requirements) with the Senior Retained Loan.

The Securitised Senior Loan Sale Documents (apart from the German Security Trust Accession Agreement) will be governed by English law. The German Security Trust Accession Agreement will be governed by German law.

#### ***Representations and warranties***

Pursuant to the terms of the Securitised Senior Loan Sale Agreement, each Loan Seller will give certain representations and warranties, on a several basis and only in relation to itself and, in respect of a representation or warranty relating to the Securitised Senior Loan, in relation to its Loan Seller Share, in favour of the Issuer in relation to, *inter alia*, the Securitised Senior Loan. See the section entitled "*Description of the Securitised Senior Loan Sale Agreement*" for further details.

#### ***Consideration***

The initial purchase consideration payable on the Closing Date by the Issuer to the Loan Sellers pursuant to the Securitised Senior Loan Sale Agreement will be approximately €146,350,000 to Deutsche Bank AG, London Branch and €146,350,000 to Société Générale, London Branch. Payment of these amounts will be funded by the issuance of the Notes.

In addition to the cash consideration referred to above, the Issuer will, on the Closing Date, issue the Class X Notes to (or for the account or benefit of) each Loan Seller in an amount equal to the Proportionate Share of each Loan Seller of the principal amount of the Class X Notes. Each Loan Seller will be free to deal with its Class X Notes.

The Issuer will pay to the Loan Sellers or their respective assignee, each in their Proportionate Share, on each Note Payment Date, to the extent that the Issuer has funds, an amount by way of deferred consideration for the purchase of the Securitised Senior Loan and the related Common Transaction Security in an amount equal to the balance remaining after application of funds in payment of all items ranking in priority under the relevant Issuer Priority of Payments (the **Deferred Consideration**).

***Remedy for Material Breach  
of Loan Warranty***

Each Loan Seller will be obliged to indemnify the Issuer in respect of a Material Breach of Loan Warranty by that Loan Seller which has not been remedied within 60 days of notice thereof (or such longer period not exceeding 90 days as the Issuer, the Servicer or the Special Servicer, as applicable, may agree).

If the Issuer (or the Servicer or the Special Servicer, on behalf of the Issuer) makes a demand to be indemnified as a result of a Material Breach of Loan Warranty by both Loan Sellers (but not one Loan Seller only), the Loan Sellers will be entitled (but will not be obliged except in the specific circumstances set out below), as an alternative to the Loan Sellers being required to indemnify the Issuer, to repurchase the Securitised Senior Loan (but only if both Loan Sellers will do so) and the Common Transaction Security pertaining to it in accordance with the provisions of the Securitised Senior Loan Sale Agreement.

If a Material Breach of Loan Warranty relates to a breach of warranty by both Loan Sellers, then the Loan Sellers must jointly elect to take the same action. If the Loan Sellers cannot agree whether to indemnify the Issuer or exercise the Repurchase Option, then both Loan Sellers must repurchase the Securitised Senior Loan and the Common Transaction Security pertaining to it. If a Material Breach of Loan Warranty relates to a breach by only one Loan Seller, then such Loan Seller must indemnify the Issuer (and it is not entitled to exercise the Repurchase Option).

Where the Loan Sellers exercise their repurchase option as set out above, the Loan Sellers shall be obliged to repurchase 100 per cent. of the principal balance of the Securitised Senior Loan then outstanding plus any accrued but unpaid interest thereon and any other accrued but unpaid amounts relating to the Securitised Senior Loan (the Loan Sellers will also be obliged to pay the Issuer certain other amounts in certain situations – refer to the section entitled "*Description of the Securitised Senior Loan Sale Agreement*" for further details).



Each Loan Seller will be liable for a proportionate share of any indemnity payment or any payment associated with a repurchase by it of the Securitised Senior Loan relating to a Material Breach of Loan Warranty, as applicable.

## **7. Overview of the key provisions of the Notes**

*The following is an overview of certain features of the Notes. Investors should refer to, and carefully consider, the further details in respect of the Notes in the section entitled "Terms and Conditions of the Notes".*

### ***Issue price***

The Notes (other than the Class X Notes) will be issued at the issue price of the following percentage of their principal amount upon issue:

- (a) Class A1 Notes: 100 per cent.;
- (b) Class A2 Notes: 100 per cent.;
- (c) Class B Notes: 100 per cent.;
- (d) Class C Notes: 100 per cent.;
- (e) Class D Notes: 100 per cent.;
- (f) Class E Notes: 100 per cent.; and
- (g) Class F Notes: 100 per cent.

The Class X Notes will be issued at the issue price of 100 per cent. of their principal amount upon issue.

### ***Ranking***

The Notes constitute unconditional, direct, secured and limited recourse obligations of the Issuer. The Notes of each Class will rank *pari passu* without any preference or priority among themselves as to payments of interest, principal and other amounts at all times. The Notes will share the same security (other than the Class X Notes with respect to principal only which benefit from security over amounts in the Class X Account only) subject to the ranking below.

In respect of interest:

- (a) The Class A1 Notes and the Class X Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest (except in relation to the EURIBOR Excess Amounts) senior to all other Classes of Notes as provided in these Conditions and the Issuer Transaction Documents.
- (b) The Class A2 Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to

EURIBOR Excess Amounts) and the Class X Notes, as provided in these Conditions and the Issuer Transaction Documents.

- (c) The Class B Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts) and the Class X Notes, as provided in these Conditions and the Issuer Transaction Documents.
- (d) The Class C Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes and the Class B Notes (except with respect to the EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
- (e) The Class D Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except with respect to the EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts) and the Class C Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
- (f) The Class E Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts), the Class C Notes (except in relation to EURIBOR Excess Amounts) and the Class D Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
- (g) The Class F Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts), the Class C Notes (except in relation to EURIBOR Excess Amounts), the Class D Notes (except in relation to EURIBOR Excess Amounts) and the Class E Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.

In respect of principal, prior to the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, Principal Receipts are paid *pro rata* to the Notes (other than the Class X Notes). Following the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, Principal Receipts are paid sequentially to the Notes.

Payment of EURIBOR Excess Amounts in respect of all Notes is subordinated to payments of interest, Note Prepayment Amounts and principal on all Notes. Payment of EURIBOR Excess Amounts is made sequentially, first to the Class A1 Notes, second to the Class A2 Notes, third to the Class B Notes, fourth to the Class C Notes, fifth to the Class D Notes, sixth to the Class E Notes and seventh to the Class F Notes.

In respect of the Class X Notes, principal will be paid when due from the Class X Account (the Class X Account is secured in favour of the Class X Noteholders only) and into which the Issuer will deposit, on the Closing Date, the proceeds of the issuance of the Class X Notes (being an amount equal to €400,000). No other Class of Notes will be entitled to payment from amounts standing to the credit of the Class X Account and, therefore, the Class X Notes do not rank against any other Class of Notes with respect to principal amounts distributable from the Issuer Transaction Account.

### ***Issuer Security***

Pursuant to the Issuer Deed of Charge and as further described in Condition 3.2 (Security), the Issuer will grant the following security interests to the Issuer Security Trustee (on trust for itself and for the other Issuer Secured Creditors) to secure the obligations of the Issuer to the Noteholders (other than as to principal with respect to the Class X Notes) and the other Issuer Secured Creditors:

- (a) an assignment (or, to the extent not assignable, a charge by way of first fixed charge) of the Issuer's rights in respect of the Issuer Charged Documents (other than rights over which the Issuer has granted security pursuant to the German Security Agreement);
- (b) an assignment (or, to the extent not assignable, a charge by way of first fixed charge) of the Issuer's rights in respect of any amount standing from time to time to the credit of the Issuer Accounts (other than the Issuer Proceeds Account and the Class X Account);
- (c) a first fixed charge over the Issuer's rights in respect of all shares, stocks, debentures, bonds or other securities and investments owned by it or held by a nominee on its behalf;
- (d) a first fixed charge over the Issuer's rights in respect of: (i) the benefit of all authorisations (statutory or otherwise) held in connection with its use of any Issuer Charged Property; and (ii) any compensation which may be payable to it in respect of those authorisations;

- (e) first floating charge over all of the Issuer's assets (other than (i) those subject to the fixed charges or assignments as described in paragraphs (a) to (d) above, (ii) the Issuer Proceeds Account and the Class X Account and (iii) those subject to the German Security Agreement; and
- (f) a first fixed charge in favour of the Issuer Security Trustee as trustee for the Class X Noteholders, over the Issuer's rights in respect of any amount standing from time to time to the credit of the Class X Account.

Pursuant to the German Security Agreement, the Issuer will grant the following security interests to the Issuer Security Trustee (on trust for itself and for the other Issuer Secured Creditors) in respect of its present and future rights, claims and interest:

- (a) against the Common Security Agent under the German Security Trust Agreement;
- (b) under any reports, valuations and legal opinions to which the Issuer is a party or addressee or in relation to which the Issuer has the benefit against the relevant issuer of such report, valuation or legal opinion; and
- (c) against any Senior Obligor, any Senior Finance Party or any other party to a Senior Finance Document arising out of or in connection with any Senior Finance Document (other than the German Security Trust Agreement).

In the event of enforcement of the Issuer Security, certain of the Issuer Secured Creditors will rank senior to the Issuer's obligations under the Notes in respect of the allocation of proceeds as set out in the Post-Enforcement Priority of Payments.

### ***Interest***

Interest on the Notes will be payable by reference to successive Note Interest Periods.

The Rate of Interest payable from time to time in respect of each Class of Notes will be determined by the Agent Bank on the Interest Determination Date.

The Rate of Interest applicable to the Notes of each Class (other than the Class X Notes) for any Note Interest Period will be equal to: (a) three-month EURIBOR (subject to a floor of zero); plus (b) the Relevant Margin.

The Relevant Margin for each Class of Notes is as follows:

Class A1 Notes:	1.10 per cent. per annum
Class A2 Notes:	1.20 per cent. per annum
Class B Notes:	1.50 per cent. per annum

Class C Notes:	2.05 per cent. per annum
Class D Notes:	2.70 per cent. per annum
Class E Notes:	3.40 per cent. per annum
Class F Notes:	4.75 per cent. per annum

For each Note Interest Period beginning on or after the Senior Loan Maturity Date, the EURIBOR component of the Rate of Interest applicable to the Notes of each Class (other than the Class X Notes) will be subject to the EURIBOR Notes Cap.

**EURIBOR Notes Cap** means that, for each Note Interest Period beginning on or after the Senior Loan Maturity Date, the EURIBOR component of the Rate of Interest will be capped at 5 per cent. per annum.

The Class X Notes will, subject to the occurrence of a Class X Interest Diversion Trigger Event, be entitled to receive the Class X Amount.

#### ***EURIBOR Excess Amounts***

Payment of EURIBOR Excess Amounts will be subordinated to, *inter alia*, payment of interest on and repayment of principal on the Notes of each Class and will be paid *pari passu* to Noteholders within each Class in accordance with the relevant Issuer Priority of Payments.

On each Note Payment Date relating to each Note Interest Period beginning on or after the Senior Loan Maturity Date, to the extent there is a difference between the Rate of Interest that would have been payable had the Rate of Interest not been subject to the EURIBOR Notes Cap and the Rate of Interest that is actually payable (after application of the EURIBOR Notes Cap), the Noteholders of each Class will be entitled to a payment of the EURIBOR Excess Amount in accordance with the relevant Issuer Priority of Payments.

The ratings of the Notes assigned by the Rating Agencies do not address the likelihood of receipt of any EURIBOR Excess Amounts.

#### ***Note Prepayment Fees***

Note Prepayment Fees will be payable by the Issuer in respect of those Classes of Notes (other than the Class X Notes) which have been subject to redemption by reason of a prepayment of the Securitised Senior Loan if and to the extent Senior Loan Prepayment Fees are received by the Issuer as a consequence of such prepayment. Senior Loan Prepayment Fees are payable by the Senior Company in accordance with the Common Terms Agreement (see "*Description of the Common Terms Agreement – Fees and prepayment fee*").

Prior to the service of a Note Acceleration Notice, all amounts of Senior Loan Prepayment Fees in excess of the amounts allocated to the Notes (other than the Class X Notes) will be allocated to the

## Class X Notes.

The ratings of the Notes assigned by the Rating Agencies do not address the likelihood of receipt of any Note Prepayment Fees.

### *Deferral*

To the extent that, on any Note Payment Date (other than the Final Note Maturity Date), there are insufficient funds (in accordance with the relevant Issuer Priority of Payments) to pay the full amount of interest on any Class of Notes (other than interest on the Class A1 Notes and the Class A2 Notes) (taking into account the Class D Available Funds Cap, the Class E Available Funds Cap and the Class F Available Funds Cap) or any EURIBOR Excess Amounts or Note Prepayment Fees due on any Class of Notes, the amount of the shortfall in:

- (a) interest (the **Deferred Interest**);
- (b) EURIBOR Excess Amounts (the **Deferred EURIBOR Excess Amounts**); or
- (c) Note Prepayment Fees (the **Deferred Note Prepayment Fees**),

will not fall due on that Note Payment Date. Instead, the Issuer shall, in respect of each affected Class of Notes, create a provision in its accounts for the related Deferred Interest, Deferred EURIBOR Excess Amounts and/or Deferred Note Prepayment Fees on the relevant Note Payment Date.

Such Deferred Interest shall accrue interest at the same rate as that payable in respect of the related Class of Notes from the date of deferral. Such Deferred Note Prepayment Fees and Deferred EURIBOR Excess Amounts will not accrue any interest.

Such Deferred Interest, Deferred EURIBOR Excess Amounts and/or Deferred Note Prepayment Fees shall be payable together with accrued interest (if applicable) on the earlier of:

- (a) any succeeding Note Payment Date when any such Deferred Interest, Deferred EURIBOR Excess Amount and/or Deferred Note Prepayment Fees shall be paid, but only if and to the extent that, on such Note Payment Date, there are sufficient Available Funds (after allowing for the Issuer's liabilities of higher priority in accordance with the relevant Issuer Priority of Payments and subject to and in accordance with the Conditions); and
- (b) the Final Note Maturity Date or such other date on which the relevant Notes are redeemed in full, subject to the Conditions.

### *Class D Available Funds Cap*

On any Note Payment Date (prior to the service of a Note Acceleration Notice), interest due and payable on the Class D Notes is subject to a cap equal to the Class D Adjusted Interest Payment

Amount to the extent that the Class D Interest Amount applicable to that Class of Notes is greater than the Class D Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise). Amounts of interest that would otherwise be represented by any such difference between the Class D Adjusted Interest Payment Amount and the Class D Interest Amount shall be extinguished on such Note Payment Date and the affected Class D Noteholders shall have no claim against the Issuer in respect thereof.

**Class D Adjusted Interest Payment Amount** means, in respect of any Note Payment Date, an amount equal to the amount by which:

- (a) the Available Funds (other than Principal Receipts) available for distribution under the Pre-Enforcement Priority of Payments on that date (excluding any Interest Drawings on such Note Payment Date), in each case in respect of such Note Payment Date; exceed
- (b) the sum of all amounts payable under items (a) to (n) (inclusive) and Note Prepayment Amounts due under item (o) (but excluding the Class X Amount in item (f)(ii) of the Pre-Enforcement Priority of Payments) of the Pre-Enforcement Priority of Payments on that Note Payment Date,

or (if such amount is a negative amount) zero.

**Class D Interest Amount** means, in respect of any Note Payment Date, the amount of interest payable on the Class D Notes calculated in accordance with Condition 5 (Interest) as EURIBOR (determined in accordance with the Conditions) plus the Relevant Margin for the Class D Notes in respect of the immediately preceding Note Interest Period, calculated in accordance with Condition 5 (Interest) (for the avoidance of doubt, prior to any adjustment which results in the calculation of the Class D Adjusted Interest Payment Amount).

***Class E Available Funds Cap***

On any Note Payment Date (prior to the service of a Note Acceleration Notice), interest due and payable on the Class E Notes is subject to a cap equal to the Class E Adjusted Interest Payment Amount to the extent that the Class E Interest Amount applicable to that Class of Notes is greater than the Class E Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise). Amounts of interest that would otherwise be represented by any such difference between the Class E Adjusted Interest Payment Amount and the Class E Interest Amount shall be extinguished on such Note Payment Date and the affected Class E Noteholders shall have no claim against the Issuer in respect thereof.

**Class E Adjusted Interest Payment Amount** means, in respect of any Note Payment Date, an amount equal to the amount by which:

- (a) the Available Funds (other than Principal Receipts) available for distribution under the Pre-Enforcement Priority of Payments on that date (excluding any Interest Drawings on such Note Payment Date), in each case in respect of such Note Payment Date; exceed
- (b) the sum of all amounts payable under items (a) to (p) (inclusive) and Note Prepayment Amounts due under item (q) (but excluding the Class X Amount in item (f)(ii) of the Pre-Enforcement Priority of Payments) of the Pre-Enforcement Priority of Payments on that Note Payment Date,

or (if such amount is a negative amount) zero.

**Class E Interest Amount** means, in respect of any Note Payment Date, the amount of interest payable on the Class E Notes calculated in accordance with Condition 5 (Interest) as EURIBOR (determined in accordance with the Conditions) plus the Relevant Margin for the Class E Notes in respect of the immediately preceding Note Interest Period, calculated in accordance with Condition 5 (Interest) (for the avoidance of doubt, prior to any adjustment which results in the calculation of the Class E Adjusted Interest Payment Amount).

**Class F Available Funds Cap** On any Note Payment Date (prior to the service of a Note Acceleration Notice), interest due and payable on the Class F Notes is subject to a cap equal to the Class F Adjusted Interest Payment Amount to the extent that the Class F Interest Amount applicable to that Class of Notes is greater than the Class F Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of a prepayment of the Senior Loan (whether arising voluntarily or otherwise). Amounts of interest that would otherwise be represented by any such difference between the Class F Adjusted Interest Payment Amount and the Class F Interest Amount shall be extinguished on such Note Payment Date and the affected Class F Noteholders shall have no claim against the Issuer in respect thereof.

**Class F Adjusted Interest Payment Amount** means, in respect of any Note Payment Date, an amount equal to the amount by which:

- (a) the Available Funds (other than Principal Receipts) available for distribution under the Pre-Enforcement Priority of Payments on that date (excluding any Interest Drawings on such Note Payment Date), in each case in respect of such Note Payment Date; exceed
- (b) the sum of all amounts payable under items (a) to (r) (inclusive) and Note Prepayment Amounts due under item (s) (but excluding the Class X Amount in item (f)(ii) of the Pre-Enforcement Priority of Payments) of the Pre-Enforcement Priority of Payments on that Note Payment Date,



or (if such amount is a negative amount) zero.

**Class F Interest Amount** means, in respect of any Note Payment Date, the amount of interest payable on the Class F Notes calculated in accordance with Condition 5 (Interest) as EURIBOR (determined in accordance with the Conditions) plus the Relevant Margin for the Class F Notes in respect of the immediately preceding Note Interest Period, calculated in accordance with Condition 5 (Interest) (for the avoidance of doubt, prior to any adjustment which results in the calculation of the Class F Adjusted Interest Payment Amount).

***Class X Interest Diversion***

At any time while a Class X Interest Diversion Trigger Event is continuing:

- (a) but prior to the earlier of, the occurrence of the Senior Loan Maturity Date and the delivery of a Note Acceleration Notice, payment of the Class X Amount will, instead of being paid to the Class X Noteholder, be held in the Issuer Transaction Account and credited to the Class X Interest Diversion Ledger (amounts so credited to the Class X Interest Diversion Ledger being **Class X Interest Diversion Amounts**); and
- (b) following the occurrence of the Senior Loan Maturity Date (but prior to the delivery of a Note Acceleration Notice), payment of the Class X Amount will, instead of being paid to the Class X Noteholder on the relevant Note Payment Date, be treated as Principal Receipts, available for application in accordance with the Pre-Enforcement Priority of Payments on such Note Payment Date.

On each Note Payment Date, Class X Interest Diversion Amounts standing to the credit of the Class X Interest Diversion Ledger shall:

- (a) to the extent that there is no Class X Interest Diversion Trigger Event continuing on such Note Payment Date, be paid directly to the Class X Noteholder (the **Class X Released Interest Diversion Amounts**); or
- (b) to the extent that a Class X Interest Diversion Trigger Event is continuing on such Note Payment Date:
  - (i) prior to the earlier of, the Expected Note Maturity Date and the delivery of a Note Acceleration Notice, continue to be held in the Issuer Transaction Account; or
  - (ii) following the Expected Note Maturity Date (but prior to the delivery of a Note Acceleration Notice), constitute Principal Receipts available for application in accordance with the Pre-Enforcement Priority of Payments; or

- (iii) following the delivery of a Note Acceleration Notice, constitute amounts available for application in accordance with the Post-Enforcement Priority of Payments, as applicable.

**Class X Interest Diversion Trigger Event** means:

- (a) the Debt Yield being less than 8.66 per cent.; or
- (b) the Senior LTV Ratio exceeding 82.02 per cent.;
- (c) the occurrence of a Special Servicing Transfer Event; or
- (d) the occurrence of the Senior Loan Maturity Date.

### ***Taxation***

As described in Condition 8 (Taxation), all payments in respect of the Notes by or on behalf of the Issuer will be made without withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatsoever nature, unless the Issuer or any relevant Paying Agent is required by applicable law in any jurisdiction to make any payment in respect of the Notes subject to any such withholding or deduction. In that event, the Issuer or such Paying Agent (as the case may be) shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount so required to be withheld or deducted. Neither the Issuer nor any Paying Agent will be obliged to make any additional payments to holders of Notes in respect of such withholding or deduction.

### ***Redemption overview***

By way of overview, the Notes (other than the Class X Notes) are subject to the following optional or mandatory redemption events:

- (a) mandatory redemption in whole on the Final Note Maturity Date, as fully set out in Condition 7.1 (Final redemption of the Notes);
- (b) mandatory redemption in part on each Note Payment Date, as more fully set out in Condition 7.2 (Mandatory redemption from Principal Distribution Amounts);
- (c) optional redemption exercisable by the Issuer in whole for tax reasons on any Note Payment Date, as fully set out in Condition 7.4 (Optional redemption for tax and other reasons); and
- (d) optional redemption exercisable by the Issuer in whole on any Note Payment Date on which the aggregate Principal Amount Outstanding of the Notes is (or will be) less than 10 per cent. of the aggregate Principal Amount Outstanding of the Notes as at the Closing Date, as fully set out in Condition 7.5 (Optional redemption in full).

The Issuer must redeem the Class X Notes (a) in full in accordance

with Condition 7.1 (Final redemption of the Notes) and in part in accordance with Condition 7.3 (Mandatory redemption of the Class X Notes).

Any Note redeemed in whole or in part pursuant to the above redemption provisions will be redeemed at an amount equal to the Principal Amount Outstanding of the relevant Note to be redeemed together with:

- (a) accrued (and unpaid) interest on the Principal Amount Outstanding of; and
- (b) other accrued but unpaid amounts on,

the relevant Note up to (but excluding) the date of redemption.

***Final redemption***

Unless previously redeemed in full and cancelled, the Issuer will redeem the Notes at their respective Principal Amount Outstanding together with accrued interest on the Final Note Maturity Date as fully set out in Condition 7.1 (Final redemption of the Notes).

The Class X Notes will be redeemed in full, from amounts standing to the credit of the Class X Account on the Final Note Maturity Date or such other date when the other Notes are redeemed in full.

***Mandatory redemption***

Prior to the service of a Note Acceleration Notice, as described in more detail in Condition 7.2 (Mandatory redemption from Principal Distribution Amounts), each Class of Notes (other than the Class X Notes) is subject to mandatory early redemption in part on each Note Payment Date in an amount allocated to such Class on such Note Payment Date subject to the applicable Issuer Priority of Payments.

The Issuer must redeem the Class X Notes in an amount equal to €380,000 using amounts standing to the credit of the Class X Account on the first Note Payment Date after the Closing Date (falling in February 2019).

***Optional redemption for Tax and other reasons***

As described in Condition 7.4 (Optional redemption for tax and other reasons), if either:

- (a) by reason of a change in the tax law (or the application or official interpretation thereof) of Germany, the Netherlands, France, Luxembourg or Ireland or any other jurisdiction, the Issuer or any Paying Agent on its behalf would be required to deduct or withhold from any payment of principal or interest in respect of any Note for any amount or on account of any present or future taxes, duties, assessments or governmental charges and such requirement cannot be avoided by the Issuer taking reasonable measures available to it;
- (b) by reason of a change in law (or the application or official interpretation thereof), it becomes or will become unlawful for the Issuer to make, fund or allow to remain outstanding

all or any of the Notes or advances under the Common Terms Agreement or the French Facility Agreement; or

- (c) any amount payable by the Senior Obligor in respect of the Issuer Assets is reduced or ceases to be receivable (whether or not actually received),

the Issuer may in certain circumstances redeem all of the Notes in an amount equal to the then respective aggregate Principal Amount Outstanding plus interest and other amounts accrued and unpaid thereon.

***Optional Issuer redemption in full***

As described in Condition 7.5 (Optional redemption in full), upon giving not more than 60 and not fewer than 30 days' written notice to the Note Trustee, the Paying Agents and the Noteholders, the Issuer may redeem all of the Notes in full, provided that, immediately prior to such redemption, the then aggregate Principal Amount Outstanding of all the Notes is less than 10 per cent. of their Principal Amount Outstanding as at the Closing Date.

***Note Events of Default***

The Note Events of Default are described in more detail in Condition 10 (Note Events of Default) and include (where relevant, subject to the applicable grace period and any other applicable condition):

- (a) default for a period of five Business Days in the payment of interest on the Class A1 Notes or the Class A2 Notes, in each case when and as the same becomes due and payable in accordance with the Conditions;
- (b) default for a period of three Business Days in the payment of principal on any Class of Notes, in each case when and as the same becomes due and payable in accordance with the Conditions;
- (c) default on the Final Note Maturity Date in the payment of interest or principal on any Class of Notes;
- (d) default by the Issuer in the performance or observance of any other obligation binding upon it under the Notes of any Class, the Note Trust Deed, the Issuer Security Documents or the other Issuer Transaction Documents to which it is a party or any representation or warranty made by the Issuer under any Issuer Transaction Document is incorrect when made and such default or misrepresentation continues for a period of 30 days following the service by the Note Trustee on the Issuer of notice requiring the same to be remedied (provided that the Note Trustee certifies to the Issuer that such event is, in its opinion, materially prejudicial to the interests of the holders of the Most Senior Class of Notes then outstanding);
- (e) the Issuer ceases to carry on business or a substantial part of its business or is deemed unable to pay its debts as and when

they fall due;

- (f) an order is made or an effective resolution is passed for the winding-up of the Issuer; or
- (g) proceedings are initiated against the Issuer under any applicable liquidation, insolvency, examinership, receivership, composition, reorganisation or other similar laws.

***Acceleration and enforcement***

If a Note Event of Default has occurred and is continuing, the Note Trustee at its absolute discretion may, and if:

- (a) so requested in writing by the holders of Notes outstanding constituting not less than 25 per cent. in aggregate of the Principal Amount Outstanding of the Most Senior Class of Notes then outstanding; or
- (b) so directed by or pursuant to an Extraordinary Resolution of the Noteholders of the Most Senior Class of Notes then outstanding,

shall (in each case, subject to the Note Trustee being indemnified and/or secured and/or prefunded to its satisfaction), give a Note Acceleration Notice to the Issuer and the Issuer Security Trustee declaring all the Notes to be immediately due and repayable in accordance with Condition 10 (Note Events of Default).

Upon the giving of a Note Acceleration Notice in accordance with Condition 10 (Note Events of Default), all Classes of the Notes then outstanding shall immediately become due and repayable at their Principal Amount Outstanding together with accrued interest (including, where applicable, Deferred Interest) and other accrued and unpaid amounts as provided in the Note Trust Deed, as described in Condition 11 (Enforcement).

The Issuer Security will become enforceable upon the service of a Note Acceleration Notice.

***Note Maturity Plan***

As described in more detail in Condition 13 (Note Maturity Plan), if:

- (a) any part of the Securitised Senior Loan remains outstanding on the date which is six months prior to the Final Note Maturity Date; and
- (b) in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the related Common Transaction Security or otherwise) are unlikely to be realised in full prior to the Final Note Maturity Date,

the Special Servicer will be required to prepare a draft Note Maturity Plan and present the same to the Issuer, the Note Trustee and the Issuer Security Trustee not later than 45 days after the date falling six months prior to the Final Note Maturity Date (together with a statement of whether, in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the Common Transaction Security, sale of the

Securitised Senior Loan, or otherwise) are reasonably likely to be realised in full prior to the Final Note Maturity Date). At least one proposal provided by the Special Servicer must be that the Issuer Security Trustee, at the cost of the Issuer, will engage an independent financial adviser or receiver to advise the Issuer Security Trustee as to the enforcement of the Issuer Security. The Issuer, with the assistance of the Special Servicer, will publish a draft of the Note Maturity Plan with the Regulatory Information Service.

Upon receipt of the draft Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of all Noteholders at which the Noteholders will have the opportunity to discuss the various proposals contained in the draft Note Maturity Plan with the Special Servicer.

Following such meeting, the Special Servicer will reconsider the Note Maturity Plan and make modifications thereto to address the views of Noteholders (subject to the Servicing Standard). It will promptly prepare a final Note Maturity Plan and (a) provide the final Note Maturity Plan to the Issuer, the Rating Agencies, the Note Trustee and the Issuer Security Trustee and (b) request that the Issuer provides the Noteholders with the final Note Maturity Plan. Upon receipt of the final Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of the Noteholders of the Most Senior Class of Notes then outstanding to select, by way of Ordinary Resolution, their preferred option among the proposals set out in the final Note Maturity Plan. The Special Servicer will, notwithstanding any other provision of the Servicing Agreement or requirement to act in accordance with the Servicing Standard, implement the proposal that receives the approval of the holders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution (irrespective of whether it results in a Basic Terms Modification). If no option receives the approval of the holders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution at such meeting, then the Issuer Security Trustee will be deemed to be directed by all of the Noteholders to appoint a receiver (to the extent applicable) to realise the Issuer Charged Property in accordance with the Issuer Deed of Charge and the German Security Agreement as soon as practicable upon such right becoming exercisable.

### ***Limited recourse***

As described in more detail in Condition 12 (Limit on Noteholder action, limited recourse and non-petition), the Notes are limited recourse obligations of the Issuer, and, if on realisation or enforcement of all of the Issuer Security and distribution of its proceeds in accordance with the relevant Issuer Priority of Payments there are insufficient amounts available to pay in full amounts under the Notes, none of the Noteholders or the other Issuer Secured Creditors may take any further steps against the Issuer in respect of any amounts payable on the Notes and such amounts will be deemed to be discharged in full and all claims against the Issuer in respect of payment of such amounts will be extinguished and discharged.

***Non-petition***

As described in more detail in Condition 12 (Limit on Noteholder action, limited recourse and non-petition), no Noteholder shall be entitled to proceed directly against the Issuer or any other Issuer Secured Creditors to enforce the Issuer Security, excluding (only in respect of the Noteholders) directing the Note Trustee to instruct the Issuer Security Trustee to enforce the Issuer Security in accordance with the Issuer Transaction Documents.

***Governing law***

The Issuer Transaction Documents (other than certain of the Senior Finance Documents) and the Notes will be governed by, and shall be construed in accordance with, English law (other than the Corporate Services Agreement (which will be governed by Irish law) and the German Security Agreement and the German Security Trust Accession Agreement (which will both be governed by German law)).

**8. Rights of Noteholders and relationship with other Issuer Secured Creditors**

*The following is an overview of certain rights of Noteholders, conditions for exercising such rights and the relationship with other Issuer Secured Creditors. Investors should refer to, and carefully consider, the further details set out in the section entitled "Terms and Conditions of the Notes" for a more detailed description of the rights of Noteholders, conditions for exercising such rights and relationship with other Issuer Secured Creditors.*

***Meetings of Noteholders******Convening meetings***

As described in more detail in Condition 14 (Meetings of Noteholders, modification and waiver, substitution and termination of Issuer Related Parties), the Note Trustee shall, upon a requisition in writing signed by the holders representing in aggregate at least 10 per cent. of the Principal Amount Outstanding of the Notes of the relevant Class or Classes of Notes (other than the Class X Notes), convene a meeting or meetings of the Noteholders of such Class or Classes of Notes.

The Issuer, the Note Trustee, the Issuer Cash Manager, the Servicer or the Special Servicer may also convene (or require the Issuer to convene) Noteholder meetings (at the cost of the Issuer) for any purpose, including consideration of Extraordinary Resolutions or Ordinary Resolutions.

The Note Trustee will, pursuant to Condition 13 (Note Maturity Plan), be required to convene, at the Issuer's cost, meetings of: (a) the Noteholders for the purposes of considering any draft Note Maturity Plan; and (b) the Noteholders of the Most Senior Class of Notes outstanding at which Noteholders of such Class will be requested to select their preferred option among the proposals set out in the final Note Maturity Plan.

The Class X Noteholders will not be entitled to convene, count in the quorum or pass resolutions (including Extraordinary Resolutions and Ordinary Resolutions) other than for resolutions specifically

presented to them by request of the Issuer, the Servicer or the Special Servicer acting on behalf of the Issuer, or in respect of a Class X Entrenched Right.

Any Ordinary Resolution or Extraordinary Resolution passed by any Class of Noteholders will be binding on the Class X Noteholders (other than any resolutions in respect of a Class X Entrenched Right) if passed in accordance with the Conditions. No Extraordinary Resolution (or Ordinary Resolution) may authorise or sanction any modification or waiver of a Class X Entrenched Right unless the Class X Noteholders have consented to such modification or waiver (by Extraordinary Resolution of the Class X Noteholders).

***Noteholders meeting provisions***

	<b>Initial meeting</b>	<b>Adjourned meeting</b>
Notice period	14 clear days	7 clear days
Quorum	<p><b>Ordinary Resolution or an Extraordinary Resolution (other than in relation to a Basic Terms Modification)</b></p> <p>In accordance with Condition 14.10 (Quorum at Noteholder's meeting), one or more persons present holding Notes or voting certificates in respect thereof or being proxies representing Notes outstanding constituting not less than (for an Ordinary Resolution or an Extraordinary Resolution other than a Basic Terms Modification) 50.1 per cent. of the Principal Amount Outstanding of the Notes or the Notes of such Class.</p> <p><b>Extraordinary Resolution relating to a Basic Terms Modification</b></p> <p>A meeting to consider a Basic Terms</p>	<p><b>Ordinary Resolution or an Extraordinary Resolution (other than in relation to a Basic Terms Modification)</b></p> <p>In accordance with Condition 14.10 (Quorum at Noteholder's meeting), one or more persons present holding Notes or voting certificates in respect thereof or being proxies representing Noteholders whatever the proportion of Notes so held or represented.</p> <p><b>Extraordinary Resolution relating to a Basic Terms Modification</b></p> <p>One or more persons present holding Notes or voting certificates in respect thereof or being proxies representing Noteholders, representing at least 33<sup>1</sup>/<sub>3</sub> per cent. of the Principal Amount Outstanding of the relevant Class of</p>



Modification will require one or more persons present holding Notes or voting certificates in respect thereof or proxies representing not less than 75 per cent. of the Principal Amount Outstanding of the Notes (or the relevant Class thereof) for the time being outstanding.

Required majorities

Extraordinary Resolution: the majority required for passing an Extraordinary Resolution at any duly convened and quorate meeting of Noteholders will be at least 75 per cent. of votes cast.

Ordinary Resolution: the majority required for passing an Ordinary Resolution at any duly convened and quorate meeting of Noteholders will be at least 50.1 per cent. of votes cast.

Written resolutions

An Extraordinary Resolution passed in writing by or on behalf of holders of not less than 75 per cent. of the Principal Amount Outstanding of the relevant Class of Notes (which 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 Noteholders) (a **Written Extraordinary Resolution**) will have the same effect as an Extraordinary Resolution.

An Ordinary Resolution passed in writing by or on behalf of holders of not less than 50.1 per cent. of the Principal Amount Outstanding of the relevant Class of Notes (which 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 Noteholders) (a **Written Ordinary Resolution**) will have the same effect as an Ordinary Resolution.

### ***Basic Terms Modification***

Any Extraordinary Resolution of any Class of Notes which would have the effect of sanctioning:

- (a) a modification of the date of maturity of any Class of Notes;
- (b) a change in the amount of principal or the rate of interest payable in respect of any Class of Notes;
- (c) a modification of the method of calculating the amount

payable or the date of payment in respect of any interest or principal in respect of any Class of Notes (excluding any change to the reference rate applicable to the Notes following the discontinuation of EURIBOR);

- (d) any alteration of the currency of payment of any Class of Notes;
- (e) a release of the Issuer Security (or any part thereof) other than in accordance with the provisions of the Issuer Transaction Documents (but without prejudice to the Note Trustee's and the Issuer Security Trustee's ability to exercise their respective powers and discretions under the Note Trust Deed, the Issuer Deed of Charge, the German Security Agreement and the other Issuer Transaction Documents);
- (f) a Reserved Matter;
- (g) a modification to clause 10 (Operating Adviser) of the Servicing Agreement;
- (h) a modification to the definition of "Controlling Class"; or
- (i) a modification to the definition of "Basic Terms Modification" or the quorum or majority required to effect a Basic Terms Modification,

will, in each case, constitute a **Basic Terms Modification**, except in each case, as set out in the final Note Maturity Plan delivered to the Noteholders.

***Rating Agency Confirmation***

Pursuant to the Issuer Transaction Documents, the implementation of certain matters will or may (at the request of the Note Trustee or the Issuer Security Trustee) be subject to the receipt of a Rating Agency Confirmation.

The Issuer Transaction Documents provide that if any Rating Agency then rating the Notes either:

- (a) does not respond to a request to provide a Rating Agency Confirmation within 10 Business Days after such request is made and then does not respond to a second request to provide a Rating Agency Confirmation, in respect of the same matter as the first request, within five Business Days after such second request is made (such second request not to be made less than 10 Business Days after the first request is made); or
- (b) provides a waiver or acknowledgement indicating its decision not to review or otherwise declining to review the matter for which the Rating Agency Confirmation is sought, and
- (c) in connection with paragraphs (a) or (b) above, the Issuer has

received no indication from that Rating Agency that the then-current ratings of the Notes rated thereby would be qualified, downgraded, withdrawn or put on negative watch as a result of such matter,

the requirement for the Rating Agency Confirmation from the relevant Rating Agency with respect to such matter will be deemed not to apply and the Issuer Security Trustee and the Note Trustee shall not be liable for any losses Noteholders may suffer as a result.

For the avoidance of doubt, such Rating Agency Confirmation or non-receipt of such Rating Agency Confirmation shall, however, not be construed to mean that any such action or inaction (or contemplated action or inaction) or such exercise (or contemplated exercise) by the Note Trustee or the Issuer Security Trustee of any right, power, trust, authority, duty or discretion under or in relation to the Note Trust Deed or any of the other Issuer Transaction Documents is not materially prejudicial to the interest of holders of that Class of Notes.

***Negative Consent***

As described in more detail in Condition 14.18 (Negative Consent), an Extraordinary Resolution (other than an Extraordinary Resolution relating to: (i) a Basic Terms Modification; (ii) the waiver of any Note Event of Default; (iii) the acceleration of the Notes; (iv) the enforcement of the Issuer Security; (v) the Class X Entrenched Rights), or an Ordinary Resolution (other than an Ordinary Resolution relating to a Note Maturity Plan) (and without prejudice to any matter which is subject to the provision of Condition 14.19(c) (Modifications and waivers)) will be deemed to have been passed by a Class or Classes of Notes if, within 30 days of the date of a notice to such Class or Classes of Noteholders, 25 per cent. or more (in the case of an Extraordinary Resolution) or 50 per cent. or more (in the case of an Ordinary Resolution) in aggregate of the Principal Amount Outstanding of the Notes of such Class, as the case may be, have not informed the Note Trustee of their objection to such Extraordinary Resolution or Ordinary Resolution (as applicable).

***Class X Entrenched Rights***

Notwithstanding any other provision of the Conditions, the Note Trust Deed or any other Issuer Transaction Documents, no Extraordinary Resolution or Ordinary Resolution may authorise or sanction any modification or waiver of the following:

- (a) any amendment to the Issuer Priorities of Payments (and/or the inclusion of additional creditors in the Issuer Priorities of Payments) that would be materially prejudicial to the Class X Noteholders, any amendment to Condition 5.4(d) (Rates of Interest) or any amendment to the following definitions: "Class X Amount", "Class X Interest Diversion Trigger Event", "Class X Released Interest Diversion Amounts", "Relevant Margin" and "Administrative Fees"; and
- (b) the provisions of the Servicing Agreement relating to the ability of the Servicer or the Special Servicer to reduce the interest rate on the Senior Loan at any time prior to the

Senior Loan Maturity Date,

(in each case, except where included in the final Note Maturity Plan delivered to Noteholders pursuant to Condition 13 (Note Maturity Plan), the **Class X Entrenched Rights**), unless the Class X Noteholders, by way of Extraordinary Resolution of the Class X Noteholders, have consented to such modification or waiver.

***Matters requiring  
Extraordinary Resolution***

The following matters, among other matters, may be passed only by way of an Extraordinary Resolution (including by way of negative consent (other than decisions excluded from the scope of Negative Consent under Condition 14.18 (Negative Consent))):

- (a) a Basic Terms Modification;
- (b) a modification of the Notes or the Note Trust Deed (including the Conditions) or the provisions of any of the other Issuer Transaction Documents, but subject to the Note Trustee's right to agree to certain modifications, waivers or consents without the consent of the Noteholders of any Class as set out in more detail in Condition 14.19 (Modifications and waivers); and
- (c) the termination of the Servicer (without cause) by the Relevant Class of Noteholders in accordance with the terms of the Servicing Agreement.

***Matters requiring Ordinary  
Resolution***

The following matters, among other matters, may be passed by way of an Ordinary Resolution (including by way of negative consent (other than decisions excluded from the scope of Negative Consent under Condition 14.18 (Negative Consent))):

- (a) the removal of the Note Trustee, the Issuer Security Trustee, the Servicer (on the occurrence of any Servicer Termination Event), the Special Servicer (on the occurrence of any Servicer Termination Event), the Issuer Cash Manager, the Issuer Account Bank, the Agent Bank, the Principal Paying Agent, the Registrar or the Corporate Services Provider;
- (b) approval of a Note Maturity Plan;
- (c) instructing the Servicer or the Special Servicer to obtain a Servicer Valuation in accordance with the Servicing Agreement; and
- (d) appointment of an Operating Adviser by the Controlling Class.

***Relationship between Classes  
of Noteholders and binding  
effect of resolutions***

Subject to the provisions governing a Basic Terms Modification, the Class X Entrenched Rights, the Conditions and the Note Trust Deed governing voting generally, an Extraordinary Resolution or an Ordinary Resolution passed at any meeting or duly signed by the required majority of Noteholders (or any Class thereof) shall be binding on all Noteholders (or, as the case may be, all Noteholders of

such Class) whether or not they are present at such meeting or signed such resolution.

As described in more detail in Condition 3.1 (Status and relationship between the Notes), for so long as any of the Notes are outstanding, the Note Trustee is required to have regard to the interests of the holders of the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes equally as regards all rights, powers, trusts, authorities, duties and discretions of the Note Trustee (except where expressly provided otherwise in the Note Trust Deed or the Conditions). Save in respect of a Basic Terms Modification or the Class X Entrenched Rights, if, in the opinion of the Note Trustee, there is a conflict between one Class of Noteholders, on the one hand, and any other Class of Noteholders, on the other hand, the Note Trustee shall have regard only to the interests of the Noteholders of the Most Senior Class of Notes in respect of which the conflict arises.

***Relationship between  
Noteholders and other Issuer  
Secured Creditors***

The Issuer Deed of Charge will provide that if there is a conflict between the interests of (a) any of the Noteholders and (b) any of the other Issuer Secured Creditors, the Issuer Security Trustee shall be entitled to have regard only to the interests of the Noteholders.

***Disenfranchised Holders***

As described in more detail in Condition 14.13 (Disenfranchised Holder), for the purposes of determining: (i) the quorum at any meeting of Noteholders considering an Extraordinary Resolution or an Ordinary Resolution or the majority of votes cast at such meeting; (ii) the holders of Notes for the purposes of giving any direction to the Note Trustee (or any other party); or (iii) the majorities required for any Written Resolution, the voting, objecting or directing rights attaching to any Note held by (or in relation to which the exercise of the right to vote is directed or otherwise controlled by) a Disenfranchised Holder shall not be exercisable by such Disenfranchised Holder, and such Notes shall be treated as if they were not outstanding and shall not be counted in or towards any required quorum or majority.

There are no restrictions on the rights of the Loan Sellers in respect of directing or counting in the quorum in respect of any Notes held by each of them from time to time.

**Disenfranchised Holder** means: (i) the Issuer or any Affiliate Entity of the Issuer; (ii) an Investor or a Restricted Lender; (iii) any member of the Group, any Obligor or their respective Affiliates; (iv) the Sponsor and its respective Affiliates; (v) any Mezzanine Loan Related Lender or its respective Affiliates; and (vi) any Property Manager, Operational Manager, other property or asset manager or their respective Affiliates.

***Class X Call Option***

The Senior Company (or any Affiliate of the Senior Company) has the right to purchase 50 per cent. of the nominal amount of the Class X Notes at par on any Note Payment Date falling after the Call Period Start Date (the **Class X Call Option**).

<b><i>Controlling Class</i></b>	The holders of the most junior class of Notes then outstanding (other than the Class X Notes) which satisfies the Controlling Class Test are the Controlling Class. As at the Closing Date, the holders of the Class F Notes will be the Controlling Class. See Condition 18 (Controlling Class) for further details.
<b><i>Operating Adviser</i></b>	The Operating Adviser (if appointed) will be the representative appointed by the Controlling Class by Ordinary Resolution in respect of the Securitised Senior Loan in accordance with Condition 18 (Controlling Class). For further information about the role and rights of the Operating Adviser, see " <i>Key Terms of the Servicing Arrangements for the Securitised Senior Loan</i> " for further details.
<b><i>Provision of information to the Noteholders</i></b>	Information in respect of the Securitised Senior Loan and the Property Portfolio will be provided to Noteholders (and made public) on a quarterly basis in the Servicer Quarterly Report and the Issuer Cash Manager Quarterly Report. See " <i>Key Terms of the Servicing Arrangements for the Securitised Senior Loan</i> " for further details.
<b><i>Reports</i></b>	<p>Pursuant to the Cash Management Agreement, the Issuer Cash Manager will make available the following documents which have been provided to it on its internet website (currently located at <a href="https://pivot.usbank.com">https://pivot.usbank.com</a>):</p> <ul style="list-style-type: none"> <li>(a) the documents set out in paragraph 8 of the section entitled "<i>General Information</i>";</li> <li>(b) the Servicing Agreement and any amendment thereto;</li> <li>(c) all Servicer Quarterly Reports made available to the holders of the Notes since the Closing Date; and</li> <li>(d) all Issuer Cash Manager Quarterly Reports made available to holders of the Notes since the Closing Date.</li> </ul>
<b><i>Communication with Noteholders</i></b>	All notices to be given by the Issuer, the Servicer, the Special Servicer, the Issuer Cash Manager or the Note Trustee to Noteholders may be given in accordance with the provisions of Condition 17 (Notice to Noteholders) (or the provisions of Condition 14.18 (Negative Consent) in respect of the matters referred to in that Condition).
<b><i>Communications between Noteholders</i></b>	<p>As described in more detail in Condition 17 (Notice to Noteholders), following receipt of a request for the publication of a notice from an Initiating Noteholder which has satisfied the Issuer Cash Manager that it is a Verified Noteholder, the Issuer Cash Manager shall publish such notice on its investor reporting website, provided that such notice contains no more than:</p> <ul style="list-style-type: none"> <li>(a) an invitation to other Verified Noteholders (or any specified Class or Classes of the same) to contact the Initiating Noteholder;</li> </ul>

- (b) the name of the Initiating Noteholder and the address, phone number, website or email address at which the Initiating Noteholder can be contacted; and
- (c) the date(s) from, on or between which the Initiating Noteholder may be so contacted.

## 9. Relevant dates and periods

**Closing Date** The date of issuance of the Notes is expected to be 22 November 2018 (or such later date as the Issuer and Lead Managers may agree).

**Cut-Off Date** Where used in this Offering Circular in respect of certain information relating to the Property Portfolio, 30 June 2018 (the **Cut-Off Date**).

**Expected Note Maturity Date** If:

- (a) no Senior Loan Extension Option is exercised, 22 November 2020 (the **Initial Expected Note Maturity Date**);
- (b) the First Senior Loan Extension Option is exercised, 22 November 2021 (the **First Extended Expected Note Maturity Date**);
- (c) the Second Senior Loan Extension Option is exercised, 22 November 2022 (the **Second Extended Expected Note Maturity Date**); or
- (d) the Third Senior Loan Extension Option is exercised, 22 November 2023 (the **Third Extended Expected Note Maturity Date**),

and in each case, if any such day is not a Business Day, the Expected Note Maturity Date will instead be the next Business Day in that month (if there is one) or the preceding Business Day (if there is not). The **Expected Note Maturity Date** will be either the Initial Expected Note Maturity Date (if none of the Senior Loan Extension Options are exercised), the First Extended Expected Note Maturity Date (if only the First Senior Loan Extension Option is exercised), the Second Extended Expected Note Maturity Date (if only the First Senior Loan Extension Option and the Second Senior Loan Extension Option are exercised) or the Third Extended Expected Note Maturity Date (if each Senior Loan Extension Option is exercised).

**Final Note Maturity Date** Unless previously redeemed in full, the Issuer will redeem the Notes in full (together with all accrued interest thereon) on 22 May 2030 (or, if any such day is not a Business Day, the Final Note Maturity Date will instead be the next Business Day in that Month (if there is one) or the preceding Business Day (if there is not)) (the **Final Note Maturity Date**).

<b><i>Note Payment Dates</i></b>	22 February, 22 May, 22 August and 22 November in each year and the Final Note Maturity Date or, if any such day is not a Business Day, the Note Payment Date will instead be the next Business Day in that Month (if there is one) or the preceding Business Day (if there is not) (each such day being a <b>Note Payment Date</b> ). The first Note Payment Date in respect of the Notes will fall on 22 February 2019.
<b><i>Note Interest Period</i></b>	Each of the successive interest periods by reference to which interest on the Notes is payable. The first Note Interest Period will commence on (and include) the Closing Date and end on (but exclude) the Note Payment Date falling in February 2019. Each successive Note Interest Period will commence on (and include) the next (or first) Note Payment Date and end on (but exclude) the following Note Payment Date (each, a <b>Note Interest Period</b> ). If a Note Interest Period would otherwise end on a day which is not a Business Day, that Note Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).
<b><i>Determination Date</i></b>	<p>The second Business Day prior to each Note Payment Date (the <b>Determination Date</b>).</p> <p>The Determination Date is the date on which the Servicer will be required to identify, among other things, the source and allocation of the amounts received in respect of the Securitised Senior Loan and the date on which the Issuer Cash Manager will be required to calculate, among other things, the amounts required to be paid as interest, principal and/or other amounts in respect of the Notes on the relevant Note Payment Date.</p>
<b><i>Interest Determination Date</i></b>	In respect of each Note Interest Period, two Business Days prior to the first day of each Note Interest Period for which the rate will apply, or, in the case of the first Note Interest Period, the Closing Date (each, an <b>Interest Determination Date</b> ).
<b><i>Senior Loan Maturity Date</i></b>	<p>If:</p> <ul style="list-style-type: none"> <li>(a) no Senior Loan Extension Option is exercised, 15 November 2020;</li> <li>(b) the First Senior Loan Extension Option is exercised, 15 November 2021;</li> <li>(c) the Second Senior Loan Extension Option is exercised, 15 November 2022; or</li> <li>(d) the Third Senior Loan Extension Option is exercised, 15 November 2023,</li> </ul> <p>(or, if any such day is not a Business Day, the Senior Loan Maturity Date will instead be the next Business Day in that Month (if there is one) or the preceding Business Day (if there is not)) the <b>Senior Loan Maturity Date</b>.</p>



Unless previously repaid, the Senior Loan will be required to be repaid by the Senior Borrowers in full on the Senior Loan Maturity Date.

**Senior Loan Payment Date** 15 February, 15 May, 15 August and 15 November in each year (or, if any such day is not a Business Day, the Senior Loan Payment Date will instead be the next Business Day in that Month (if there is one) or the preceding Business Day (if there is not)) and the Senior Loan Maturity Date (each such day being a **Senior Loan Payment Date**). The first Senior Loan Payment Date in respect of the Senior Loan was on 15 November 2018.

**Senior Loan Interest Period** Each period by reference to which interest on the Senior Loan is calculated. Each interest period for the Senior Loan will start on (and include) a Senior Loan Interest Period Date (or, in the case of the first interest period, the Closing Date) and will end on (but exclude) the next Senior Loan Interest Period Date (a **Senior Loan Interest Period**).

**Senior Loan Interest Period Date** 22 February, 22 May, 22 August and 22 November in each year (or if such day is not a Business Day, the Senior Loan Interest Period Date will instead be the next Business Day in that Month (if there is one) or the preceding Business Day (if there is not)) (a **Senior Loan Interest Period Date**). The first Senior Loan Interest Period Date in respect of the Senior Loan is on 22 November 2018.

**Business Day** A day (other than a Saturday or a Sunday) on which banks are open for general business in Amsterdam, Frankfurt am Main, London, Luxembourg, Paris and Dublin and which is a TARGET Day (a **Business Day**).

## 10. Cashflow and credit structure

*The following is an overview of certain features of the cashflow and credit structure. Investors should refer to, and carefully consider, the following details in respect of the cashflow and the credit structure as set out in the sections entitled "Terms and Conditions of the Notes", "Description of the Hedging Arrangements" and "Description of the Liquidity Facility Agreements".*

**Source and application of funds** The repayment of principal and the payment of interest by the Senior Obligors in respect of the Securitised Senior Loan will provide the principal source of funds for the Issuer to make payments in respect of the Notes (other than principal in respect of the Class X Notes) and the other Issuer Secured Liabilities.

Such amounts of principal, interest and other payments received in respect of the Securitised Senior Loan shall, after taking into account amounts required to make payments of Issuer Priority Expenses and certain other amounts ranking in priority to the Noteholders, be applied by the Issuer to make payments to Noteholders, in each case in accordance with the applicable Issuer Priority of Payments.

As described in more detail in the sections entitled "*Cashflow and Issuer Priorities of Payments*" and "*Cash Management*", the Issuer Cash Manager (on behalf of the Issuer) will, *inter alia*, on each Determination Date calculate all amounts due in accordance with the applicable Issuer Priority of Payments on the forthcoming Note Payment Date and the amounts available to make such payments.

Prior to the service of a Note Acceleration Notice, on each Note Payment Date, unless previously redeemed in full and cancelled, each Class of Notes (other than the Class X Notes) is subject to mandatory early redemption in part in an amount not exceeding the Principal Distribution Amount allocated to such Class on such Note Payment Date, subject, in each case, to the Pre-Enforcement Priority of Payments.

Prior to the service of a Note Acceleration Notice, on each Note Payment Date, the Issuer Cash Manager will apply Available Funds, subject to the prior payment of the Issuer Priority Payments (and subject to the rules described in "*Cashflow and Issuer Priorities of Payments*") each as determined on the immediately preceding Determination Date in the manner and in order of priority set out in the Pre-Enforcement Priority of Payments (only if and to the extent that payments or provisions of a higher priority have been made in full).

#### *Note Acceleration Notice*

Following the service of a Note Acceleration Notice, the Issuer Security Trustee will apply all monies and receipts received by the Issuer and/or the Issuer Security Trustee or a receiver appointed by it (other than amounts standing to the credit of the Class X Account, the DB Issuer Stand-by Account, the SG Issuer Stand-by Account and the Issuer Proceeds Account) in the manner and order of priority set out in the Post-Enforcement Priority of Payments (in each case only if and to the extent that payment provisions of a higher priority have been made in full).

#### ***General credit structure***

The credit structure of the transaction includes the following elements:

#### *Credit support*

Junior Classes of Notes will be subordinated to more senior Classes of Notes (only in relation to certain payments), thereby ensuring that funds are applied to the Most Senior Class of Notes in priority to more junior Classes of Notes except that prior to the occurrence of a Sequential Payment Trigger or the delivery of a Note Acceleration Notice, Principal Receipts are applied *pro rata* across the Notes (other than the Class X Notes). See Condition 3 (Status and Relationship between the Notes and the Issuer Security) for further details.

**Sequential Payment Trigger** means the first to occur of:

- (a) if the Senior Loan has not been repaid in full on or before its Senior Loan Maturity Date (for the avoidance of doubt, without reference to any extension that may be agreed to by the Servicer or the Special Servicer, as applicable), the Business Day immediately following such Senior Loan Maturity Date;
- (b) the occurrence of a Special Servicing Transfer Event; or
- (c) the delivery of a Note Acceleration Notice.

*Liquidity support*

The Liquidity Facilities may be drawn by the Issuer (or the Issuer Cash Manager on its behalf) on a *pro rata* and *pari passu* basis, in order to, *inter alia*, make good any shortfall in the payment of any interest (including Deferred Interest, where applicable) due by the Issuer to any of the holders of the Class A1 Notes, the Class A2 Notes and the Class B Notes.

The Liquidity Facilities will also be available to cover Expenses Shortfalls and Property Protection Shortfalls.

The Liquidity Facilities will not be available to cover shortfalls in funds available to the Issuer to pay amounts in respect of principal in respect of any Class of Notes, or to pay amounts in respect of EURIBOR Excess Amounts, Deferred EURIBOR Excess Amounts, Note Prepayment Fees, Deferred Note Prepayment Fees or any amount of interest or other amounts that may become due and payable on the Class X Notes.

On the Closing Date, the Liquidity Commitment will be in the amount of €13,500,000 (€6,750,000 to be provided by the SG Liquidity Facility Provider and €6,750,000 to be provided by the DB Liquidity Facility Provider). The DB Liquidity Facility will be drawn by the Issuer and deposited into the DB Issuer Stand-by Account within seven Business Days of the Closing Date.

See "*Description of the Liquidity Facility Agreements*" for further details.

## **RISK FACTORS**

*An investment in the Notes involves a high degree of risk. This section sets out certain aspects of the Issuer, the Notes, the Issuer Transaction Documents, the Senior Obligors, the Senior Loan and the Property Portfolio of which prospective Noteholders should be aware. Prospective investors should carefully consider the following risk factors and the other information contained in this Offering Circular before making an investment decision.*

The occurrence of any of the events described below could have a material adverse impact on the business, financial condition or results of operations of the Issuer and/or the Senior Obligors and could lead to, among other things:

- (a) a Senior Loan Event of Default pursuant to the Common Terms Agreement; and/or
- (b) a Note Event of Default (as defined in Condition 10.1 (Note Events of Default) in the section entitled "*Terms and Conditions of the Notes*"); and/or
- (c) an inability of the Issuer to repay all amounts due in respect of the Notes.

This section is not intended to be exhaustive, and prospective Noteholders should also read the detailed information set out elsewhere in this Offering Circular prior to making any investment decision. The risks described below are not the only ones faced by the Senior Obligors or the Issuer. Additional risks not presently known to the Issuer or the Senior Obligors or that they currently believe to be immaterial may also adversely affect their business. If any of the following risks occur, the Issuer, the Senior Obligors or the Property Portfolio could be materially adversely affected. In any of such cases, the value of the Notes could decline, and the Issuer may not be able to pay all or part of the interest or principal or other amounts payable on the Notes and investors may lose all or part of their investment. Prospective Noteholders should take their own legal, financial, accounting, tax and other relevant advice as to the structure and viability of an investment in the Notes.

In addition, while the various structural elements described in this Offering Circular are intended to lessen some of the risks discussed below for the Noteholders, there can be no assurance that these measures will be sufficient to ensure that the Noteholders of any Class receive payment of interest or repayment of principal from the Issuer on a timely basis or at all.

## **CONSIDERATIONS RELATING TO THE NOTES**

### **Risks relating to the sufficiency of the assets of the Issuer**

Payments in respect of the Notes are dependent on, and limited to, the receipt of funds under the Securitised Senior Loan and, where necessary and applicable, the Liquidity Facility Agreements (with respect to interest relating to the Class A1 Notes, the Class A2 Notes and the Class B Notes). In turn, recourse to the Securitised Senior Loan is generally limited to each of the Senior Obligors and their respective assets, which consist of the Properties and certain other assets, security over which has been created to secure the Senior Loan and the Mezzanine Loan. Each Senior Obligor's business activities are limited to acquiring, owning, managing, financing, refinancing, developing and letting the Properties and related activities. Each Senior Holdco is limited to trading, carrying on any business, owning any assets or incurring any liabilities in the ordinary course of business in relation to the ownership of shares in its subsidiaries, intra-group debit balances and credit balances, other incidental assets and the incurrence of liabilities and consummation of other transactions in compliance with the Senior Finance Documents.

The ability of the Senior Obligor to make payments on the Securitised Senior Loan prior to the Senior Loan Maturity Date and, therefore, the ability of the Issuer to make payments on the Notes on or prior to the Final Note Maturity Date is dependent primarily on the sufficiency of the net rental income generated in respect of the Property Portfolio. Unless previously repaid or prepaid, the Senior Loan will be required to be repaid by the Senior Obligor in full on the relevant Senior Loan Maturity Date.

The ability of the Issuer to redeem the Notes in full on or prior to the Final Note Maturity Date is dependent on receipt by the Issuer of all principal amounts outstanding under the Securitised Senior Loan. This may happen either by way of prepayment or repayment of the Securitised Senior Loan by the Senior Obligor or realisation of sufficient proceeds upon enforcement of the security relating to the Securitised Senior Loan following a Senior Loan Event of Default.

The ability of the Senior Obligor to repay the Securitised Senior Loan in full on the Senior Loan Maturity Date (to the extent it has not already been repaid or prepaid) will depend on, among other things, such Senior Obligor having sufficient available cash or equity to make such repayment, or upon their ability to find a lender willing to lend sufficient funds to the Senior Obligor to enable each of them to repay the Securitised Senior Loan or upon the ability of the Senior Obligor to sell some or all of the Properties at a price sufficient to discharge the outstanding balance of the Senior Loan (see "*Considerations relating to the Senior Loan and the Common Transaction Security – Refinancing risk*" below).

If, following the occurrence of a Senior Loan Event of Default and following the exercise by the Servicer or the Special Servicer of all available rights and remedies in respect of the Securitised Senior Loan (as applicable) (including instructing the Common Security Agent to take action in respect of the Common Transaction Security), the Issuer and/or the Issuer Security Trustee does not receive the full amount due from the Senior Obligor, then it will not be possible to pay some or all of the principal and interest due on the Notes.

Any losses on the Securitised Senior Loan will be allocated to the holders of the Notes according to Class, as described under "*Subordination*" below.

The rate and timing of delinquencies or defaults on the Senior Loan will affect the aggregate amount of distributions on the Notes, their yield to maturity, the rate of principal repayments and their weighted average life.

If anticipated yields are calculated based on assumed rates of default and losses that are lower than the default rate and losses actually experienced, and such losses are allocable to the Notes, the actual yield to maturity will be lower than the assumed yield. Under certain extreme scenarios, such yield could be negative. In general, the earlier a loss borne by the Notes occurs, the greater the effect on the related yield to maturity.

Additionally, delinquencies and defaults in respect of the Senior Loan may significantly delay the receipt of or reduce the amount of payments on any Class of Notes, unless Liquidity Drawings are made to cover delinquent payments or the credit support provided through the subordination of another Class of Notes fully offsets the effects of any such delinquency or default.

### **Risks relating to the limited recourse obligations of the Issuer**

The Issuer will not have any significant assets to be used for making payments under the Notes other than the Securitised Senior Loan and its rights under the Issuer Transaction Documents to which it is a party. Consequently, there is no assurance that, over the life of the Notes or at the redemption date of the Notes (whether on the Final Note Maturity Date, upon redemption by acceleration following the

service of a Note Acceleration Notice, or otherwise), there will be sufficient funds to enable the Issuer to pay interest on the Notes or to repay the Notes in full.

The Notes will be limited recourse obligations of the Issuer. On realisation or enforcement of the Issuer Security, in the event that the proceeds of such realisation or enforcement are insufficient to pay all amounts due under the Notes (after payment of all other claims ranking higher in priority to or *pari passu* with amounts due under the Notes), the Noteholders will have no further claim against the Issuer in respect of such unpaid amounts.

Enforcement action under the Issuer Deed of Charge and the German Security Agreement over the assets secured under the Issuer Deed of Charge and the German Security Agreement and appointment of a receiver by the Issuer Security Trustee under the Issuer Deed of Charge is the only substantive remedy available for the purposes of recovering amounts owed in respect of the Notes.

In particular, the Notes will not be obligations or responsibilities of or guaranteed by any of the Loan Sellers, the Issuer Related Parties, the Arrangers or the Lead Managers. None of any such persons, other than the Issuer, will accept any liability whatsoever in respect of any failure by the Issuer to make any payment of any amount due under the Notes.

#### **Absence of operating history of the Issuer: reliance on agents**

The Issuer is a recently formed Irish special purpose designated activity company limited by shares whose business will consist solely of the issuance of Notes and the entering into and performance of its obligations under the Issuer Transaction Documents and related agreements and activities, as applicable. The Issuer has no operating history.

Certain of the business activities of the Issuer are to be carried out on behalf of the Issuer by agents appointed by the Issuer for such purpose. Neither the Issuer nor the Corporate Services Provider will have any role in determining or verifying the data received from the Senior Loan Facility Agent, the Servicer, the Special Servicer, the Issuer Cash Manager, the Issuer Account Bank, the Agents, the Note Trustee and the Issuer Security Trustee and any calculations derived therefrom.

#### **Conflicts between the Servicer and the Special Servicer, on the one hand, and the Issuer, on the other hand**

The Issuer has been advised by the Servicer and Special Servicer that each of them intends to continue to service existing and new loans for third parties and its own portfolio, including loans similar to the Securitised Senior Loan, in the ordinary course of their respective businesses. These loans may be in the same market or have common ultimate owners and/or property managers as the Securitised Senior Loan and the Properties. Certain personnel of the Servicer or Special Servicer, as applicable, may, on behalf of the Servicer or Special Servicer, as applicable, perform services with respect to the Securitised Senior Loan at the same time as they are performing services, on behalf of other persons or itself, with respect to other loans in the same market as the Properties securing the Securitised Senior Loan. The Servicer and Special Servicer may also act for the Mezzanine Lenders in relation to financings.

In such cases, the interests of the Servicer or Special Servicer, as applicable, and its affiliates and their other clients may differ from and compete with the interests of the Issuer and such activities may adversely affect the amount and timing of collections on the Securitised Senior Loan and could reduce receipts and recoveries under the Securitised Senior Loan, which would reduce funds available to make payment on amounts due under the Notes.

Although the potential for a conflict of interest exists in these circumstances, pursuant to the terms of the Servicing Agreement, the Servicer or Special Servicer, as applicable, will be obliged to act in

accordance with the Servicing Standard which would require them to service such loans without regard to such affiliation.

**Conflicts between the Arrangers, the Lead Managers and the Loan Sellers and affiliates of the Arrangers, the Lead Managers or the Loan Sellers, on the one hand, and the Issuer, on the other hand**

Conflicts of interest between the Arrangers, the Lead Managers, the Loan Sellers or their respective Affiliates that engage in the acquisition, development, operation, financing and disposal of commercial property, on the one hand, and the Issuer, on the other hand, may arise because such affiliates, the Arrangers, the Lead Managers and the Loan Sellers will not be prohibited in any way from engaging in business activities similar to or competitive with those of the Senior Obligor.

The Arrangers, the Lead Managers, the Loan Sellers and their respective affiliates intend to continue to actively acquire, develop, operate, finance and dispose of property-related assets in the ordinary course of their businesses. During the course of their business activities, the Arrangers, the Lead Managers, the Loan Sellers and their respective affiliates may provide liquidity facility and swap counterparty services or acquire, own or sell properties or finance loans secured by properties which are in the same market as the Property Portfolio. In such a case, the interests of such affiliates, the Arrangers, the Lead Managers and/or the Loan Sellers may differ from and compete with the interests of the Issuer, and decisions made with respect to such assets may adversely indirectly affect the amount and timing of distributions with respect to the Notes.

In addition, the Arrangers, the Lead Managers and the Loan Sellers and their respective affiliates may have business, lending or other relationships with, or equity investments in, obligors under loans, tenants or the Mezzanine Lenders and conflicts of interest could arise between the interests of the Issuer and the interests of the Arrangers, the Lead Managers, the Loan Sellers and such affiliates arising from such business relationships.

**Risks relating to the calculation of amounts and payments**

Elavon Financial Services DAC, UK Branch, as the Issuer Cash Manager under the Issuer Transaction Documents, will rely on the Servicer and the Special Servicer (who will, in turn, rely on the Senior Loan Facility Agent) to provide it with information on the basis of which it will make the determinations required to calculate payments due on the Notes of each Class on each Determination Date as described in "*Cashflow and Issuer Priorities of Payments*". If the Servicer or, as the case may be, the Special Servicer fails to provide the relevant information to the Issuer Cash Manager (or fails to do so within the required time frame), the Issuer Cash Manager may not be able to accurately calculate amounts due to Noteholders on the related Note Payment Date.

If the Servicer, or, as the case may be, the Special Servicer, fails to supply the Issuer Cash Manager with any information it requires to make any determinations, the Issuer Cash Manager will make all reasonable enquiries of the Servicer or the Special Servicer, as applicable, and the Senior Loan Facility Agent to obtain such information. If the Servicer or the Special Servicer, as applicable, and the Senior Loan Facility Agent fail to provide such information, the Issuer Cash Manager will make its determinations based on the information it does have in connection with payments due on the Notes on the relevant Note Payment Date. If the Issuer Cash Manager does not have sufficient information to make such determinations, it can make its determinations based on the information provided to it by the Servicer or, as the case may be, the Special Servicer on the three preceding Determination Dates (or, where there is no information in respect of the three preceding Note Interest Periods, any information received in respect of any preceding Note Interest Periods) and will not be liable to any person (in the absence of gross negligence, fraud or wilful default) for the accuracy of such determinations. There can, however, be no assurance that determinations made on this basis will accurately reflect amounts then due to Noteholders.

The Conditions of the Notes provide that if, for whatever reason, an incorrect payment is made to any party entitled thereto (including the Noteholders of any Class) pursuant to the Pre-Enforcement Priority of Payments or the Post-Enforcement Priority of Payments, the Issuer Cash Manager will rectify the same by increasing or reducing payments to such party (including the Noteholders of any Class), as appropriate, on each subsequent Note Payment Date or Note Payment Dates to the extent required to correct the same. Where such an adjustment is required to be made, the Issuer Cash Manager will notify Noteholders of the same in accordance with the terms of Condition 17 (Notice to Noteholders).

Accordingly, Noteholders should be aware that, in such situations, increased or reduced payments may be made.

Additionally, any person purchasing Notes from an existing Noteholder should make due enquiries as to whether such Noteholder has received an incorrect payment. None of the Issuer, the Issuer Cash Manager, the Issuer Account Bank, the Agents, the Note Trustee, the Issuer Security Trustee, the Servicer or the Special Servicer will have any liability to any Noteholder for any losses suffered as a result of an adjustment relating to an incorrect payment made before such Noteholder acquired the Notes.

### **Considerations relating to yield and prepayments**

The yield to maturity on the Notes of each Class will depend, to a large extent, on the rate and timing of principal payments on the Securitised Senior Loan. For this purpose, principal prepayments include both voluntary prepayments, if permitted, and involuntary prepayments, such as, for example, prepayments resulting from defaults and liquidations.

If any Class of Notes is purchased at a premium, and if payments and other collections of principal on the Securitised Senior Loan occur at a rate faster than anticipated at the time of the purchase, then the weighted average period during which interest is earned on the Noteholders' investments may shorten and the actual yield to maturity on that Class of Notes may be lower than assumed at the time of the purchase.

If any Class of Notes is purchased at a discount, and if payments and other collections of principal on the Securitised Senior Loan occur at a rate slower than anticipated at the time of the purchase, then the actual yield to maturity on that Class of Notes may be lower than assumed at the time of the purchase.

The investment performance of any Note may vary materially and adversely from expectations due to the rate of payments and other collections of principal on the Securitised Senior Loan being faster or slower than anticipated. Accordingly, the actual yield may not be equal to the yield anticipated at the time the Note was purchased, and the expected total return on investment may not be realised.

An independent decision should be made by prospective Noteholders as to the appropriate prepayment assumptions to be used when deciding whether to purchase any Note.

### **Risks relating to final maturity of the Notes**

The Senior Loan may not be fully repaid or refinanced by the Expected Note Maturity Date or the Final Note Maturity Date. This means that the Notes may not be repaid by either of those dates.

Pursuant to the terms of the Common Terms Agreement, if the Senior Company delivers the Senior Loan Extension Option Notice during the period commencing on the date falling 90 days prior to the Senior Initial Repayment Date and ending on the date falling 30 days prior to the Senior Initial Repayment Date and the First Senior Loan Extension Option Conditions have been satisfied, then the Senior Initial Repayment Date will be extended by a period of 12 months from 15 November 2020 to



15 November 2021. If the First Senior Loan Extension Option is exercised, the Senior Company can further extend the Senior Loan Maturity Date to a date which is 24 months from the Senior Initial Repayment Date, such extension being to 15 November 2022 (being 12 months from the First Senior Loan Extended Repayment Date following exercise of the First Senior Loan Extension Option). If the Second Senior Loan Extension Option is exercised, the Senior Company can further extend the Senior Loan Maturity Date to a date which is 36 months from the Senior Initial Repayment Date, such extension being to 15 November 2023 (being 12 months from the Second Senior Loan Extended Repayment Date following exercise of the Second Senior Loan Extension Option). Additionally, if a Senior Company does not satisfy the First Senior Loan Extension Option Conditions, the Second Senior Loan Extension Option Conditions or the Third Senior Loan Extension Option Conditions within the relevant time period, the Mezzanine Lenders may, by the date falling 10 Business Days prior to the relevant Senior Loan Maturity Date, notify the Senior Lenders that they intend to satisfy the relevant extension option conditions and may then take enforcement action in accordance with the Mezzanine Finance Documents by the date falling 30 days after the relevant Senior Loan Maturity Date (refer to "*Description of the Intercreditor Agreement – Enforcement action – Common Transaction Security – Restriction on Senior Facility Creditor Enforcement Action*" for further details).

Noteholders should also be aware that in certain cases, the Common Security Agent may not take Enforcement Action. For example, subject to the satisfaction of certain conditions, the Common Transaction Security Agent may not take Enforcement Action until the date falling 30 days after the Senior Loan Maturity Date. Refer to the section entitled "*Description of the Intercreditor Agreement – Enforcement action – Common Transaction Security – Restriction on Senior Facility Creditor Enforcement Action*" for further information.

After the relevant Senior Loan Maturity Date, if the Senior Loan is not repaid in full, the Common Transaction Security relating to the Securitised Senior Loan may not be fully realised. This is most likely to arise in situations where prevailing market conditions or refinancing options are constrained such that realisations of the Properties made on or before the Final Note Maturity Date are likely to be lower than under current market conditions. In any case, this might result in a failure by the Issuer to repay the Notes on or prior to the Final Note Maturity Date.

If any part of the Securitised Senior Loan remains outstanding six months prior to the Final Note Maturity Date and all recoveries then anticipated with respect to the Securitised Senior Loan (whether by enforcement of the related Common Transaction Security or otherwise) are unlikely to be realised in full six months prior to the Final Note Maturity Date, the Special Servicer will be required to present a draft Note Maturity Plan no later than 45 days after such date.

Upon receipt of the draft Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of the Noteholders at which all Noteholders will have the opportunity to discuss the various proposals contained in the Note Maturity Plan with the Special Servicer. Following such meeting, the Special Servicer will have the opportunity to modify the Note Maturity Plan (subject to the Servicing Standard) and will provide a final Note Maturity Plan to the Issuer (which will provide the same to the Noteholders), the Rating Agencies, the Note Trustee and the Issuer Security Trustee.

Upon receipt of the final Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of the Noteholders of the Most Senior Class of Notes then outstanding at which the Noteholders of such Class will be requested to select their preferred option among the proposals set out in the final Note Maturity Plan. The proposal that receives the approval of the holders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution will be implemented by the Special Servicer. If no proposal receives the approval of the holders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution at such meeting, then the Issuer Security Trustee will be deemed to be directed by all the Noteholders to appoint a receiver (to the extent applicable) to realise the security created pursuant to the Issuer Deed of Charge and the German

Security Agreement as soon as practicable upon such right becoming exercisable, *provided that* the Issuer Security Trustee will have no obligation to do so if it shall not have been indemnified and/or secured and/or prefunded to its satisfaction (refer to the section entitled "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*" for further details). Such realisation may be undertaken in unfavourable market conditions which may reduce the amount recovered by the Issuer Security Trustee and hence the amount available to repay the Notes and any overdue interest and other payments on the Notes.

**Risks relating to the deferral of interest, EURIBOR Excess Amounts and Note Prepayment Fees on certain Classes of Notes**

If, on any Note Payment Date prior to delivery of a Note Acceleration Notice, there are insufficient funds available to the Issuer to pay accrued interest, EURIBOR Excess Amounts or Note Prepayment Fees on any Class of Notes, other than accrued interest on the Class A1 Notes and the Class A2 Notes, and, in respect of (i) the Class D Notes, subject to the Class D Available Funds Cap, (ii) the Class E Notes, subject to the Class E Available Funds Cap, and (iii) the Class F Notes, subject to the Class F Available Funds Cap, such failure to pay interest, EURIBOR Excess Amounts or Note Prepayment Fees will not constitute a Note Event of Default and the Issuer's liability to pay such accrued interest, EURIBOR Excess Amounts or Note Prepayment Fees will be deferred until the earlier of: (a) the next following Note Payment Date on which the Issuer has, in accordance with the Pre-Enforcement Priority of Payments, sufficient funds available to pay such deferred amounts (including any interest accrued on any Deferred Interest); and (b) the date on which the relevant Notes are due to be redeemed in full. Such Deferred Interest shall accrue interest at the same rate as that payable in respect of the related Class of Notes. Deferred Note Prepayment Fees and Deferred EURIBOR Excess Amounts shall not accrue any interest.

Non-payment of interest on the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and/or the Class F Notes, even when any such Class of Notes is the Most Senior Class of Notes, will not result in a Note Event of Default arising (which means that the Issuer Security will not be enforceable in such a situation). A Note Event of Default in relation to non-payment of interest will only arise if interest is not paid (subject to the applicable grace periods) in relation to the Class A1 Notes or the Class A2 Notes. Non-payment of interest on any Class of Notes on the Final Note Maturity Date will result in a Note Event of Default.

**Risk relating to amounts accrued above the Class D Available Funds Cap, Class E Available Funds Cap and Class F Available Funds Cap**

Interest on the Class D Notes, Class E Notes and Class F Notes will be limited to the Class D Available Funds Cap, Class E Available Funds Cap or Class F Available Funds Cap (respectively). If, on any Note Payment Date prior to the service of a Note Acceleration Notice, the aggregate amount of interest that would otherwise be due and payable on the Class D Notes, the Class E Notes or the Class F Notes on that date is in excess of the Class D Adjusted Interest Payment Amount, Class E Adjusted Interest Payment Amount or Class F Adjusted Interest Payment Amount (respectively), and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of the prepayment of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the (a) Class D Notes will be subject to the Class D Available Funds Cap, (b) the Class E Notes will be subject to the Class E Available Funds Cap and (c) the Class F Notes will be subject to the Class F Available Funds Cap at either the Class D Adjusted Interest Payment Amount, the Class E Adjusted Interest Payment Amount or the Class F Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any amount in respect of interest on the applicable Class D Notes, Class E Notes or Class F Notes that would otherwise be due on such Note Payment Date and the affected Noteholders will have no claim against the Issuer in respect thereof.

## **Subordination**

Payments of interest and principal will be made to Noteholders in the priorities set out in the Pre-Enforcement Priority of Payments or the Post-Enforcement Priority of Payments, as applicable. As a result of such priorities, any losses on the Securitised Senior Loan prior to the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice will be shared *pro rata* between the Notes. The share of losses on the Securitised Senior Loan that is allocated to the Notes following the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, will be borne first by the Class F Notes, second by the Class E Notes, third by the Class D Notes, fourth by the Class C Notes, fifth by the Class B Notes, sixth by the Class A2 Notes and seventh by the Class A1 Notes.

Note Prepayment Fees for a Class of Notes will be paid *pari passu* with interest for that Class of Notes. EURIBOR Excess Amounts on any Class of Notes will be subordinated to payments of interest, principal and Note Prepayment Fees in respect of all Classes of Notes.

As a result of the subordination structure described above and other risks, under certain circumstances investors in one or more Classes of Notes may not recover their initial investment.

Amounts payable by the Issuer to other Issuer Secured Creditors such as the Servicing Entities, the Issuer Cash Manager, the Issuer Account Bank, the Agents, the Note Trustee and the Issuer Security Trustee rank in priority to payments of principal and interest on the Notes, both before and after the service of a Note Acceleration Notice.

## **Rights of the Operating Adviser in relation to the Securitised Senior Loan**

The Operating Adviser, on behalf of the Controlling Class, will have the right to require the Issuer to replace the person then acting as the Special Servicer and to be consulted with in relation to certain actions with respect to the servicing and enforcement in respect of the Securitised Senior Loan, including, among other things, certain modifications, waivers and amendments of, or consents given under, the Securitised Senior Loan, the release of any security and the release of the Senior Obligor's obligations under the Common Terms Agreement.

Neither the Servicer nor the Special Servicer will be obliged to act upon any direction given by the Operating Adviser, or to refrain from taking any action resulting from the consultation or approval rights of the Operating Adviser, if so acting or refraining from acting would cause it to violate the Servicing Standard. There can be no assurance that any advice or suggestions given or made by the Operating Adviser and followed by the Special Servicer will ultimately maximise the recoveries on the Securitised Senior Loan. For further details of the Operating Adviser's consultation rights, see "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*". The Operating Adviser may act solely in the interests of the Controlling Class; the Operating Adviser does not have any duties to any Noteholders other than the Controlling Class; the Operating Adviser may take or suggest actions that favour the interests of the Controlling Class over the interests of the other Noteholders; the Operating Adviser will not be deemed to have been negligent or reckless, or to have acted in bad faith or engaged in wilful misconduct, by reason of it having acted solely in the interests of the Controlling Class; and the Operating Adviser will have no liability whatsoever for having acted solely in the interests of the Controlling Class, and no holder of any Class of Notes (other than the Controlling Class) may take any action whatsoever against the Operating Adviser for having so acted.

## **Appointment of substitute Servicer or substitute Special Servicer**

The termination of the appointment of the Servicer or the Special Servicer, or the resignation of the Servicer or the Special Servicer, as applicable, under the Servicing Agreement will only be effective once a substitute servicer, or substitute special servicer as the case may be, has effectively been

appointed (see "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*" for further information).

There can be no assurance that a suitable substitute servicer or substitute special servicer could be found who would be willing to service the Securitised Senior Loan at a commercially reasonable fee, or at all, on the terms of the Servicing Agreement (even though such agreement provides that the fees payable to a substitute servicer or substitute special servicer may be higher than those payable to the incumbent servicer or special servicer (subject to those fees not exceeding those then payable generally to providers of commercial mortgage loan servicing in France, Germany and the Netherlands)).

In any event, the ability of such substitute servicer or substitute special servicer to perform such services fully would depend on the information and records then available to it. The fees and expenses of a substitute servicer or substitute special servicer performing services in this way would be payable in priority to payment of interest and principal under the Notes.

### **Change of counterparties**

The parties to the Issuer Transaction Documents who receive and hold monies or provide support to the transaction pursuant to the terms of such documents (such as the Issuer Account Bank) are required to satisfy certain criteria in order to remain a counterparty to the Issuer.

These criteria may include requirements in relation to the short-term and long-term unguaranteed and unsecured ratings ascribed to such party by the Rating Agencies. If the party concerned ceases to satisfy the applicable rating criteria, then the rights and obligations of that party (including the right or obligation to receive monies on behalf of the Issuer) may be required to be transferred to another entity which does satisfy the applicable criteria. In these circumstances, the terms agreed with the replacement entity may not be as favourable as those agreed with the original party pursuant to the relevant Issuer Transaction Document and the cost to the Issuer may therefore increase. This may reduce amounts available to the Issuer to make payments of interest and other amounts on the Notes. Furthermore, it may not be possible to identify an entity with the requisite rating which will agree to act as a replacement entity at all.

In addition, should the applicable criteria cease to be satisfied, then the parties to the relevant Issuer Transaction Document may (but shall not be obliged to) agree to amend or waive certain of the terms of such document, including the application criteria, in order to avoid the need for a replacement entity to be appointed. The consent of Noteholders may not be required in relation to such amendments and/or waivers (refer to the section entitled "*Modifications to the Issuer Transaction Documents to comply with Rating Agency criteria*" below for further details).

### **Ratings of Notes**

The ratings assigned to each Class of Notes (other than the Class X Notes which are not rated) by the Rating Agencies are based on the characteristics of the Securitised Senior Loan, the related Common Transaction Security and the Properties and other relevant structural features of the transactions described in this Offering Circular, including, among other things, the short-term and the long-term unsecured, unguaranteed and unsubordinated debt ratings of the Issuer Account Bank, the Hedge Counterparty and the Liquidity Facility Providers. A downgrade, withdrawal or qualification of any of the ratings of the parties mentioned above may impact upon the ratings of the Notes. These ratings reflect only the views of the Rating Agencies.

A rating does not represent any assessment of the yield to maturity that a Noteholder may experience or the possibility that holders of the Notes may not recover their initial investments if unscheduled

receipts of principal result from a prepayment, a default and acceleration or from the receipt of funds with respect to, among other things, a compulsory purchase.

The Rating Agencies do not consider payment of EURIBOR Excess Amounts or Note Prepayment Fees in assigning the ratings to the Notes. The ratings assigned by Fitch address the likelihood of: (a) timely payment of any interest due to the Noteholders in respect of the Notes on each Note Payment Date; and (b) full repayment of principal on the Notes by a date that is not later than the Final Note Maturity Date. The ratings assigned by DBRS address the likelihood of timely payment of interest and ultimate payment of principal under the Notes in accordance with the terms under which the Notes have been issued.

There can be no assurance that any such ratings will continue for any period of time or that they will not be reviewed, revised, suspended or withdrawn entirely by any or either of the Rating Agencies as a result of changes in or unavailability of information or if, in the judgement of a Rating Agency, circumstances so warrant.

Future events also, including, but not limited to, events affecting the Issuer Account Bank, the Hedge Counterparty and/or the Liquidity Facility Providers and/or circumstances relating to the Properties and/or the property market generally, could have an adverse impact on the rating of the Notes. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the assigning Rating Agency.

Furthermore, there can be no assurance that the Rating Agencies will take the same view as each other, which may affect the Senior Obligors' ability to adapt the structure of the transaction to changes in the market over the long term.

Credit rating agencies review their rating methodologies on an ongoing basis and there is a risk that changes to such methodologies will adversely affect credit ratings of the Notes even where there has been no deterioration in respect of the criteria which were taken into account when such ratings were issued.

Credit rating agencies (other than the Rating Agencies) could seek to rate the Notes without having been requested to do so by the Issuer. If such unsolicited ratings are lower than the comparable ratings assigned to the Notes by the Rating Agencies, those unsolicited ratings could have an adverse effect on the value of the Notes. For the avoidance of doubt and unless the context otherwise requires, any references to ratings or rating in this Offering Circular are to ratings assigned by the specified Rating Agencies only.

#### **Rating Agencies' Confirmation – exercise of discretion by the Issuer Security Trustee and the Note Trustee**

Where it is necessary for the Note Trustee or the Issuer Security Trustee to determine, in its opinion, for the purposes of exercising any right, power, trust, authority, duty or discretion under or in relation to the Notes, the Conditions or any of the Issuer Transaction Documents, whether or not such exercise will be materially prejudicial to the interests of the Noteholders or any Class of Noteholders, the Note Trustee or the Issuer Security Trustee (as applicable) will be entitled, in making such a determination, to take into account, among any other things it may, in its absolute discretion, consider necessary and/or appropriate, any Rating Agency Confirmation (if available) in respect of ratings of the Notes or, as the case may be, the Notes of a particular Class, stating that the Notes or the Notes of a particular Class will not be downgraded, withdrawn or qualified, and that, where any original rating of the Notes or, as the case may be, the Notes of a particular Class has been and continues to be downgraded, restoration of such original rating would not be prevented, as a result of such exercise.

For the avoidance of doubt, such Rating Agency Confirmation will not be construed to mean that any such exercise by the Note Trustee or the Issuer Security Trustee of any right, power, trust, authority, duty or discretion under or in relation to the Notes, the Conditions or any of the Issuer Transaction Documents is not materially prejudicial to the interests of the holders of the Notes or, as the case may be, the Notes of the relevant Class.

Further, the non-receipt of such Rating Agency Confirmation will not be construed to mean that any such exercise by the Note Trustee or the Issuer Security Trustee as aforesaid is materially prejudicial to the interests of the holders of the Notes or, as the case may be, the Notes of the relevant Class.

No assurance can be given that Rating Agencies will provide any Rating Agency Confirmation in respect of the Notes of the kind described herein or that, depending on the timing of the delivery of the request and any information needed to be provided, it may be the case that the Rating Agencies cannot provide their Rating Agency Confirmation in the time available and, in either case, the Rating Agencies will not be responsible for the consequences thereof. However, if a Rating Agency Confirmation is provided, it should be noted that a Rating Agency's decision to reconfirm a particular rating may be made on the basis of a variety of factors. In particular, the Noteholders should be aware that the Rating Agencies owe no duties whatsoever to any parties to the transaction (including the Noteholders) in providing any Rating Agency Confirmation. No assurance can be given that a requirement to seek ratings confirmation will not have a subsequent impact upon the business of the Senior Obligors. In addition, it should be noted that any confirmation of ratings:

- (a) only addresses the effect of any relevant event, matter or circumstance on the current ratings assigned by the relevant Rating Agency to the Notes or, if applicable, the Notes of a particular Class of Notes;
- (b) does not address whether any relevant event, matter or circumstance is permitted by the Issuer Transaction Documents; and
- (c) does not address whether any relevant event, matter or circumstance is in the best interests of, or prejudicial to, some or all of the Noteholders or other Issuer Secured Creditors.

No assurance can be given that any such confirmation will not be given in circumstances where the relevant proposed matter would materially adversely affect the interests of Noteholders of a particular Class.

The Rating Agencies, in assigning credit ratings, do not comment upon the interests of the holders of securities (such as the Notes).

The implementation of certain matters will, pursuant to the Issuer Transaction Documents, be subject to the receipt of a Rating Agency Confirmation. If any Rating Agency then rating the Notes either: (i) does not respond to a request to provide a Rating Agency Confirmation within 10 Business Days after such request is made (and does not respond to a second request to provide a Rating Agency Confirmation, in respect of the same matter as the first request, within five Business Days after such second request is made (such second request not to be made less than 10 Business Days after the first request is made)); or (ii) provides an acknowledgement indicating its decision not to review or otherwise declining to review the matter for which the Rating Agency Confirmation is sought and (iii) in connection with paragraphs (i) or (ii) above, the Issuer has received no indication from that Rating Agency that the then-current ratings of the Notes rated thereby would be qualified, downgraded, withdrawn or put on negative watch as a result of such matter, the requirement for the Rating Agency Confirmation from the relevant Rating Agency with respect to such matter will be deemed not to apply. Therefore, it is possible that modifications and/or amendments (including, without limitation, Basic Terms Modifications) may be made without having obtained a Rating Agency Confirmation from the Rating Agencies then rating the Notes. However, if, in connection with any such matter, the

agreement or consent of the Issuer Security Trustee or the Note Trustee is required, it is also possible that the Issuer Security Trustee and/or the Note Trustee, as applicable, will not provide such agreement or consent in the absence of such Rating Agency Confirmation.

Reliance by the Issuer Security Trustee or the Note Trustee on any Rating Agency Confirmation will not create, impose on or extend to any Rating Agency any actual or contingent liability to any person (including, without limitation, the Issuer Security Trustee, the Note Trustee and/or any Noteholder) or create any legal relations between any Rating Agency and the Issuer Security Trustee, the Note Trustee, any Noteholder or any other person whether by way of contract or otherwise.

### **Risks relating to the rights of Noteholders, Extraordinary Resolutions and Noteholder meetings**

The provisions of the Issuer Transaction Documents relating to the convening of meetings of Noteholders and the passing of Extraordinary Resolutions and Ordinary Resolutions differ from the equivalent provisions in the documentation for many comparable commercial mortgage-backed securitisations, particularly comparable securitisations which closed prior to the onset of the global financial crisis in 2007.

In particular, notice periods for convening such meetings may be shorter and the majority required to pass Extraordinary Resolutions and Ordinary Resolutions may be lower than those applicable in other securitisation transactions (see "*Risks relating to Noteholder Meetings*" below).

The Issuer Transaction Documents provide for certain Extraordinary Resolutions and Ordinary Resolutions to be deemed to be passed by Negative Consent (see "*Risks relating to Negative Consent of Noteholders*" below).

Noteholders should be aware that, unless they have made arrangements to promptly receive notices sent to Noteholders from any custodians or other intermediaries through which they hold their Notes and give the same their prompt attention, meetings may be convened and Extraordinary Resolutions or Ordinary Resolutions, including in relation to the Note Maturity Plan (see "*Risks relating to final maturity of the Notes*" above), may be considered and resolved or deemed to be passed without their involvement.

Prospective investors (and particularly those considering investing in more junior Classes of Notes) should, therefore, pay particular attention to the terms referred to above when considering whether or not to invest in the Notes as their rights may differ from those available to them under comparable securitisation transactions. The Class X Noteholders do not have voting or consent rights other than in respect of the Class X Entrenched Rights.

### **Rights available to holders of Notes of different Classes**

In performing its duties and exercising its powers as trustee for the Noteholders, the Note Trustee will have regard to the interests of all of the Noteholders as a whole (except for the Class X Noteholders). Where there is a conflict between the interests of the holders of one Class of Notes and the holders of another Class of Notes, the Note Trustee will only have regard to the interests of the holders of the Most Senior Class of Notes in respect of which the conflict arises, subject as provided in the Note Trust Deed and the Conditions and subject to the Class X Entrenched Rights.

Prospective investors in more junior Classes of Notes should, therefore, be aware that conflicts with the Most Senior Class of Notes will be resolved in favour of the latter Class. This could adversely affect the value and recoveries of more junior Classes of Notes.

## **Risks relating to Noteholder Meetings**

A meeting of the Noteholders may be held on 14 clear days' notice. The requisite quorum for such a meeting is one or more persons holding or representing not less than (in relation to both an Ordinary Resolution and an Extraordinary Resolution (other than in respect of a Basic Terms Modification)) 50.1 per cent. of the Principal Amount Outstanding of the relevant Class of Notes except where the Noteholders wish to make a Basic Terms Modification. The quorum for Basic Terms Modifications requires one or more persons holding or representing not less than 75 per cent. of the Principal Amount Outstanding of the relevant Class of Notes.

An adjourned meeting of the Noteholders may be held on seven clear days' notice. The requisite quorum for such a meeting in relation to an Ordinary Resolution or an Extraordinary Resolution (other than in respect of a Basic Terms Modification) is one or more persons (whatever the proportion of Notes held by that person). The requisite quorum for a Noteholder meeting in relation to a Basic Terms Modification is one or more persons being or representing not less than 33⅓ per cent. of the Principal Amount Outstanding of the relevant Class of Notes.

As a result of these requirements, it is possible that a valid Noteholder meeting may be held without the attendance of Noteholders who may have wished to attend and/or vote.

## **Class X Entrenched Rights**

Any modifications of:

- (a) the Issuer Priorities of Payment (and/or the inclusion of additional creditors in the Issuer Priorities of Payments) that would be materially prejudicial to the Class X Noteholders, any amendment to Condition 5.4(d) (Rates of Interest) or any amendment to the definition of "Class X Amount", "Class X Interest Diversion Trigger Event", "Class X Released Interest Diversion Amounts", "Relevant Margin" or "Administrative Fees"; or
- (b) the provisions of the Servicing Agreement relating to the ability of the Servicer or Special Servicer (on behalf of the Issuer) to reduce the interest rate on the Senior Loan at any time prior to the Senior Loan Maturity Date,

(except where included in the final Note Maturity Plan delivered to the Noteholders pursuant to Condition 13 (Note Maturity Plan) and approved by the Noteholders of the Most Senior Class by Ordinary Resolution, will require the prior consent of the Class X Noteholder(s) (to be given by way of Extraordinary Resolution of the Class X Noteholders). There can be no assurance that the Class X Noteholder(s) will provide consent to any such modification in a timely manner or at all. The Class X Noteholders may act in their own interests and they do not have any duties to any Noteholders.

## **Risks relating to Negative Consent of Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution relating to a Basic Terms Modification, a Class X Entrenched Right, the waiver of any Note Event of Default, the enforcement of the Issuer Security or the acceleration of the Notes) or Ordinary Resolution (other than an Ordinary Resolution relating to a Note Maturity Plan) (and without prejudice to any matter which is subject to the provisions of Condition 14.19(c) (Modifications and waivers)) may be passed by the Negative Consent of the relevant Noteholders i.e. without any Noteholder meeting having been called or Noteholders having voted in favour of such resolution as long as holders in respect of a sufficient Principal Amount Outstanding of Notes (other than the Class X Notes) have not voted against such resolution.



An Extraordinary Resolution or an Ordinary Resolution, as applicable, will be deemed to have been passed by a Class of Noteholders **unless**, within 30 days of the requisite notice being given by the Issuer, the Note Trustee, the Issuer Cash Manager, the Servicer or the Special Servicer to such Class of Noteholders in accordance with the provisions of Condition 17 (Notice to Noteholders) and in all cases also through the systems of Bloomberg L.P., or in such other manner as may be approved in writing by the Note Trustee, (i) in the case of an Extraordinary Resolution, the holders of 25 per cent. or more in aggregate of the Principal Amount Outstanding of the Notes of such Class or (ii) in the case of an Ordinary Resolution, the holders of 50 per cent. or more in aggregate of the Principal Amount Outstanding of the Notes of such Class, inform the Note Trustee in the prescribed manner of their objection to such Extraordinary Resolution or Ordinary Resolution, as applicable.

Therefore, it is possible that an Extraordinary Resolution could be deemed to be passed without the vote of any Noteholders or even if holders of up to 24.99 per cent. in aggregate of the Principal Amount Outstanding of the relevant Class of Notes objected to it and it is possible that an Ordinary Resolution could be deemed to be passed without the vote of any Noteholders or even if holders of up to 49.99 per cent. in aggregate of the Principal Amount Outstanding of the relevant Class of Notes objected to it.

#### **Modifications to the Issuer Transaction Documents to comply with Rating Agency criteria**

The Conditions of the Notes provide that if the Issuer is of the opinion that any modification is required to be made to the Issuer Transaction Documents and/or the Conditions in order to: (A) (following discussions with the applicable Rating Agencies or otherwise) (i) comply with any criteria of the Rating Agencies which may be published after the Closing Date; or (ii) comply with any alternative requirements of the Rating Agencies (where it is not possible to replace the Issuer Account Bank with a replacement bank which has the ratings required under the Issuer Account Bank Agreement) or (B) enable the Notes to be (or to remain) listed on the Global Exchange Market, the Issuer shall promptly notify all Noteholders in accordance with Condition 17 (Notice to Noteholders).

If, within 30 calendar days from service of such notice, Noteholders representing at least 20 per cent. of the then aggregate Principal Amount Outstanding of the Notes have not contacted the Issuer in writing (or otherwise in accordance with the then current practice of any applicable clearing system through which such Notes will be held) to reject the proposed amendments, the Noteholders will be deemed to have consented to the modifications and the Note Trustee shall, subject to certain exceptions, but without a requirement for the consent or sanction of any of the Noteholders or any other Issuer Secured Creditor and irrespective of whether such modifications are or may be materially prejudicial to the interests of the Noteholders of any Class or any other parties to any of the Issuer Transaction Documents, concur with the Issuer and, where relevant, the Senior Obligors, and/or direct the Issuer Security Trustee to concur with the Issuer and, where relevant, the Senior Obligors, in making any modification to the Issuer Transaction Documents and/or the Conditions that are requested by the Issuer and, where relevant, the Senior Obligors in order to comply with such updated criteria, *provided that* the Issuer certifies to the Note Trustee and the Issuer Security Trustee in writing that: (i) (in respect of paragraph (A) above only), such modifications are required to avoid a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to any Class of the Notes; (ii) (in respect of paragraph (A) above only) the proposed modifications seek only to implement the new criteria published by the applicable Rating Agencies or to implement any alternative requirements of the Rating Agencies in respect of a downgrade of the Issuer Account Bank; (iii) the proposed modifications do not constitute a Basic Terms Modification; and (iv) the Noteholder consultation provisions set out above have been complied with and the requisite number of Noteholders have not rejected the proposed amendments within the specified time frame; and *provided further* that the Note Trustee and the Issuer Security Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Note Trustee and the Issuer Security Trustee, as applicable, would have the effect of: (i) exposing the Note Trustee and the Issuer Security Trustee, as

applicable, to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction; or (ii) adding to or increasing the obligations, liabilities or duties, or decreasing the protections, of the Note Trustee and the Issuer Security Trustee, as applicable in respect of the Notes, in the Issuer Transaction Documents and/or the Conditions. Therefore, such modifications could be made notwithstanding that they are or may be materially prejudicial to the interests of the Noteholders of any Class or any other parties to any of the Issuer Transaction Documents.

Notwithstanding anything to the contrary in the Issuer Transaction Documents, the Note Trustee will not consider the interests of any other person in agreeing to such modifications.

The Note Trustee and/or the Issuer Security Trustee, as applicable, will rely without further investigation on any confirmation or certification provided to it in connection with the modifications (and, in relation to any certification as to whether the modifications constitute a Basic Terms Modification, shall rely on such certification) and will not monitor or investigate whether the Issuer is acting in a commercially reasonable manner, nor will the Note Trustee or the Issuer Security Trustee be responsible for any liability that may be occasioned to any person by acting in accordance with these provisions based on any written notification or confirmation it receives from the Issuer.

Any such modification, waiver, authorisation or determination shall be binding on the Noteholders and, unless the Note Trustee agrees otherwise, any such modification, waiver, authorisation or determination shall be notified by the Issuer to the Noteholders as soon as practicable thereafter in accordance with Condition 17 (Notice to Noteholders). There can be no assurance that such modifications would not increase the costs of the Issuer or reduce the returns to the Noteholders.

### **"Snooze you lose" provisions**

The Common Terms Agreement includes time limits for responding on certain matters. If a Senior Lender does not accept or reject a request from the Senior Company (or the Senior Loan Facility Agent on behalf of the Senior Company) for a consent, waiver, release or waiver under the Senior Finance Documents before the later of (a) 5pm London time on the date falling 10 Business Days from the date of the request being made, and (b) the time period for Senior Lenders to respond as specified in that request, the non-responsive lender shall be deemed to have approved such consent, amendment, release or waiver when considering whether the consent of the Senior Majority Lenders or Senior Lenders (as applicable) has been obtained in respect of that request, amendment, release or waiver.

Under the Servicing Agreement, the Servicer or the Special Servicer (as applicable) is required to respond to any request from the Senior Company (or the Senior Loan Facility Agent on behalf of the Senior Company) for a consent, waiver, release or waiver under the Senior Finance Documents within the required time frame to avoid the Issuer's consent being deemed to be given when considering whether the consent of the relevant Senior Lenders has been obtained. In the event that the Servicer or the Special Servicer (as applicable) requires a direction from the Noteholders in order to be able to respond to such request, the Servicer or the Special Servicer (as applicable) will respond in a negative manner to such request until such direction from the relevant Class(es) of Noteholders has been obtained.

### **Absence of secondary market: limited liquidity**

Application has been made to Euronext Dublin for the Notes to be admitted to its Official List and to trading on the Global Exchange Market.

Even if such application is approved, there can be no assurance that a secondary market in the Notes will develop or, if it does develop, that it will provide Noteholders with liquidity of investment, or that it will continue for the life of the Notes. Consequently, any purchaser of the Notes must be prepared

to hold such Notes for an indefinite period of time or until final redemption or maturity of such Notes. Lack of liquidity could result in a significant reduction in the market value of the Notes.

In addition, the market value of the Notes may fluctuate with changes in prevailing rates of interest and the performance of the Securitised Senior Loan. Consequently, any sale of Notes by Noteholders in any secondary market which may develop may be at a discount to the original purchase price of those Notes.

**The credit crisis and downturns in the real estate market have in the past adversely affected, and may in the future also adversely affect, the value of CMBS**

The Property Portfolio consists of office, logistics, industrial, light industrial, mixed use and other assets in France, Germany and the Netherlands. Accordingly, the Notes will be affected by market trends which affect commercial mortgage-backed securities (CMBS) in general. Past events in the real estate and securitisation markets, and in the debt markets and the economy generally, have caused significant dislocations, illiquidity and volatility in the markets for CMBS as well as in the wider global financial markets.

The period of declining real estate values, which was coupled with diminished availability of leverage and/or refinancing for commercial real estate, resulted in increased delinquencies and defaults on commercial mortgage loans. While real estate values may currently not be declining, there can be no assurance that they will not begin to do so again, or that the historic declines are not continuing to have an effect on the market. In addition, the historic downturn in the general economy affected the financial strength of many commercial real estate tenants and resulted in increased rent delinquencies and increased vacancies. There can be no assurance that there will not be another downturn in the general economy during the life of the Notes. Any such downturn may lead to increased vacancies, decreased rents or other declines in income from, or the value of, commercial real estate, which would likely have an adverse effect on CMBS that are backed by mortgages on such commercial real estate. There can be no assurance that the historic dislocation in the CMBS market will not continue to affect market perceptions of CMBS generally or that it will not occur again (in the same or a more severe manner). Even if the CMBS market fully recovers and there is no continuing and/or renewed dislocation in the CMBS market, the Properties may nevertheless decline in value. The market value of the Notes may be adversely affected by market perceptions of CMBS generally.

The ability of the Senior Obligors to make payments when due on the Senior Loan will depend on, among other factors, the rental value and occupancy rates of the Properties which are also subject to local economic factors. Any economic downturn may adversely affect the financial resources of the Senior Obligors and may result in the inability of the Senior Obligors to make principal and interest payments on, or refinance, the Senior Loan when due. In the event of default by one or more of the Senior Obligors under the Senior Loan, the Issuer may suffer a partial or total loss with respect to the Securitised Senior Loan. Materially increased levels of delinquency or loss on the Properties would have an adverse effect on the payments of principal, interest and other amounts received by holders of the Notes.

In addition to credit factors directly affecting CMBS, the potential fallout from a similar downturn in the commercial mortgage-backed securities market and markets for other asset-backed and structured products may also affect the CMBS market by contributing to a decline in the market value and liquidity of investments such as CMBS. The deterioration of other structured product markets may continue to adversely affect the value of CMBS. Even if CMBS are performing as anticipated, the value of such CMBS in the secondary market may nevertheless decline as a result of deterioration in general market conditions or in the market for other asset-backed or structured products.

**The effects of a volatile economy and a repeat of the credit crisis era market conditions may lead to an increase in loan defaults and may affect the value and liquidity of the Notes**

The global economy has in the last decade experienced a significant recession and many economies continue to experience ongoing volatility as a result of historic crises and the European sovereign debt crisis. As described below under "*Considerations relating to the Property Portfolio – Risks relating to tenants and leases*" and "*Considerations relating to the Property Portfolio – Performance risks*" below, a material worsening in economic conditions in the locations in which the Properties are situated could increase tenant defaults at the Properties, thereby adversely affecting the amounts received by the Issuer under the Securitised Senior Loan and consequently the amounts paid to Noteholders. In particular, a slowdown in Eurozone growth may result in lower consumer retail spending with a corresponding reduction in demand for commercial logistics properties. Any such reduction in demand may lead to an increase in void periods where such properties (including, but not limited to, the Property Portfolio) are not let. Higher average vacancy rates in the locations in which the Properties are situated may in turn result in an increase in competitiveness in the associated letting market to attract tenants, with landlords offering greater tenant incentives such as rent free periods or lower rent rates. Any such changes may lead to a reduction in rental income received by the Senior Obligors across the Property Portfolio and may in turn impact on the Senior Obligors' ability to make payments under the Senior Loan which would affect the Issuer's ability to make payments under the Notes.

During the credit crisis, the lack of credit liquidity, decreases in both the sale and rental value of commercial properties, lower occupancy rates and, in some instances, correspondingly higher lending rates prevented many commercial mortgage borrowers from refinancing their loans. There can be no assurance that such circumstances are not continuing or will not again arise. Such circumstances have increased delinquency and default rates of securitised commercial mortgage loans, and may lead to widespread commercial mortgage defaults. In addition, the historic declines in real estate values have resulted in reduced borrower equity, hindering the ability of borrowers to refinance in an environment of increasingly restrictive lending standards and giving them less incentive to cure delinquencies and avoid enforcement. Higher loan to value ratios are likely to result in lower recoveries on enforcement, and an increase in loss severities above those that would have been realised had property values remained the same or continued to increase. Defaults, delinquencies and losses contributed to further decreased property values, thereby resulting in additional defaults by commercial mortgage borrowers, further credit constraints, further declines in property values and further adverse effects on the perception of the value of CMBS.

Many commercial mortgage lenders have tightened their loan underwriting standards which has reduced the availability of mortgage credit to prospective borrowers. These developments have contributed and may continue to contribute to a weakening in the commercial real estate market as these adjustments have, among other things, inhibited refinancing and reduced the number of potential buyers of commercial real estate. The continued use or further adjustment of these loan underwriting standards may contribute to further increases in delinquencies and losses on commercial mortgage loans generally.

Concerns relating to credit risk (including that of sovereigns and of those entities which have exposures to sovereigns) persist, in particular with respect to current economic, monetary and political conditions in the Eurozone. If such conditions further deteriorate (including as may be demonstrated by any relevant credit rating agency action, any default or restructuring of indebtedness by one or more states or institutions and/or any exit(s) by any member state(s) from the European Union and/or any changes to, including any break up of, the Eurozone), then these matters may cause further severe stress in the financial system generally and/or may adversely affect the Issuer, one or more of the other parties to the transaction documents (including, without limitation, the Servicer or the Special Servicer) and/or any borrower in respect of the underlying loans.

In particular, prospective investors should note that, pursuant to a referendum held in June 2016, the UK has voted to leave the European Union and the UK Government invoked article 50 of the Lisbon Treaty relating to withdrawal on 29 March 2017. Under article 50, the Treaty on the European Union and the Treaty on the Functioning of the European Union cease to apply in the relevant state from the date of entry into force of a withdrawal agreement or, failing that, two years after the notification of intention to withdraw, although this period may be extended in certain circumstances.

There are a number of areas of uncertainty in connection with the future of the UK and its relationship with the European Union and the negotiation of the UK's exit terms and related matters may take several years. Given this uncertainty and the range of possible outcomes, it is not currently possible to determine the impact that the referendum, the UK's departure from the European Union and/or any related matters may have on general economic conditions in the UK and the European Union. It is also not possible to determine the impact that these matters will have on the business of the Issuer (including the performance of the underlying loans), any other party to the transaction documents and/or any borrower in respect of the underlying loans, or on the regulatory position of any such entity or of the transactions contemplated by the transaction documents under EU regulation or more generally.

No assurance can be given that any of the matters outlined above would not adversely affect the ability of the Issuer to satisfy its obligations under the Notes and/or the market value or liquidity of the Notes.

Investors should consider that general conditions in the areas where the Properties are located may adversely affect the performance of the Securitised Senior Loan and accordingly the performance of the Notes, and the general availability of commercial real estate financing will directly affect the ability of the Senior Obligors to repay the Securitised Senior Loan on or prior to maturity. In addition, in connection with all the circumstances described above, investors should, in particular, be aware that:

- (a) such circumstances may result in substantial delinquencies and defaults on the Senior Loan and adversely affect the amount of Liquidation Proceeds (which may be net of any liquidation fee which may be due and payable from such Liquidation Proceeds under the terms of the Servicing Agreement and in accordance with the Issuer Priorities of Payments (see "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*" for further detail));
- (b) the value of all or any part of the Property Portfolio may decline and such declines may be substantial and may occur in a relatively short period following the issuance of the Notes, directly affecting the ability of the Senior Obligors to realise value by selling some or all of the Properties and the Senior Obligors' ability to refinance the Senior Loan. Such declines may or may not occur for reasons largely unrelated to the circumstances of any particular Property;
- (c) if a Noteholder decides to sell its Notes, it may be unable to do so or may be able to do so only at a substantial discount from the price originally paid; this may be the case for reasons unrelated to the then current performance of the Notes or the Securitised Senior Loan and this may be the case within a relatively short period following the issuance of the Notes;
- (d) if the Senior Loan default, then the return on the Notes may be substantially reduced notwithstanding that Liquidation Proceeds may be sufficient to result in the repayment of the principal of, and accrued interest on, the Notes. An earlier than anticipated repayment of principal (even in the absence of losses) in the event of a default in advance of the maturity date would tend to shorten the weighted average period during which interest is earned on Noteholders' investments and if any Class of Notes is purchased at a premium then in such case the actual yield to maturity on that Class of Notes may be lower than assumed at the time

of the purchase. A later than anticipated repayment of principal (even in the absence of losses) in the event of a default upon the maturity date would tend to delay the receipt of principal, and the interest on the Notes may be insufficient to compensate Noteholders for that delay, and if any Class of Notes is purchased at a discount, then in such case the actual yield to maturity on that Class of Notes may be lower than assumed at the time of the purchase;

- (e) even if Liquidation Proceeds received in respect of the Securitised Senior Loan are sufficient to cover the principal and accrued interest on the same, the Issuer may experience costs or losses in the form of special servicing fees and other expenses, and Noteholders may bear losses as a result of such additional fees and other expenses the Issuer has to bear, and their return may be adversely affected by any such losses;
- (f) the time periods within which the Senior Loan will be repaid following the occurrence of a default may be considerable, and those periods may be further extended because of the insolvency of one or more of the Senior Obligor and related litigation; and
- (g) even if Noteholders intend to hold their Notes, depending on the circumstances of particular Noteholders, Noteholders may be required to report declines in the value of their holdings in the Notes, and/or record losses, on their financial statements or regulatory or supervisory reports, and/or repay or post additional collateral for any secured financing, hedging arrangements or other financial transactions that they have entered into that are backed by or make reference to the Notes, in each case as if the Notes were to be sold immediately.

#### **Related parties may purchase Notes and may become Senior Lenders under the Senior Loan**

Related parties, including the Sponsor, the Servicer or the Special Servicer, if applicable, a Mezzanine Loan Related Lender or any Senior Obligor (or any of their respective Affiliates) may purchase all or part of one or more Classes of Notes.

A purchase by the Servicer or the Special Servicer, if applicable, could cause a conflict of interest between such entity's duties pursuant to the Servicing Agreement and its interest as a holder of a Note, especially to the extent that certain actions or events have a disproportionate effect on one or more Classes of Notes. The Servicing Agreement provides that each Securitised Senior Loan is required to be administered in accordance with the Servicing Standard without regard to ownership of any Note by the Servicer or the Special Servicer, if applicable, or any affiliate thereof.

If any Senior Obligor, Mezzanine Loan Related Lender or the Sponsor (or any of their respective Affiliates) became a Noteholder, such Senior Obligor, Mezzanine Loan Related Lender or Sponsor (or any of their respective Affiliates) would be a Disenfranchised Holder in accordance with Condition 14.13 (Disenfranchised Holder), and as a result would not be permitted to exercise any voting, objecting or directing rights attaching to any Notes (or be counted in or towards any required quorum or majority).

Pursuant to the terms of the Intercreditor Agreement, any Mezzanine Loan Related Lender is disenfranchised in respect of any Senior Commitment or Senior Loan it holds as follows:

- (a) in ascertaining the Senior Majority Lenders or whether any given percentage (including, for the avoidance of doubt, unanimity) of the Senior Total Commitments or Senior Loan has been obtained to approve any request for a consent, waiver, amendment or other vote under the Senior Finance Documents, such Senior Commitment shall be deemed to be zero; and
- (b) for the purposes of the provision of the Common Terms Agreement which sets out which matters require the consent of all of the Senior Lenders, and any other provision of the Senior Finance Documents where the consent of all of the Senior Lenders is required, such

Mezzanine Loan Related Lender or the person with whom it has entered into such sub-participation, other agreement or arrangement shall be deemed not to be a Senior Lender.

### **Definitive Notes and denominations in integral multiples**

The Notes have a denomination consisting of a minimum authorised denomination of €100,000 plus higher integral multiples of €1,000. Accordingly, it is possible that the Notes may be traded in amounts in excess of the minimum authorised denomination that are not integral multiples of such denomination. In such a case, if definitive Notes are required to be issued, a Noteholder who holds a principal amount less than the minimum authorised denomination at the relevant time may not receive a definitive Note in respect of such holding and may need to purchase a principal amount of Notes such that their holding amounts to the minimum authorised denomination (or another relevant denomination amount).

If definitive Notes are issued, Noteholders should be aware that definitive Notes which have a denomination that is not an integral multiple of the minimum authorised denomination may be illiquid and difficult to trade.

### **Not a bank deposit**

Any investment in the Notes does not have the status of a bank deposit in Ireland and is not within the scope of the deposit protection scheme operated by the Central Bank or otherwise guaranteed by any other government guarantee scheme. The Issuer is not regulated by the Central Bank by virtue of the issue of the Notes.

### **Workout Fees and Liquidation Fees**

The Specially Serviced Loan will become a Corrected Loan (as defined below) upon the discontinuance of any event which would constitute a monetary Special Servicing Transfer Event for two consecutive Senior Loan Interest Periods and the facts giving rise to any other Special Servicing Transfer Event having ceased to exist and no other matter existing which would give rise to the Securitised Senior Loan becoming a Specially Serviced Loan (**Corrected Loan**). If the Specially Serviced Loan becomes a Corrected Loan and certain other conditions are met (as described under "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan – Special Servicing Fee, Liquidation Fee, Workout Fee*"), the Special Servicer will be entitled to a Workout Fee, being a fee equal to 0.50 per cent. of each collection of interest and principal received in respect of the Securitised Senior Loan for so long as it remains a Corrected Loan (plus applicable VAT) (the **Workout Fee**). In addition, upon the sale of any part of the Property Portfolio following enforcement of the Specially Serviced Loan, the Special Servicer will be entitled to receive a Liquidation Fee, being a fee equal to 0.50 per cent. of the Liquidation Proceeds which will be payable in accordance with the terms of the Servicing Agreement (the **Liquidation Fee**). Since payment of Workout Fees and Liquidation Fees will be made by the Issuer in accordance with the relevant Issuer Priorities of Payments and will be made in priority to amounts due to the Noteholders, payment of any Workout Fees or Liquidation Fees may reduce amounts available to pay to the Noteholders.

### **Negative interest rate**

The Issuer is exposed in certain circumstances to the risk that at any time the interest rate on the Issuer Accounts will be less than zero. Pursuant to the Cash Management Agreement, the Issuer Account Bank agreed to pay to the Issuer interest on amounts standing to the credit of the Issuer Accounts held with it by the Issuer at the rate set by the Issuer Account Bank from time to time. However, if the applicable interest rate on an Issuer Account is a negative rate (which, as at the date of this Offering Circular, is the case), the Issuer will be required to pay to the Issuer Account Bank such rate of interest for holding funds as the Issuer Account Bank may notify the Issuer from time to time.

Similarly, the Senior Obligors are exposed in certain circumstances to the risk that at any time the interest rate on the Senior Obligor Accounts will be less than zero. If the applicable interest rate on a Senior Obligor Account is a negative rate (which, as at the date of this Offering Circular, is the case), the Senior Obligors will be required to pay to the Senior Obligor Account Bank such rate of interest for holding funds as the Senior Obligor Account Bank may notify the Issuer from time to time.

## **CONSIDERATIONS RELATING TO TAX, REGULATORY AND LEGAL ISSUES**

### **Tax Audits**

The Senior Obligors are subject to tax audits. All tax assessment notices for tax periods not yet audited are not yet final and binding, and are subject to full review and therefore can be changed by the tax authorities at any time without restrictions. Such changes might include, among others, depreciation on real estate, the deductibility of interest expenses, the treatment of intercompany loans, the allocation of interest income and interest expenses, the entitlement to make use of tax exemptions, the compliance of transactions with arm's length terms or the profit and loss consolidation between several legal entities.

As a consequence, the Senior Obligors' taxable income might be increased, potential tax losses and tax loss carry-forwards could be reduced or the Senior Obligors could be obliged to pay additional taxes. Such additional taxes could have a material adverse effect on the Senior Obligors' cashflows, financial condition and results of operations and could affect the ability of the Senior Obligors to meet their obligations under the Common Terms Agreement.

### **Withholding Tax under the Notes**

In the event that any withholding or deduction for or on account of any taxes is imposed in respect of payments to Noteholders of any amounts due under the Notes, neither the Issuer nor any other person is obliged to gross up or otherwise compensate Noteholders for the lesser amounts the Noteholders will receive as a result of such withholding or deduction. However, in such circumstances, the Issuer will, in accordance with Condition 7.4 (Optional redemption for tax and other reasons) of the Notes, be required to use reasonable endeavours to prevent such an imposition. See the section "*Irish Taxation*" for a discussion of Irish withholding taxes, in relation to interest payments under the Notes.

### **Tax Deductions on Interest Payments**

The Common Terms Agreement requires the Senior Obligors to pay principal and interest. There are several rules under Dutch, French, Luxembourgian and German tax law restricting the tax deductibility of interest expenses for tax purposes. Such rules have been changed considerably on several occasions in the recent past. As a result, major uncertainties exist as to the interpretation and application of such rules, which have not yet been clarified by the tax authorities or the tax courts. In addition, the tax deductibility of interest expenses depends on many factors.

Furthermore, the deductibility of interest expense on third party debt can be denied in exceptional circumstances such as where the loan is not taken and used for the business purposes of the company. The on-lending of funds to other group companies should be a business purpose, but the risk of challenge cannot be discounted.

If the tax deductibility of interest expenses were restricted, this would result in a higher tax burden of the Senior Obligors and, consequently, could impact their ability to honour their obligations under the Common Terms Agreement.



## Issuer's Liability to German Tax

Interest on the Senior Loan is in principle subject to tax in Germany because the Senior Loan is secured by real estate located in Germany. While the Issuer takes the view that it should be entitled to protection under the Irish-German double taxation treaty, and therefore should not be subject to German tax with respect to its interest income under the Senior Loan, it cannot be excluded that the German tax authorities or tax courts may take a different view. For example, the tax authorities could argue that the Issuer does not qualify for protection under the double taxation treaty or that the Senior Loan has to be allocated to a German permanent establishment of the Issuer. In the latter case, the services also rendered by third parties to the Issuer (e.g. by the Servicer or the Special Servicer) might also be subject to German value added tax and the Issuer may have limited (or no) entitlement to reimbursement for such value added tax. If the Issuer became liable for German tax or receives services that are subject to German value added tax, this could have a material adverse effect on the cashflows and financial condition of the Issuer and impact its ability to make payments of interest and principal under the Notes.

## Interest payments under the Notes may be subject to German taxation

Among other things, the Notes will have the benefit of security over German-*situs* real estate. Under German tax law, Noteholders who are not tax residents in Germany may be subject to German tax on interest received if the underlying debt is secured, directly or indirectly, by German real estate, German rights which are subject to the civil law provisions on real estate or a German-registered ship. The tax is generally levied by way of assessment, i.e. the non-resident recipient of the interest has to file a German tax return and pay the tax upon an assessment by the German tax authorities. It is uncertain whether under current law non-residents will be allowed any significant deduction for expenses related to the interest received. In addition, the German tax authorities may require the Issuer to withhold German tax from the interest payments to secure their tax claims. A number of exceptions exist from this German tax liability of non-residents. No German tax will be imposed if the Notes are represented by a global note (*Sammelurkunde*) within the meaning of paragraph 9a of the German Custody Act or qualify as partial debenture notes (*Teilschuldverschreibungen*). A non-resident Noteholder may also be exempt from German taxation under a double taxation treaty between Germany and its country of tax residence, if and to the extent applicable under German law.

Neither the Issuer nor any Paying Agent will be obliged to make any additional payments to Noteholders in respect of a withholding on account of German tax and in respect of taxes payable by the Noteholders upon tax assessment. This might result in Noteholders receiving less interest than expected and could significantly adversely affect their return on the Notes.

## EU financial transaction tax

On 14 February 2013, the European Commission issued proposals, including a draft Directive (the **Commission's Proposal**), for a financial transaction tax (**FTT**) to be adopted in certain participating EU member states (including Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia, although Estonia has since stated that it will not participate). If the Commission's Proposal was adopted, the FTT would be a tax primarily on "financial institutions" (which would include the Issuer) in relation to "financial transactions" (which would include the conclusion or modification of derivative contracts and the purchase and sale of financial instruments).

Under the Commission's Proposal, the FTT could apply in certain circumstances to persons both within and outside of the participating member states. Generally, it would apply where at least one party is a financial institution, and at least one party is established in a participating member state. A financial institution may be, or be deemed to be, "established" in a participating member state in a broad range of circumstances, including: (a) by transacting with a person established in a participating

member state; or (b) where the financial instrument which is subject to the financial transaction is issued in a participating member state.

The FTT may give rise to tax liabilities for the Issuer with respect to certain transactions (including concluding swap transactions and/or purchases or sales of securities (such as authorised investments)) if it is adopted based on the Commission's Proposal. Any such tax liabilities may reduce amounts available to the Issuer to meet its obligations under the Notes and may result in investors receiving less interest or principal than expected. It should also be noted that the FTT could be payable in relation to relevant transactions by investors in respect of the Notes (including secondary market transactions) if the conditions for a charge to arise are satisfied and the FTT is adopted based on the Commission's Proposal. Primary market transactions referred to in Article 5(c) of Regulation (EC) No. 1276/2006 are expected to be exempt.

However, the FTT proposal remains subject to negotiation between participating member states. It may therefore be altered prior to any implementation, the timing of which remains unclear. Additional EU member states may decide to participate.

Prospective holders of the Notes are advised to seek their own professional advice in relation to the FTT.

#### **OECD Action Plan on Base Erosion and Profit Shifting could impact the ability of the Issuer to claim benefits under certain tax treaties**

Fiscal and taxation policy and practice is constantly evolving and recently the pace of change has increased due to a number of developments. In particular a number of changes of law and practice are occurring as a result of the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting project (BEPS).

One of the action points from this project (**Action 6**) is intended to prevent the granting of treaty benefits in inappropriate circumstances. It is expected that the Issuer will rely on the interest and other articles of treaties entered into by Ireland to be able to receive payments from some Senior Borrowers free from taxes (levied by withholding or otherwise) that might otherwise apply.

The OECD recommendations on Action 6 are primarily being implemented into double tax treaties through a multilateral convention. The multilateral convention has been signed by over 75 jurisdictions (including Ireland, Germany, Luxembourg, France and the Netherlands). It entered into force on 1 July 2018 for signatories who deposited their ratification, acceptance or approval on or before March 2018. For signatories who deposited or deposit their ratification, acceptance or approval after 22 March 2018, the multilateral convention comes into force at the start of the month which is three entire calendar months after such deposit takes place. As at the date of this Offering Circular the multilateral convention has not been ratified, accepted or approved by Ireland, Germany, Luxembourg, France or the Netherlands. The date from which provisions of the multilateral convention have effect in relation to a treaty depends on several factors including the type of tax to which the relevant treaty article relates.

The multilateral convention provides for double tax treaties to include a "principal purpose test" (PPT) which would deny a treaty benefit where it is reasonable to conclude, having regard to all relevant facts and circumstances for this purpose, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in those circumstances would be in accordance with the object and purpose of the relevant provisions of the treaty. It is unclear how a PPT, if adopted, would be applied by the tax authorities of those jurisdictions from which payments are made to the Issuer.

The multilateral convention also permits jurisdictions to choose to apply, in addition to the PPT, a "simplified limitation of benefits" rule. This rule would generally deny a treaty benefit to a resident which is not a "qualified person". It is not expected that the Issuer would be a "qualified person" as defined in the multilateral convention. However, the Issuer may nevertheless be able to claim treaty benefits: (i) if persons who would be entitled to equivalent or more favourable treaty benefits were they to own the income or earn the profits of the Issuer directly own at least 75 per cent. of the beneficial interests of the Issuer for at least half of the days of any 12-month period that includes the time when the Issuer is claiming the treaty benefit; or (ii) if the Issuer is able to demonstrate to the satisfaction of the relevant tax authority that neither its establishment, acquisition or maintenance, nor the conduct of its operation, had as one of its principal purposes the obtaining of the treaty benefit; or (iii) with respect to an item of income derived from a relevant jurisdiction if the Issuer is engaged in the "active conduct of a business" in Ireland and the income derived from that other jurisdiction emanates from, or is incidental to, that business.

The multilateral convention permits a further degree of flexibility, by allowing jurisdictions to choose to have no PPT at all, but instead to include a "detailed limitation of benefits" rule together with rules to address "conduit financing structures". The multilateral convention does not include language for either, on the basis that jurisdictions that agree to adopt this approach would be required to negotiate bespoke amendments to their double tax treaty bilaterally.

On 24 March 2016, the OECD published a public discussion draft consulting on the treaty entitlement of non-CIV funds (that is, of funds that are not collective investment vehicles) (**non-CIV funds**). The OECD published a further public discussion draft on 6 January 2017, which included examples of common transactions involving non-CIV funds to help clarify the application of the principal purpose test. These examples were subsequently incorporated in the 2017 update to the OECD Model Treaty and associated commentary published on 16 December 2017. This work may be relevant to the treaty entitlement of the Issuer. However, the OECD has not yet finalised its position in relation to non-CIV funds, and in any event it is not clear how any such position might be implemented through the multilateral convention otherwise than by the bilateral negotiation of a "detailed limitation of benefits" rule.

In the event that as a result of the application of Action 6 the Issuer were to be denied the benefit of a treaty entered into by Ireland and as a consequence payments of interest made by a Senior Borrower to the Issuer were subject to tax levied by assessment or a withholding or deduction for or on account of tax in respect of any payments of interest on a Senior Loan, such deduction or withholding may impact on the ability of the Issuer to make full payments under the Notes.

Investors should note that other action points which form part of the OECD BEPS project (such as Action 4, which can deny deductions for financing costs, see the risk factor entitled "*EU Anti-Tax Avoidance Directive and EU Anti-Tax Avoidance Directive 2*" below) may be implemented in a manner which affects the tax position of the Issuer.

### **Changes or uncertainty in respect of EURIBOR may affect the value or payment of interest under the Notes**

Various interest rate benchmarks (including the Euro Interbank Offered Rate (**EURIBOR**)) are the subject of recent national and international regulatory guidance and proposals for reform. Some of these reforms are already effective including the EU Benchmark Regulation (Regulation (EU) 2016/1011) (the **Benchmarks Regulation**) while others are still to be implemented.

In March 2017, the European Money Markets Institute (formerly EURIBOR-EBF) (the **EMMI**) published a position paper referring to certain proposed reforms to EURIBOR, which reforms aim to clarify the EURIBOR specification, to develop a transaction-based methodology for EURIBOR and to align the relevant methodology with the Benchmarks Regulation, the IOSCO Principles for Financial

Benchmarks and other regulatory recommendations. The EMMI has since indicated that there has been a "change in market activity as a result of the current regulatory requirements and a negative interest rate environment" and "under the current market conditions it will not be feasible to evolve the current EURIBOR methodology to a fully transaction-based methodology following a seamless transition path". It is the current intention of the EMMI to develop a hybrid methodology for EURIBOR.

These reforms and other pressures may cause one or more interest rate benchmarks to disappear entirely, to perform differently than in the past (as a result of a change in methodology or otherwise), create disincentives for market participants to continue to administer or participate in certain benchmarks or have other consequences which cannot be predicted.

Based on the foregoing, prospective investors should in particular be aware that:

- (a) any of these reforms or pressures described above or any other changes to a relevant interest rate benchmark (including EURIBOR) could affect the level of the published rate, including to cause it to be lower and/or more volatile than it would otherwise be; and
- (b) if EURIBOR is discontinued or is otherwise unavailable, then the rate of interest on the Senior Loan will be determined for a period by the fall-back provisions provided for under the Senior Loan, although such provisions, being dependent in part upon the provision by reference banks of offered quotations in the Eurozone interbank market, may not operate as intended (depending on market circumstances and the availability of rates information at the relevant time) and may in certain circumstances result in the effective application of a fixed rate based on the rate which applied in the previous period when EURIBOR was available. This will also have an effect on the relevant Hedge Document.

Moreover, any of the above matters or any other significant change to the setting or existence of EURIBOR could affect the ability of the Issuer to meet its obligations under the Notes and/or could have a material adverse effect on the value or liquidity of, and the amount payable under, the Notes. Changes in the manner of administration of EURIBOR could result in adjustment to the Conditions, early redemption, delisting or other consequences in relation to the Notes. No assurance may be provided that relevant changes will not occur with respect to EURIBOR or any other relevant interest rate benchmark and/or that such benchmarks will continue to exist. Investors should consider these matters when making their investment decision with respect to the Notes.

## **EU Anti-Tax Avoidance Directive and EU Anti-Tax Avoidance Directive 2**

As part of its anti-tax avoidance package, and to provide a framework for a harmonised implementation of the BEPS conclusions across the EU, the EU Council adopted Council Directive (EU) 2016/1164 (the **Anti-Tax Avoidance Directive**) on 12 July 2016.

The EU Council adopted Council Directive (EU) 2017/952 (the **Anti-Tax Avoidance Directive 2**) on 29 May 2017, amending the Anti-Tax Avoidance Directive, to provide for minimum standards for counteracting hybrid mismatches involving EU member states and third countries.

EU member states have until 31 December 2018 to implement the Anti-Tax Avoidance Directive (subject to derogations for EU member states which have equivalent measures in their domestic law) and until 31 December 2019 to implement the Anti-Tax Avoidance Directive 2 (except for measures relating to reverse hybrid mismatches, which must be implemented by 31 December 2021).

There are two measures of particular relevance.

*Firstly*, the Anti-Tax Avoidance Directive provides for an "interest limitation rule" which restricts the deductible interest of an entity to 30 per cent. of its earnings before interest, tax, depreciation and amortisation. However, the interest limitation only applies to the net borrowing costs of an entity (being the amount by which its borrowing costs exceed its taxable interest revenues and other economically equivalent taxable revenues).

*Secondly*, the Anti-Tax Avoidance Directive (as amended by the Anti-Tax Avoidance Directive 2) provides for hybrid mismatch rules. These rules are designed to neutralise arrangements where amounts are deductible from the income of one entity but are not taxable for another, or the same amounts are deductible for two entities. These rules could potentially apply to the Issuer where: (i) the interest that it pays under the Notes, and claims deductions for, is not brought into account as taxable income by the relevant Noteholder, either because of the characterisation of the Notes, or the payments made under them, or because of the nature of the Noteholder itself; and (ii) the mismatch arises between associated enterprises, between the Issuer and an associated enterprise or under a structured arrangement.

The exact scope of these two measures, and impact on the Issuer's and the Senior Borrowers' tax position, will depend on the implementation of the measures in Ireland, but such measures could have a material adverse effect on the Issuer or the Senior Borrowers. For example, the implementation of the general interest limitation rule (Article 4 Anti-Tax Avoidance Directive) could result in an increase in the Senior Borrowers' tax liabilities as certain interest costs could no longer be deductible. The measures in the Anti-Tax Avoidance Directive and the Anti-Tax Avoidance Directive 2 are minimum standards and, therefore, it is at the discretion of each EU Member State to implement measures in domestic law that go beyond the measures proposed in the Anti-Tax Avoidance Directive and the Anti-Tax Avoidance Directive 2. As such, it is not clear at this stage what the exact impact of the Anti-Tax Avoidance Directive will be on the tax position of the Issuer or the Senior Borrowers.

### **Regulatory initiatives may have an adverse impact on the regulatory capital treatment of the Notes**

In Europe, the U.S. and elsewhere there is increased political and regulatory scrutiny of 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 position for certain investors in securitisation exposures and/or on the incentives for certain investors to hold asset-backed securities, and may thereby affect the liquidity of such securities. Investors in the Notes are responsible for analysing their own regulatory position and none of the Issuer, the Issuer Security Trustee, the Note Trustee, the Agents, the Lead Managers, the Arrangers, the Loan Sellers nor any other party to the Issuer Transaction Documents nor any of their affiliates makes any representation to any prospective investor or purchaser of the Notes regarding the regulatory treatment of their investment on the Closing Date or at any time in the future.

In particular, investors should note that the Basel Committee on Banking Supervision (the **BCBS**) has approved a series of significant changes to the Basel regulatory capital and liquidity framework (such changes being referred to as **Basel III**), including revisions to the securitisation framework which may result in increased regulatory capital requirements in respect of certain positions. Basel III provides for a substantial strengthening of existing prudential rules, including new requirements intended to reinforce capital standards (with heightened requirements for global systemically important banks) and to establish a leverage ratio "backstop" for financial institutions and certain minimum liquidity standards (referred to as the "Liquidity Coverage Ratio/LCR" and the "Net Stable Funding Ratio"). BCBS member countries agreed to implement the initial phase of the Basel III reforms from 1 January 2013 and the second phase from 1 January 2022, subject to transitional and phase-in arrangements for certain requirements. As implementation of any changes to the Basel framework (including those made via Basel III) requires national legislation, the final rules and the timetable for its implementation in each jurisdiction, as well as the treatment of asset-backed securities, may be

subject to some level of national variation. It should also be noted that changes to regulatory capital requirements have been made for insurance and reinsurance undertakings through participating jurisdiction initiatives, such as the Solvency II Regulation framework in Europe.

In addition, investors should be aware of the EU risk retention and due diligence requirements which currently apply, or are expected to apply in the future, in respect of various types of EU regulated investors including credit institutions, authorised alternative investment fund managers, investment firms, insurance and reinsurance undertakings, UCITS funds and institutions for occupational retirement provisions. Among other things, such requirements restrict a relevant investor from investing in asset-backed securities unless: (i) that investor is able to demonstrate that it has undertaken certain due diligence in respect of various matters including its note position, the underlying assets and (in the case of certain types of investors) the relevant sponsor or originator; and (ii) the originator, sponsor or original lender in respect of the relevant securitisation has explicitly disclosed to the investor that it will retain, on an ongoing basis, a net economic interest of not less than 5 per cent. in respect of certain specified credit risk tranches or asset exposures. Failure to comply with one or more of the requirements may result in various penalties including, in the case of those investors subject to regulatory capital requirements, the imposition of a penal capital charge on the notes acquired by the relevant investor. Aspects of the requirements and what is or will be required to demonstrate compliance to national regulators remain unclear.

The risk retention and due diligence requirements described above apply, or are expected to apply, in respect of the Notes. With respect to the commitment of Deutsche Bank AG, London Branch and Société Générale, London Branch, to retain a material net economic interest in the securitisation and with respect to the information to be made available by the Issuer or another relevant party (or, after the Closing Date, by the Issuer Cash Manager on the Issuer's behalf), please see the statements set out in "*Regulatory Disclosure*", "*Cash Management*" and "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan*". Relevant investors are required to independently assess and determine the sufficiency of the information described above for the purposes of complying with any relevant requirements and none of the Issuer, Deutsche Bank AG, London Branch and Société Générale, London Branch, (in their respective capacities as the Loan Sellers, original Senior Lenders, Lead Managers or Arrangers) make any representation that the information described above is sufficient in all circumstances for such purposes.

It should be noted that the European authorities have adopted and finalised two new regulations related to securitisation (being Regulation (EU) 2017/2402 and Regulation (EU) 2017/2401) which will apply in general from 1 January 2019. Among other things, the regulations include provisions intended to implement the revised securitisation framework developed by BCBS (with adjustments) and provisions intended to harmonise and replace the risk retention and due diligence requirements (including the corresponding guidance provided through technical standards) applicable to certain EU regulated investors. There are material differences between the coming new requirements and the current requirements including with respect to the matters to be verified under the due diligence requirements, as well as with respect to the application approach under the retention requirements and the originator entities eligible to retain the required interest. Further differences may arise under the corresponding guidance which will apply under the new risk retention requirements, which guidance is to be made through new technical standards. However, securitisations established prior to the application date of 1 January 2019 that do not involve the issuance of securities (or otherwise involve the creation of a new securitisation position) from that date should remain subject to the current requirements and should not be subject to the new risk retention and due diligence requirements in general.

Prospective investors should therefore make themselves aware of the changes and requirements described above (and any corresponding implementing rules of their regulator), where applicable to them, in addition to any other applicable regulatory requirements with respect to their investment in

the Notes. The matters described above and any other changes to the regulation or regulatory treatment of the Notes for some or all investors may negatively impact the regulatory position of individual investors and, in addition, have a negative impact on the price and liquidity of the Notes in the secondary market.

### **Eurosystem eligibility**

The Notes are intended to be held in a manner which will allow Eurosystem eligibility. This means that the Notes are intended upon issue to be deposited with one of Euroclear or Clearstream, Luxembourg as Common Safekeeper and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that the Eurosystem eligibility criteria have been met. In addition, the Servicer will, for as long as the Class A1 Notes or (if possible in accordance with the Eurosystem eligibility criteria in force from time to time) any other Class of Notes are intended to be held in a manner which will allow Eurosystem eligibility, make loan-level data available in such manner as required by the ECB to comply with the Eurosystem eligibility criteria, subject to any applicable data protection rules.

If the Notes do not satisfy the criteria specified by the ECB, or if the Servicer fails to submit the required loan-level data, the Notes will not be eligible collateral for Eurosystem. Each of the Issuer, the Arrangers and the Lead Managers gives no representation, warranty, confirmation or guarantee to any investor in any Class of Notes that any of the Notes will, either upon issue, or at any or at all times during their life, satisfy all or any requirements for Eurosystem eligibility and be recognised as Eurosystem eligible collateral nor that any counterparty shall be permitted to mobilise the Notes as collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem. Any potential investor in the Notes should make its own conclusions and seek its own advice with respect to whether or not the Notes constitute Eurosystem eligible collateral and whether or not it is or may be subject to any of the restrictions contained in the ECB eligibility guidelines under the rules relating to the use of eligible assets.

### **U.S. Risk Retention Requirements**

Section 941 of the Dodd-Frank Act of 2010 amending the U.S. Securities Exchange Act of 1934, as amended (the **U.S. Risk Retention Rules**) generally requires the "securitizer" of a "securitization transaction" to retain at least 5 per cent. of the "credit risk" of "securitised assets", as such terms are defined for purposes of that statute, and generally prohibit a securitiser from directly or indirectly eliminating or reducing its credit exposure by hedging or otherwise transferring the credit risk that the securitiser is required to retain. The U.S. Risk Retention Rules came into effect on 24 December 2016. The U.S. Risk Retention Rules provide that the securitiser of an asset-backed securitisation is its sponsor. The U.S. Risk Retention Rules also provide for certain exemptions from the risks retention-obligation that they generally impose.

The Loan Sellers, as co-sponsors under the U.S. Risk Retention Rules, do not intend to retain at least 5 per cent. of the credit risk of the securitised assets for the purposes of compliance with the U.S. Risk Retention Rules, but rather intend to rely on an exemption provided for in Section 20 of the U.S. Risk Retention Rules regarding non-U.S. transactions. Such non-U.S. transactions must meet certain requirements, including that: (1) the transaction is not required to be and is not registered under the Securities Act; (2) no more than 10 per cent. of the dollar value (or equivalent amount in the currency in which the "ABS interests" (as defined in Section 2 of the U.S. Risk Retention Rules) are issued) of all classes of ABS interests issued in the securitisation transaction are sold or transferred to, or for the account or benefit of, U.S. persons (as defined in the U.S. Risk Retention Rules and referred to in this **Offering Circular as Risk Retention U.S. Persons**); (3) neither the sponsor nor the issuer of the securitisation transaction is organised under U.S. law or is a branch located in the United States of a

non-U.S. entity; and (4) no more than 25 per cent. of the underlying collateral was acquired from a majority owned affiliate or branch of the sponsor or issuer organised or located in the United States.

Prospective investors should note that the definition of U.S. person in the U.S. Risk Retention Rules is substantially similar to, but not identical to, the definition of U.S. person under Regulation S, and that persons who are not "U.S. persons" under Regulation S may be U.S. persons under the U.S. Risk Retention Rules. The definition of "U.S. person" in the U.S. Risk Retention Rules is excerpted below.

Particular attention should be paid to paragraphs (b) and (h) below, which are different than the comparable provisions in Regulation S. Under the U.S. Risk Retention Rules, and subject to limited exceptions, "U.S. person" (and Risk Retention U.S. Person as used in this Offering Circular) means any of the following:

- (a) any natural person resident in the United States;
- (b) any partnership, corporation, limited liability company or other organisation or entity organised or incorporated under the laws of any State or of the United States;
- (c) any estate of which any executor or administrator is a U.S. person (as defined under any other clause of this definition);
- (d) any trust of which any trustee is a U.S. person (as defined under any other clause of this definition);
- (e) any agency or branch of a foreign entity located in the United States;
- (f) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. person (as defined under any other clause of this definition);
- (g) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organised, incorporated or (if an individual) resident in the United States; and
- (h) any partnership, corporation, limited liability company or other organisation or entity if:
  - (i) organised or incorporated under the laws of any foreign jurisdiction; and
  - (ii) formed by a U.S. person (as defined under any other clause of this definition) principally for the purpose of investing in securities not registered under the Securities Act.

There can be no assurance that the exemption provided for in Section 20 of the U.S. Risk Retention Rules regarding non-U.S. transactions will be available. No assurance can be given as to whether a failure by the Loan Sellers to comply with the U.S. Risk Retention Rules may give rise to regulatory action which may adversely affect the Notes or their market value. Furthermore, the impact of the U.S. Risk Retention Rules on the securitization market generally is uncertain, and the failure by the Loan Sellers to comply with the U.S. Risk Retention Rules could therefore negatively affect the market value and secondary market liquidity of the Notes.

The determination of the proper characterisation of potential investors as non-Risk Retention U.S. Persons for such restriction or for determining the availability of the exemption provided for in Section 20 of the U.S. Risk Retention Rules is solely the responsibility of the Loan Sellers; none of the Lead Managers and Arrangers nor any person who controls them or any of their directors, officers, employees, agents or affiliates will have any responsibility for determining the proper characterisation



of potential investors for such restriction or for determining the availability of the exemption provided for in Section 20 of the U.S. Risk Retention Rules, and the Lead Managers, the Arrangers or any person who controls it or any of their directors, officers, employees, agents or affiliates do not accept any liability or responsibility whatsoever for any such determination or characterisation.

Notwithstanding the threshold set out in criteria (2) of the exemption mentioned above, the Notes are not intended to be sold to any Risk Retention U.S. Persons and may only be purchased by persons that are not Risk Retention U.S. Persons.

Each purchaser of Notes, including beneficial interests therein, will, by its acquisition of a Note or beneficial interest therein, be deemed to have made certain representations and agreements, and in certain circumstances will be required to make certain representations and agreements, which shall run to the benefit of the Issuer, the Loan Sellers and the Lead Managers and on which each of the Issuer, the Loan Sellers and the Lead Managers will rely without any investigation, including that it (1) either (i) is not a Risk Retention U.S. Person or (ii) it has obtained a U.S. Risk Retention Consent, (2) is acquiring such Note or a beneficial interest therein for its own account and not with a view to distribute such Note and (3) is not acquiring such Note or a beneficial interest therein as part of a scheme to evade the requirements of the U.S. Risk Retention Rules (including acquiring such Note through a non-Risk Retention U.S. Person, rather than a Risk Retention U.S. Person, as part of a scheme to evade the 10 per cent. Risk Retention U.S. Person limitation in the exemption provided for in Section 20 of the U.S. Risk Retention Rules described herein).

There can be no assurance that the requirement to request the Loan Sellers to give their prior written consent to any Notes which are offered and sold by the Issuer being purchased by, or for the account or benefit of, any Risk Retention U.S. Person will be complied with or will be made by such Risk Retention U.S. Persons.

None of the Lead Managers or any of their affiliates or the Loan Sellers or the Issuer makes any representation to any prospective investor or purchaser of the Notes as to whether the transactions described in this Offering Circular comply as a matter of fact with the U.S. Risk Retention Rules on the Closing Date or at any time in the future.

Investors should consult their own advisers as to the U.S. Risk Retention Rules. No predictions can be made as to the precise effects of such matters on any investor or otherwise.

### **Volcker Rule**

The enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the **Dodd-Frank Act**), which was signed into law on 21 July 2010, imposed a new regulatory framework over the U.S. financial services industry and the U.S. consumer credit markets in general. On 10 December 2013, U.S. regulators adopted final regulations to implement Section 619 of the Dodd-Frank Act. Section 619 of the Dodd-Frank Act added a new Section 13 to the Bank Holding Company Act of 1956, commonly referred to as the "Volcker Rule".

The Volcker Rule generally prohibits "banking entities" (broadly defined to include U.S. banks, bank holding companies and foreign banking organisations, together with their respective subsidiaries and other affiliates) from (i) engaging in proprietary trading, (ii) acquiring or retaining an ownership interest in, or sponsoring, a "covered fund" and (iii) entering into certain relationships with such funds, subject to certain exceptions and exclusions.

The Issuer is of the view that it is not now and, immediately following the issuance of the Notes and the application of the proceeds thereof, it will not be, a "covered fund" as defined in the regulations adopted under Section 13 of the Volcker Rule. Although other exclusions may be available to the Issuer, this conclusion is based on the determination that the Issuer satisfies the requirements of the

exclusion from the definition of "investment company" in the Investment Company Act of 1940, as amended, provided by Section 3(c)(5)(c) thereunder. Any prospective investor in the Notes, including a bank or a subsidiary or other affiliate thereof, should consult its own legal advisers regarding the Volcker Rule and its effects.

There is limited interpretive guidance regarding the Volcker Rule, and implementation of the regulatory framework for the Volcker Rule is still evolving. The Volcker Rule's prohibitions and lack of interpretive guidance could negatively impact the liquidity and value of the Notes. Any entity that is a "banking entity" as defined under the Volcker Rule and is considering an investment in the Notes should consider the potential impact of the Volcker Rule in respect of such investment and on its portfolio generally. Each prospective investor must determine for itself whether it is a banking entity subject to regulation under the Volcker Rule. None of the Issuer, the Senior Obligors, the Arrangers or the Lead Managers or any other person makes any representation to any prospective investor regarding the application of the Volcker Rule to the Issuer or to such prospective investor's investment in the Notes, as of the date hereof or at any time in the future. Any prospective investor in the Notes, including a U.S. or foreign bank or a subsidiary or other affiliate thereof, should consult its own legal advisers regarding such matters and other effects of the Volcker Rule.

### **Change of law**

The transactions described in this Offering Circular (including the issue of the Notes) and the ratings which are to be assigned to the Notes are based on the relevant law and administrative practice in effect as at the date hereof, and having regard to the expected tax treatment of all relevant entities under such law and practice. No assurance can be given as to the impact of any possible change to the law (including any change in regulation which may occur without a change in primary legislation), administrative practice or tax treatment after the date of this document nor can any assurance be given as to whether any such change would adversely affect the ability of the Issuer to make payments under the Notes. In addition, it should be noted that regulatory requirements (including any applicable retention, due diligence or disclosure obligations) may be recast or amended and there can be no assurance that any such changes will not adversely affect the compliance position of a transaction described in this Offering Circular or of any party under any applicable law or regulation.

### **No regulation of the Issuer by any regulatory authority**

The Issuer is not required to be licensed or authorised under any current securities, commodities or banking laws of its jurisdiction of incorporation. 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 Notes.

### **Changes in Irish tax laws**

Changes in Irish tax laws may adversely impact the business of the Issuer and the value of the Noteholders' investment. The Issuer is treated as a securitisation vehicle which is taxed pursuant to Section 110 of the Taxes Consolidation Act 1997 of Ireland (as amended) (the **TCA**). There is no guarantee that the tax treatment of an Irish securitisation company will not change in the future. The tax deductibility of the Issuer's interest costs will depend on the applicability of Section 110 of the TCA and the current practice of the Irish Revenue Commissioners in relation thereto. Any change to these rules may have an impact on Noteholders.

Interest payments on the Notes may be subject to Irish withholding tax if there is a change in Irish tax law or if the various exemption conditions set forth under "*Irish Taxation – Taxation of Noteholders – Withholding Tax*" are not fulfilled. The Issuer is not obliged to gross up or otherwise compensate

Noteholders for withholding taxes incurred. This may, therefore, affect the return that Noteholders receive on the Notes.

### **German tax risks relating to the Senior Obligors**

The Senior Borrowers owning German-*situs* real estate, although incorporated as Luxembourg companies, might be considered by the tax authorities (for example in the course of tax audit) to have permanent establishments in Germany, which would subject them to trade tax in Germany.

As a consequence, the relevant Senior Borrowers' taxable income might be increased, potential tax losses and tax loss carry-forwards could be reduced or the relevant Senior Borrowers could be obliged to pay additional taxes. Such additional taxes could have a material adverse effect on the relevant Senior Borrowers' cashflows, financial condition and results of operations and could affect the ability of the relevant Senior Borrowers to meet their obligations under the Common Terms Agreement.

### **French tax risks relating to the Senior Obligors**

The Senior Obligors have been directly or indirectly involved in various intra-group restructurings (including the implementation of an OPCI structure). The French tax authorities may try to argue that any such reorganisation was solely tax-driven by seeking an exemption from taxation (prior to the entry into force of an amendment to the double tax treaty between France and Luxembourg repealing such exemption) in respect of the built-in capital gains existing at the date of the reorganisation. If such argument is successfully made by the French tax authorities, the French Senior Borrowers could be jointly and severally liable for the penalty and late payment interest on the ground of abuse of law. The Tax Red Flag Report does not indicate the monetary risks but the amounts at stake could be substantial. This risk is stated in the Tax Red Flag Report to be time-barred at the end of the 2021 financial year. The monetary exposure resulting from this (which would be based on the former sponsor's capital gains) has not been assessed in the Tax Red Flag Report.

Under French law, a legal entity holding a direct or indirect ownership interest in the French Properties must seek an exemption to avoid incurring a 3 per cent. annual tax on the market value of the French Properties (such as, where applicable, by annually filing a tax return). According to the Tax Red Flag Report, certain tax returns relating to the 3 per cent. annual tax on the market value of the French Properties which relate to the period prior to the acquisition of the French Senior Borrowers by the Initial Investors either (i) were not filed at all, (ii) were filed in a materially inaccurate or incomplete manner, or (iii) cannot be definitively ascertained as having been filed in a timely and correct manner because not all tax returns and acknowledgement of receipts of the relevant tax returns were submitted to the providers of the Tax Red Flag Report for their review.

According to the Tax Red Flag Report, even if certain French Senior Borrowers' (and/or their former direct or indirect shareholders') tax returns were filed on time and correctly, the failures of other persons (in the chain of ownership) required to file tax returns means that the French Senior Borrowers as a whole could be viewed by the French tax authorities as being liable to the three per cent. tax. The maximum liability resulting from such failure to complete and file accurate tax returns has been assessed by the Tax Red Flag Report at approximately €32,300,000 (€39,700,000 including penalties and late interest) for the Aberdonia Portfolio and approximately €13,300,000 (€15,500,000 including penalties and late interest) for the Mistral Portfolio.

As noted above, the risk assessment in the Tax Red Flag Report partly results from the fact that evidence of correct and timely filings were not provided, and therefore, the Tax Red Flag Report's conclusions may (or may not) have been different if the missing items had been submitted to their review. Similarly the liability may (or may not) be lower if the relevant tax authorities do not consider the inaccuracies in the submitted tax returns to be material. In addition, provided that the French Senior Borrowers (and their direct and indirect shareholders) submit their tax returns in a

timely and proper manner going forward (as is required under the terms of the Common Terms Agreement), this liability will, due to the French six-year statute of limitations, reduce over time to a total liability including penalties and late interest in respect of both Property Portfolios of €49,300,000 in 2019, €43,500,000 in 2020, €39,500,000 in 2021, €30,800,000 in 2022, €21,300,000 in 2023 and €11,200,000 in 2024 (due to the number of annual tax returns giving rise to the relevant liability gradually decreasing as claims in respect of them become time-barred) and disappear from 2025. The French tax authorities' claim in respect of any such tax (and related penalties and late interest) would benefit from a second-ranking mortgage in relation to the French Senior Borrowers' Properties, but such mortgage would rank junior to the mortgage granted to the Issuer in relation to the Senior Loan and the French Properties can be sold on an enforcement notwithstanding the existence of the French tax authorities' mortgage. The mortgage can also in some circumstances be forcibly removed in the context of a public auction; please refer to the section entitled "*Certain Matters of French Law*" for further details.

25 of the French Properties are within the scope of the French tax on creation of office spaces, but neither the tax assessment notice nor the related proofs of payment were provided by the French Senior Borrowers when the Tax Red Flag Report were prepared. The Tax Red Flag Report does not assess the potential monetary risk resulting from this.

As a result of the French Senior Borrowers' election for the SIIC regime (a REIT-equivalent status), those French Senior Borrowers will incur immediate taxation at the rate of 19 per cent. of the latent capital gains assessed on the assets eligible to the tax-exempt sector. This exit tax is payable in four instalments over four years. The French Senior Borrowers have an outstanding liability of €4,512,129 in respect of such exit tax. Furthermore, the French tax authorities' claim in respect of any such tax (and related penalties) would benefit from a mortgage in relation to the French Senior Borrowers' Properties, but such mortgage would rank below the mortgage granted to the Issuer in relation to the Senior Loan.

### **Luxembourg tax risks relating to the Senior Obligors**

The Luxembourg Senior Obligors form part of a tax unity. As a general principle, the current tax losses of companies within a tax unity can be offset against the current profits of other companies within that tax unity. Within the tax unity, losses incurred prior to the tax unity may only be set off against future profits made by the same company. All subsequent losses incurred during the tax unity period belong to the parent - including those generated by a subsidiary. In this case, where a Senior Obligor which was part of the tax unity realized a taxable profit, such profit was transferred to the integrating company (IS EF One S.à r.l. (previously named IS EF One S.A.)) without being set off first against IS EF One S.à r.l.'s own tax losses incurred prior to the tax unity. This approach is technically not correct and leads to an under estimation of the tax losses cumulated at the level of IS EF One S.à r.l. in an amount of €7,630,998.49.

The absorbing entities within the tax unity realized merger losses in December 2016 which were considered as tax deductible in the relevant 2016 tax returns. The Luxembourg tax authorities may question the deductibility of such losses on the grounds that the technical loss arising from accounting entries on the merger could lead to a double deduction within the tax unity.

Based on the Luxembourg tax authorities' practice, equity investments including participations have to be financed in compliance with the thin capitalization rules i.e. a debt-to-equity ratio of 85:15 meaning a minimum of 15 per cent. of equity and a maximum of 85 per cent. of debt. Based on the relevant 2016 tax returns of the Luxembourg Senior Obligors, this ratio was not respected for several Luxembourg Senior Obligors. Accordingly, there is a risk that the Luxembourg tax authorities could take the view that these companies have not complied with Luxembourg thin capitalisation rules. In this case, the interest accrued on the excess debt financing in connection with the relevant shareholdings could be considered as non-tax deductible and characterized as a hidden dividend

distribution, which would be subject to a Luxembourg 15 per cent. withholding tax unless avoided or reduced by the participation exemption regime or double taxation treaty provisions.

There are per se no transfer pricing documentation obligation requirements in Luxembourg. However, the Luxembourg law of 19 December 2014 introduced a new provision according to which Luxembourg companies must be able to provide information in order to justify the data included within their fiscal year end corporate income tax returns upon request from the Luxembourg tax authorities, and this "shall apply accordingly to transactions between related parties". As from 1 January 2015, Luxembourg tax authorities may request from taxpayers any information or supporting documentation needed to verify the transfer process of intra-group transactions entered into by a Luxembourg company. The company providing the Tax Structure Paper did not receive any transfer pricing reports for the financial years 2014 to 2016 for several Luxembourg Senior Obligors and therefore could not exclude that the Luxembourg tax authorities could challenge the arm's length character of the margins realized by several companies. However, in the case of an adjustment by the Luxembourg tax authorities, the relevant Luxembourg Senior Obligors should either have sufficient tax losses carried forward to remain in a tax loss situation or (as long as the companies stay within the tax unity) their taxable profits should be transferred to IS EF One S.à r.l. (previously named IS EF One S.A.) and offset by the tax losses of other companies of the tax unity (if any).

Entities carrying out financing activities with borrowers established within the EU are required to register for VAT and to self-assess Luxembourg VAT on services received from suppliers established within the EU (the receipt of such services cannot be confirmed). According to the company providing the Tax Structure Paper's estimate, the Luxembourg Senior Obligors may be required to pay up to €74,162.34 in VAT for the financial years 2014 to 2016 as a result of such rules. The VAT authorities could also apply penalties (late registration, late filing of VAT returns) and late interest on VAT due but not paid.

In relation to Aberdonia Holding S.à r.l., there has been no reconciliation between the charges reported in that company's annual return and in its annual accounts and general ledgers. Accordingly the company providing the Tax Structure Paper could not confirm that in 2014 and 2016 Aberdonia Holding S.à r.l. correctly reverse charged Luxembourg VAT on services received from suppliers established outside of Luxembourg. The company providing the Tax Structure Paper also could not confirm that Aberdonia Holding S.à r.l. filed its 2015 annual VAT return in due time. The VAT authorities may apply penalties for late filing. The maximum amount of Luxembourg VAT due for 2015 according to the company providing the Tax Structure Paper was €129,309.81.

## **CONSIDERATIONS RELATING TO THE SENIOR LOAN AND THE COMMON TRANSACTION SECURITY**

### **Late payment or non-payment of rent**

There is a risk that sufficient rental payments will not be received in respect of the Properties within the Property Portfolio on or before the relevant Senior Loan Payment Date.

If a significant number of tenants' rental payments are not received on or prior to such Senior Loan Payment Date and any resultant shortfall is not otherwise compensated for from other resources, there may be insufficient cash available to the Senior Obligors to make payments to the Issuer under the Securitised Senior Loan. This will result in reduced amounts being available to the Issuer to make payments on the Notes. Such a default by any of the Senior Obligors may not itself result in a Note Event of Default since the Issuer will have access to other resources as mentioned above (specifically, funds made available under the Liquidity Facility Agreements in respect of any shortfall in the amount required to make certain payments under the Class A1 Notes, the Class A2 Notes and the Class B Notes). However, no assurance can be given that such resources will be available or sufficient to cover any shortfalls in amounts available to the Issuer to make payments on the Notes.

## **Prepayment of the Securitised Senior Loan**

The Senior Obligors may choose to or may be obliged to, in certain circumstances, prepay the Securitised Senior Loan in whole or in part prior to the Senior Loan Maturity Date.

These circumstances of mandatory prepayment include Senior Change of Control (other than a Permitted Senior Change of Control), a disposal of any Property, the receipt of insurance proceeds in respect of certain insurance claims, receipt of compulsory purchase compensation and where it would be unlawful for a lender to perform any of its obligations as contemplated by the Common Terms Agreement or to fund, issue or maintain its participation in the Senior Loan, as more particularly set out in "*Description of the Common Terms Agreement*".

These events may be beyond the control of the Senior Obligors and are beyond the control of the Issuer. Any such voluntary or mandatory prepayment may result in the Notes being prepaid earlier than anticipated.

## **Refinancing risk**

The Senior Loan is required to be mandatorily prepaid and/or repaid in certain circumstances as described in the section entitled "*Description of the Common Terms Agreement*". For example, following a Permitted Senior Change of Control, each Senior Obligor shall repay the aggregate outstanding principal balance of the Senior Loan on each Senior Loan Payment Date falling on or after completion of such Permitted Senior Change of Control. Notwithstanding such requirements to prepay the Senior Loan in certain circumstances, the Senior Loan may have a substantial remaining balance as at the Senior Loan Maturity Date.

Unless previously repaid or prepaid, the Senior Loan will be required to be repaid by the Senior Obligors in full on the Senior Loan Maturity Date which can change depending on the exercise of the Senior Loan Extension Option(s). The ability of the Senior Obligors to repay the Senior Loan in its entirety on the Senior Loan Maturity Date will depend on, among other things, them having sufficient available cash or equity and upon their ability to find a lender willing to lend to the Senior Obligors (secured against some or all of the Properties) sufficient funds to enable repayment of the Senior Loan (and, in certain circumstances, the Mezzanine Loan). Such lenders will generally include banks and other financial institutions. The availability of funds in the credit market fluctuates and during recent years there has, at times, been an acute shortage of credit to refinance loans such as the Senior Loan. In addition, the availability of assets similar to the Properties in the Property Portfolio, and competition for available credit, may have a significant adverse effect on the ability of potential purchasers to obtain financing for the acquisition of the Property Portfolio. There can be no assurance that the Senior Obligors will be able to refinance the Senior Loan prior to the Final Note Maturity Date of the Notes.

If the Senior Obligors cannot refinance the Senior Loan, they may be forced, in unfavourable market conditions, into selling some or all of the relevant parts of the Property Portfolio in order to repay the Senior Loan. Failure by the Senior Obligors to refinance the Senior Loan or to sell some or all of the Properties on or prior to the relevant Senior Loan Maturity Date may result in one of the Senior Obligors defaulting on the Senior Loan and in the insolvency of the relevant Senior Obligors. See also "*Considerations relating to the Senior Obligors and/or the Issuer – Risks relating to the insolvency of the Senior Obligors*". In the event of such a default or insolvency, the Noteholders, or the holders of certain Classes of Notes, may receive by way of principal repayment an amount less than the then Principal Amount Outstanding on their Notes and the Issuer may be unable to pay in full interest due on the Notes.

## **Collection and enforcement procedures**

Under the Servicing Agreement, the Servicer or the Special Servicer is required to monitor (or liaise with the Senior Loan Facility Agent to monitor) collection of all payments to the Issuer by the Senior Obligors under the Securitised Senior Loan. The Servicer or the Special Servicer must exercise any rights, powers and discretions of the Issuer (including the exercise of procedures to enforce those rights, powers and discretions) in accordance with the requirements of the Servicing Agreement.

See further *"Key Terms of the Servicing Arrangements for the Securitised Senior Loan – Modifications, waivers, amendments and consents"*.

## **Limited payment history**

Lenders typically look to the payment and performance history of loans, and their related mortgaged properties, pledged collateral and borrowers, as an indicator of future performance and in assessing risks of default. The Senior Loan was advanced on 20 September 2018. The first Senior Loan Payment Date was on 15 November 2018. Consequently, the Senior Loan has a very limited payment history and investors in the Notes cannot be assured that payments will be made on the Senior Loan.

## **Risks relating to representations and warranties of the Senior Obligors under the Common Terms Agreement**

Representations and warranties given by the Senior Obligors under the Common Terms Agreement are to some extent qualified by the actual knowledge of the Senior Obligors giving such representation or warranty. While reliance on representations and warranties is only commercially possible to the extent that the Senior Obligors are factually able to indemnify the recipient of such representations and warranties, so that a representation already in and as of itself only offers limited protection commercially, representations and warranties which are qualified by the actual knowledge further reduce the ability of a recipient to rely on the absence of the corresponding risks because the recipient would need to provide evidence of the relevant Senior Obligors' actual knowledge of the relevant risk represented which might be difficult if not impossible to demonstrate successfully in practice. See further *"Description of the Common Terms Agreement – Representations and warranties"*.

## **Risks relating to special purpose entity covenants of the Senior Obligors**

Special purpose entities are generally used in commercial loan transactions to satisfy requirements of institutional lenders and recognised credit rating agencies. In order to minimise the possibility that special purpose entities will be the subject of insolvency proceedings, provisions are generally contained in the documentation relating to the loan which, among other things, limit the indebtedness that can be incurred by the Senior Obligors and restrict such entities from conducting business as an operating company generally (thus limiting exposure to outside creditors). An insolvency of one or more of the Senior Obligors would result in a Senior Loan Event of Default with respect to the Senior Loan which may give rise to an acceleration of the Senior Loan and an enforcement of the Common Transaction Security. This could result in significant delays in the receipt by the Issuer of payments under the Securitised Senior Loan which could adversely affect its ability to make all payments due on the Notes.

The Common Terms Agreement contains provisions that require the Senior Obligors to conduct themselves in accordance with certain special purpose entity covenants. For example, there is a covenant which prevents all of the Senior Obligors from having employees. In addition, the Senior Holdcos have undertaken not to trade, carry on any business, own any assets or incur any liabilities other than in the ordinary course of business in relation to the ownership of shares in their subsidiaries, intra-group debit and credit balances, other incidental assets and the incurrence of

liabilities and consummation of other transactions in compliance with the Senior Loan Transaction Documents. The Propcos have undertaken to only conduct the business of acquiring, owning, managing, financing, refinancing, developing and letting the Properties and related activities in any manner which is in compliance with the Senior Finance Documents.

However, there can be no assurance that all or most of the special purpose entity covenants will be complied with by the Senior Obligor (although a breach of covenant would, in certain circumstances, lead to a Senior Loan Event of Default) and even if all or most of such restrictions have been complied with by the Senior Obligor there can be no assurance that the Senior Obligor will not nonetheless become insolvent.

### **Limitations of representations and warranties delivered by each Loan Seller**

Neither the Issuer nor the Issuer Security Trustee has undertaken or will undertake any investigations, searches or other actions as to any Senior Obligor's status, and each will rely instead solely on the warranties given by each Loan Seller in respect of such matters in the Securitised Senior Loan Sale Agreement (see further "*Description of the Securitised Senior Loan Sale Agreement – Remedy for Material Breach of Loan Warranty*"). In the event of a Material Breach of Loan Warranty, the Loan Sellers will be required to either indemnify the Issuer (however, subject to a cap as set out under "*Description of the Securitised Senior Loan Sale Agreement – Remedy for Material Breach of Loan Warranty*"), or alternatively, in certain situations, the Loan Sellers would be entitled to repurchase the Securitised Senior Loan.

### **The Common Transaction Security is shared between the Issuer, the other Senior Lenders and the Mezzanine Lenders**

The Common Transaction Security has been granted in respect of the entire Senior Loan, not just the Securitised Senior Loan as well as securing the Mezzanine Loans (with the exception of any French law Common Transaction Security granted by a French Senior Obligor which is granted only in respect of the Senior Secured Liabilities), on a second-ranking basis (whether through second ranking security or through contractual provisions of the Intercreditor Agreement then ranking the Senior Lenders ahead of the Mezzanine Lenders in terms of receipt of enforcement proceeds). . As the Issuer will only be a lender under the Securitised Senior Loan (and not the entire Senior Loan), it will only be entitled to a share of the enforcement proceeds of the Common Transaction Security that pertain to the Securitised Senior Loan(s). Deutsche Bank AG, London Branch and Société Générale, London Branch, as Senior Lenders under the Common Terms Agreement, will be entitled to the remaining enforcement proceeds which are due in respect of the Senior Loan (with any excess proceeds above this going to repay the (relevant) Mezzanine Loan(s)). Similarly, every payment of principal and interest made under the Senior Loan to the lenders in their capacity as such will be distributed between the Issuer and the other Senior Lenders by reference to the proportion that each entity holds of the Senior Loan.

### **The Issuer is not the only Senior Lender under the Senior Loan**

As the Issuer will hold approximately 95 per cent. interest in the Senior Loan, the involvement of Deutsche Bank AG, London Branch and Société Générale, London Branch as Senior Lenders will always be required in relation to matters that require the consent of all of the Senior Lenders under the Common Terms Agreement (refer to the section entitled "*Description of the Common Terms Agreement*" for a description of such matters).

As the interests of the Issuer and the other Senior Lender(s) may not be identical, the Issuer will not be able to control the outcome of all lender decisions. This may have an adverse effect on the Issuer's ability to make payments of interest and/or principal under the Notes.



## **Considerations relating to the Mezzanine Loan and the Intercreditor Agreement**

The indirect equity owners of the Senior Obligors have pledged their respective indirect ownership interests in the Senior Obligors, consisting of the shares in companies higher up in the group structure than the Senior Obligors, in order to secure the Mezzanine Loans. The security granted by the Senior Obligors (other than the French Senior Obligors) in respect of their assets also secures the Mezzanine Loans on a second-ranking basis (other than the security over the shares in the relevant French Senior Holdcos by Luxembourg Senior Obligors, which is granted on a *pari passu* basis between the Senior Lenders and the Mezzanine Lenders with the Intercreditor Agreement then ranking the Senior Lenders ahead of the Mezzanine Lenders in terms of receipt of enforcement proceeds).

Mezzanine debt is debt that is incurred by the owner of direct or indirect equity in one or more of the Senior Obligors and is secured by a pledge of the indirect equity ownership interests in such Senior Obligors (i.e. a pledge of the equity ownership interests in the owner of the direct or indirect equity in the relevant Senior Obligors). Because mezzanine debt is secured by the owner's direct or indirect equity interest in the Senior Obligors, such financing effectively reduces the value to the Senior Obligors (and the ultimate owner of the Senior Obligors) of its economic stake in the related mortgaged property. The existence of mezzanine debt may reduce the excess cashflow from the Properties after the payment of debt service under the Senior Loan and may increase the likelihood that the owner of a Senior Obligor will permit the value or income-producing potential of such property to fall and may create a greater risk that such Senior Obligor will default on the Senior Loan.

Certain amendments, waivers or consents in respect of the Senior Finance Documents require, in addition to the consent of Senior Finance Parties in accordance with the terms of the Senior Finance Document (which discretion will be exercised generally by the Servicer or, as applicable, the Special Servicer (in either case on behalf of the Issuer as lender)) and the rights of the Operating Adviser under the Servicing Agreement, the consent of the Mezzanine Majority Lenders to be made or given (see the sections entitled "*Description of the Common Terms Agreement – Amendments and waivers*" and "*Description of the Intercreditor Agreement – Amendments and waivers*" for further details).

Accordingly, notwithstanding that the Servicer or, as applicable, the Special Servicer (including, where applicable, upon the instruction of the Noteholders of any relevant Class) may wish to agree to an amendment, waiver or consent in respect of the Senior Finance Documents, certain amendments, waivers or consents may not be made or given unless the Mezzanine Majority Lenders under the Intercreditor Agreement have approved the same (subject to the "snooze you lose" provisions of the Intercreditor Agreement and the Mezzanine Facility Agreement; see the section entitled "*Description of the Common Terms Agreement – Amendments and waivers*").

## **Risks relating to security for the Securitised Senior Loan**

The security granted by the Senior Obligors is governed by the laws of England, France, Germany, the Netherlands and Luxembourg. Prospective investors in any of the Notes should carefully consider the nature of the security interests and the rights of the Common Security Agent in respect of such security, and how such security interests and rights may differ from other security arrangements common for commercial property financing structures comparable to the Securitised Senior Loan.

The Senior Loan Facility Agent or (as the case may be) the Common Security Agent will have certain rights under the Common Terms Agreement if any of the Senior Obligors becomes insolvent and subject to insolvency proceedings, including certain rights to accelerate the Senior Loan and enforce the Common Transaction Security. However, the rights of creditors of an insolvent French, German, Dutch or Luxembourg entity may be limited by law. Refer to the sections entitled "*Certain Matters of French Law*", "*Certain Matters of German Law*", "*Certain Matters of Dutch Law*" and "*Certain Matters of Luxembourg Law*" for further details.

## **The performance of the Senior Loan and the Properties depends in part on who controls the Senior Obligors and the Properties**

The operation and performance of the Senior Loan will depend in part on the identity of the persons or entities that control the Senior Obligors and the Properties. The performance of the Senior Loan may be adversely affected if control of the Senior Obligors changes, which may occur, for example, by means of transfers of direct or indirect ownership interests in the Senior Obligors.

The Common Terms Agreement provides that if a Senior Change of Control occurs and if the Senior Majority Lenders so require, the Senior Loan Facility Agent shall by notice to the Senior Company cancel all commitments and declare all outstanding amounts under the Senior Loan to be immediately due and payable.

The definition of "Senior Change of Control" and related definitions are set out in full under Appendix 3 (Glossary of Defined Terms), however broadly speaking a Senior Change of Control occurs in circumstances where either:

- (a) prior to an Approved Person or Approved Persons acquiring control of the Pledgcos in accordance with the terms of the Intercreditor Agreement, a Permitted Holder ceases to control any Pledgeco (other than, in the case of the Initial Investors, following a Listing);
- (b) on and from the date on which an Approved Person or Approved Persons acquire control of the Pledgcos in accordance with the terms of the Intercreditor Agreement, such Approved Person or Approved Persons cease to control any Pledgeco, or the person or persons exercising control over or managing (as applicable) the relevant Approved Person or Approved Persons as at the date that such Approved Person or Approved Persons acquired control of the Pledgcos ceases or cease to have control over or manage (as applicable) that Approved Person or Approved Persons;
- (c) following a Listing, a person or group of persons acting in concert who are not (or in the case of a group, not all) Permitted Holders own (directly or indirectly) or gain control of 50 per cent. or more of the voting share capital of any Pledgeco; or
- (d) other than as a result of a permitted disposal of a Property, the Pledgcos, taken together, cease to control any Senior Obligor (other than any Pledgeco).

The occurrence of a Permitted Senior Change of Control as referred to above results in a mandatory prepayment of the Senior Loan if so requested by the Senior Majority Lenders. However, it is possible that such repayment is not requested. Any permitted category of change of control described above may negatively affect the operation of one or more Properties and the respective Senior Obligors' ability to make payments on the Senior Loan in a timely manner or result in other failures by the Obligors to comply with the terms of the Senior Finance Documents or lead to other disruptive actions by the Senior Obligors, the then current Sponsor, the Mezzanine Lenders or their respective affiliates. Further, it is possible that the actions of any person acquiring control of the Senior Obligors as permitted by the Common Terms Agreement could adversely impact the operation of the Properties.

## **Interest rate risk/hedging**

Amounts received by the Hedging Obligors under hedging transactions entered into under a Hedge Document will be used to make interest payments under the Senior Loan. The Common Terms Agreement requires that the Hedge Documents have an aggregate notional amount equal to 100 per cent. of the principal amount outstanding of the Senior Loan.

In certain circumstances, a Hedge Document may be terminated and the relevant Senior Borrower may be unable to find a suitable replacement Hedge Counterparty. In particular, should an Interest Rate Cap Transaction be terminated or should the relevant Hedge Counterparty default on its obligations under the relevant Hedge Document to make payments to the relevant Senior Obligor on any payment date thereunder, the Senior Borrowers may, and particularly during a period of high or volatile EURIBOR, have insufficient funds available to them to make payments of interest due under the Common Terms Agreement.

In the event of the insolvency of a Hedge Counterparty, the relevant Senior Borrower that has entered into a Hedge Document with that Hedge Counterparty will be an unsecured creditor of such Hedge Counterparty (subject to any collateral provided by the relevant Hedge Counterparty pursuant to the relevant Hedge Document).

To mitigate the risks posed by a deterioration in the credit rating of a Hedge Counterparty, the Senior Borrowers are required to ensure that any Hedge Counterparty with which they contract has Required Rating. However no assurance can be given that if there is a ratings downgrade of one Hedge Counterparty, another entity with the Required Rating will be available or willing to become a replacement Hedge Counterparty.

The current Interest Rate Cap Transactions are scheduled to terminate on 15 November 2020. If the Senior Initial Repayment Date is extended pursuant to a Senior Loan Extension Option, one of the conditions to each of such extensions is that Hedge Documents consistent with the requirements of the Common Terms Agreement are entered into in respect of the relevant additional year. However, if the Senior Loan is not repaid by the relevant Senior Loan Maturity Date and the relevant extension option conditions are not satisfied, interest rate fluctuation risk will be unhedged.

### **Availability of Liquidity Facilities**

Pursuant to the terms of the Cash Management Agreement and the Liquidity Facility Agreements, the Issuer Cash Manager (on behalf of the Issuer) will apply the drawings under the Liquidity Facility Agreements to meet any of the following shortfalls in the funds available to it as determined from time to time by the Issuer Cash Manager or (in the case of a Property Protection Shortfall only) the Servicer or the Special Servicer (as applicable):

- (a) an Expenses Shortfall;
- (b) an Interest Shortfall; or
- (c) a Property Protection Shortfall,

each as more fully described in the section entitled "*Description of the Liquidity Facility Agreements*".

The amount available to be drawn down under the Liquidity Facility Agreements on any Note Payment Date may be less than the Issuer would have received had full and timely payments been made in respect of all amounts owing to the Issuer under the Securitised Senior Loan during the relevant Senior Loan Interest Period. In addition, the Issuer is exposed to the risk of the Liquidity Facility Providers becoming insolvent. In such circumstances, insufficient funds may be available to the Issuer to pay in full interest due on the Notes.

Interest Drawings can be made to fund interest payments (including Deferred Interest) in respect of the Class A1 Notes, the Class A2 Notes and the Class B Notes. The Liquidity Facilities cannot be drawn to pay amounts in respect of an amount of principal, Note Prepayment Fees and EURIBOR Excess Amounts (including Deferred EURIBOR Excess Amounts) on any Class of Notes or any amount of interest or other amounts that may become due and payable on the Class X Notes. The

amount available for drawdown, in aggregate under both Liquidity Facility Agreements as of the Closing Date is €13,500,000, and thereafter will decrease as the Principal Amount Outstanding of the Notes decreases (and in certain other circumstances), as set out under the section entitled "*Description of the Liquidity Facility Agreements*".

### **Asymmetric allocation of debt**

The French Senior Borrowers can only borrow debt and grant security up to the amount of their existing third party debt at closing (being €175,110,617.14 in total) (please refer to "*Certain Matters of French Law*" for further details). The French mortgages will therefore be limited to €175,110,617.14, which equates to a 57 per cent. loan to value ratio for the French Properties. The remaining €133,039,661.74 of the Senior Loan has therefore been allocated across the Luxembourg Senior Borrowers and the Dutch Senior Borrowers, resulting in an average loan to value ratio of 98.6 per cent. for the German Properties and 98.6 per cent. for the Dutch Properties.

The release premium mechanic in the Common Terms Agreement has been structured so that prepayments are applied to even out the Senior LTV Ratios of the different Properties over time. Where a prepayment is being made by a Senior Borrower out of Senior Permitted Property Disposal Prepayment Proceeds (being the relevant release price for the Property rather than all of the disposal proceeds), Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds, in each case in respect of a particular Property, the proceeds of that prepayment will be applied, to the extent of available proceeds, as follows:

- (a) *firstly*, in an amount up to 100 per cent. of the Senior Allocated Loan Amount (or the relevant Senior Loan amount, if less) applied to prepay the Senior Loan made to the Senior Borrower that owns that Property;
- (b) *secondly*, unless the relevant Senior Borrower is a French Senior Borrower, any surplus following the prepayment made under paragraph (a) above is applied *pro rata* by Senior Allocated Loan Amount against the Senior Allocated Loan Amount of any Property or Properties that on the date of that prepayment has or have the highest Senior Property LTV Ratio(s) until the Senior Property LTV Ratio(s) for that Property or those Properties is or are equal to the second highest Senior Property LTV Ratio on that date;
- (c) *thirdly*, unless the relevant Senior Borrower is a French Senior Borrower, any surplus following the prepayments made under paragraphs (a) and (b) above is applied using the process in paragraph (b) above using the Senior Property LTV Ratios as reduced by the application made in accordance with paragraph (b) above until each Property has the same Senior Property LTV Ratio; and
- (d) *fourthly*, unless the relevant Senior Borrower is a French Senior Borrower, any surplus following the prepayments made under paragraphs (a), (b) and (c) above are applied *pro rata* against the Senior Loan.

If the prepaying Senior Borrower is a French Senior Borrower and the relevant Senior Permitted Property Disposal Prepayment Proceeds, Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds which that French Senior Borrower would have been required to apply in accordance with paragraphs (a) to (d) above if it had not been a French Senior Borrower are higher than the amount paid by that French Senior Borrower in accordance with paragraph (a) above, the Senior Obligors other than the French Senior Borrowers must ensure that an amount equal to that excess is applied in prepayment of the Senior Loan in accordance with paragraphs (b) to (d) above.

The release price for each Property (or a Senior Obligor owning a Property) is a set amount, which decreases once the Senior Release Price Threshold (being a prepayment of an aggregate principal amount of the Senior Loan equal to or greater than 15 per cent. of the original Senior Total Commitments as a result of one or more Senior Permitted Property Disposals) has been met. This is provided that, if the Senior Allocated Loan Amount of a Property has been reduced in accordance with the mechanic outlined above, the Senior Release Price will be the maximum of (i) 0.697194659921355 multiplied by the Market Valuation of that Property (as set out in the Initial Valuation) and (if the Senior Release Price Threshold has been met) multiplied by 110 per cent. in respect of any portion of the Senior Release Price which exceeds the Senior Release Price Threshold and (ii) the then Senior Allocated Loan Amount of that Property. This mechanic is also intended to assist in addressing the imbalance between Senior LTV Ratios in the Property Portfolio.

Additionally, if a Senior Borrower repays or prepays its Senior Loan in whole or in part other than as a result of receipt of proceeds, the Senior Allocated Loan Amounts of the Senior Borrowers are reduced on a euro for euro basis in accordance with the same mechanic.

There is no guarantee, however, that the Senior Obligors will dispose of Properties or Land Plots or will receive Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds in an amount required to ensure that the Senior LTV Ratios become more even in accordance with the mechanic set out above.

The obligations of the Senior Obligors (other than the French Senior Borrowers) are cross-collateralised, meaning that even if the Senior LTV Ratio for one Property is lower than that for another Property, the relevant Senior Borrowers owning those Properties, and their holding companies, guarantee each others' obligations under the Senior Finance Documents. As a result, the Properties owned by the relevant Senior Obligors and their Senior LTV Ratios can be viewed as an aggregate rather than on an individual basis. Due to French law restrictions, the French Senior Borrowers' obligations are not cross-collateralised with those of the other Senior Borrowers (see "*Certain Matters of French Law*" for further details). The Senior Finance Parties will however have the benefit of the cross-collateralisation of the obligations of the Luxembourg holding companies above those French Senior Borrowers and above the other Senior Borrowers. Cross-collateralisation in Luxembourg has certain limitations (see "*Certain Matters of Luxembourg Law*" for further details). However, while a number of similar investment and finance structures using Luxembourg holding and/or property companies have become subject to Luxembourg insolvency proceedings since 2009, to date an insolvency receiver who has exclusive entitlement to sue has not challenged cross-collateralisation on the grounds of lack of corporate benefit. For further details on cross-collateralisation generally in the relevant jurisdictions, see "*Certain Matters of Luxembourg Law*", "*Certain Matters of French Law*", "*Certain Matters of German Law*" and "*Certain Matters of Dutch Law*". It should also be noted that the usual limitations which apply in respect of upstream and cross-stream guarantees provided by French and Luxembourg entities are more relevant in this structure because of the asymmetry of the Property Portfolio. In particular, if the Issuer wanted to use the French Senior Borrowers' and Luxembourg Senior Obligors' guarantee of their parents' and sister companies' obligations in order to move equity out of the French Senior Borrower group so as to compensate for the non-French Properties having higher Senior LTV Ratios, it would be limited in its ability to do so by the limitations that apply in respect of upstream and cross-stream guarantees in France and Luxembourg. For further details as to these limitations, see "*Certain Matters of French Law*" and "*Certain Matters of Luxembourg Law*", respectively.

Additionally, there is a risk that the quality of the Property Portfolio could deteriorate over time as a result of disposals by the Senior Borrowers of the better quality Properties. Although the Property Portfolio is highly granular and any disposal of a Property requires payment of the contractual release price which will assist in de-leveraging the Property Portfolio, there is no differentiation between the

release price applicable to each Property and there is therefore a risk of the Senior Borrowers selling the better quality and most liquid assets more quickly.

**Rights in the Common Transaction Security may be adversely affected by a failure to perfect it or to maintain its perfected status or by a deferral of the perfection**

Each German New Land Charge will need to be registered in the relevant land registers (*Grundbücher*) pertaining to the German Properties charged under that German New Land Charge. Such registration in the land register is necessary to make the German New Land Charges become effective in respect of such German Properties. Prior to such registration the German New Land Charge does not create a valid security interest over such German Properties. Under the terms of the Common Terms Agreement, each German New Land Charge must be registered within six months of the Senior Utilisation Date and the Senior Loan Facility Agent must be provided with land register excerpts evidencing such registration.

Under French, Luxembourg, Dutch and German law, pledges over assets located or deemed to be located in the relevant jurisdiction are only effective (in some cases towards third parties) to the extent the relevant perfection formalities have been complied with. Perfection formalities depend on the type of assets that are subject to the pledge.

**Limitations in respect of security over bank accounts and certain underlying assets**

Each Senior Obligor has, in accordance with the terms of the Common Terms Agreement, established a number of bank accounts into which, among other things, rental income and disposal proceeds in respect of the Properties owned by it must be paid (as to which, see the section entitled "*Description of the Common Terms Agreement – Bank accounts*"). Each Senior Obligor has, pursuant to the terms of the relevant Common Transaction Security Documents, pledged all of its interests in its relevant accounts (except for any Senior Rent Collection Account which is not held in the name of a Senior Obligor, any Senior Rent Deposit Account or any Senior Existing Account) in favour of the Common Security Agent (acting on behalf of the other Senior Finance Parties), which security is expressed to be a first ranking pledge.

In respect of the pledged Senior Obligor Accounts located in Germany, the relevant Senior Obligor Account Bank holds certain priority security interests over such bank accounts in accordance with its general conditions of business for banking in Germany. This means that the relevant pledges granted in favour of the Common Security Agent and the Issuer will be subordinated to such security interest and/or right of set-off held by the relevant account bank until the relevant Senior Obligor Account Bank has waived or subordinated such priority security interest. In accordance with the German Account Pledge Agreement, each relevant Senior Obligor has undertaken to use reasonable endeavours to procure that, in relation to such Senior Obligor Accounts, each bank with whom such account is held subordinates such priority security interest subject to and in accordance with the terms of the German Account Pledge Agreement.

It should be further noted that the pledges over the Senior Obligor Accounts located in Germany might not be enforceable in an insolvency scenario of the relevant Senior Obligors. Although no Senior Obligors are incorporated in Germany, if the centre of main interests of any Senior Obligors shifted to Germany (for example as a result of their owning German Properties), the following may be relevant. In 2009, the German Supreme Court held in a decision – contrary to earlier case law – that Section 91 of the German Insolvency Code, which generally prevents the acquisition of rights in an insolvency scenario, also prevents a pledgee from enforcing its rights in relation to pledged current accounts (*Kontokorrentkonten*) (see the risk factor below entitled "*Timing and effect of insolvency and reorganisation on enforcement of security under German law*" for further details). As a consequence, any balance credited to the Senior Obligor Accounts located in Germany (which are all established as current accounts) at the date when insolvency proceedings are opened in respect of the holder of such

account, may not be collected by the pledgee but may rather benefit the insolvency estate. If, however, the German Account Pledge Agreement is enforced before the opening of insolvency proceedings, the enforcement proceeds may be collected by the pledgee. The German Account Pledge Agreement entitles the pledgee to enforce the pledge before insolvency proceedings are opened in respect of the relevant Senior Obligors. However, there can be no assurance that the Common Security Agent will have advance notice of the opening of insolvency proceedings and that enforcement action will be taken in time.

In respect of the pledges over Luxembourg located Senior Obligor Accounts, whilst the pledges created under the Luxembourg Account Pledges are, in accordance with article 20(1) of the Luxembourg law of 5 August 2005 on collateral arrangements, as amended (the **Luxembourg Collateral Act**), valid and binding against third parties, administrators, bankruptcy receivers, liquidators and other similar officers notwithstanding the existence of reorganisation measures, liquidation proceedings or the occurrence of any other similar situation of competition between creditors, national or foreign, this protection does arguably not apply to monies or other assets transferred to relevant accounts after the occurrence of any Luxembourg Insolvency Proceedings. Therefore, there is a material risk that monies or other assets transferred to such Senior Obligor Accounts after the occurrence of Luxembourg Insolvency Proceedings will not effectively constitute enforceable security assets under the Luxembourg Account Pledges.

Under Dutch law, a Dutch account bank generally has a first right of pledge on the bank account and the possibility to set-off pursuant to its general conditions. An acknowledgement of the pledge by the account bank is required in order to make the account bank waive such rights, although in practice Dutch banks are not at all times willing to give such waiver. Consent of the account bank to the pledge may also be necessary in order for the pledge to come into existence, given that the applicable general conditions often exclude the creation of a right of pledge over the accounts without consent. In respect of existing and future accounts held with the existing account bank of the Dutch Senior Obligors, an acknowledgement has been granted by the existing account bank in such a manner that the account bank's pledge and right of set-off is preserved and will only be exercised to the extent it relates to fees and costs owing by the account holder to the account bank from time to time in connection with maintaining the relevant account. In respect of any possible future accounts held with another account bank, a similar acknowledgement will need to be granted by such account bank.

As a matter of French law, a pledge over a bank account (*nantissement de compte*) is a pledge over a receivable (consisting of the claim which the pledgor has against the bank which holds the account in the name of the pledgor) which, under French law, does not confer a right of retention in favour of the pledgee. Under a pledge over a bank account, the pledged account is opened in the name of the pledgor and the pledgor retains title to the amounts standing to the credit of the pledged bank account. What is deemed pledged is the credit balance of the account, temporary or permanent, at the date of enforcement of the security interest, subject to the regularisation of ongoing operations with the account bank (and therefore the application of rights of set-off from the account bank, such rights being available under general business conditions of most French banks).

### **Enforcement of German New Land Charges**

Enforcement of the German New Land Charges would be carried out by the Common Security Agent (or any of its representative or legal counsel who the land charge beneficiary may from time to time appoint) in accordance with the German Forced Administration and Forced Sale Act which provides for compulsory sale of properties (*Zwangsversteigerung*) and/or sequestration of properties (*Zwangsverwaltung*) as possible enforcement measures. In accordance with statutory law, land charges like the German New Land Charges which have been created over a property after 19 August 2008 securing a payment claim (*Sicherungsgrundschuld*) have to be terminated by six months' prior

notice before enforcement proceedings in relation to the capital amount (*Grundschnldkapital*) can be started.

### **Timing and effect of insolvency and reorganisation on enforcement of security under German law**

Although no Senior Obligors are incorporated in Germany, if the centre of main interests of any Senior Obligors shifted to Germany (for example as a result of their owning German Properties), the following may be relevant:

- (a) a security assignment of future lease claims (as provided for under the German Rental Assignment Agreement) for the time after opening of insolvency proceedings will, pursuant to section 110 of the German Insolvency Code, only be valid in relation to rental claims for the month in which insolvency proceedings are formally opened, or earlier rental claims. If proceedings are opened after the 15th day of the month, the security assignment will also be valid for the following month. However, an assignee who is also the land charge beneficiary may benefit from such claims in the case of enforcement of the land charge over the relevant property by way of compulsory administration (*Zwangsverwaltung*);
- (b) under German insolvency law, a creditor who is secured by the assignment of receivables has a preferential right to such receivables (*Absonderungsrecht*) if insolvency proceedings are opened in respect of its debtor. Enforcement of such preferential right is subject to the provisions set forth in the German Insolvency Code. In particular, the secured creditor may not enforce its security interest itself with respect to movables in possession of the insolvency administrator and receivables (*Forderungen*) that have been assigned by way of security. Instead, the insolvency administrator (*Insolvenzverwalter*) appointed in respect of the estate of the debtor will be entitled to enforcement. The insolvency administrator is obliged to transfer the proceeds from such enforcement less fees which may amount to up to 4 per cent. plus up to 5 per cent. (in certain cases more than 5 per cent.) plus applicable VAT of the proceeds of realisation to the creditor; and
- (c) a transfer of assets (including, without limitation, the transfer of the receivables under the German Global Assignment Agreement) which only come into existence following the opening of formal insolvency proceedings (*Eröffnung des Insolvenzverfahrens*) against the assets of the transferor is subject to the limitations of Section 91 of the German Insolvency Code and is invalid. Claims which are subject to or result from a current account relationship (*Kontokorrentverhältnis*) cannot be validly assigned or pledged as long as the current account relationship is effective. Therefore, only upon termination of the current account relationship, provided that this termination occurs prior to the opening of insolvency proceedings, can the final account balance (*Schlussaldo*) be validly assigned. Pursuant to Section 1274 of the German Civil Code, the same applies in the case of a pledge. Pursuant to Sections 115 and 116 of the German Insolvency Code, a current account relationship is terminated after the opening of insolvency proceedings over the relevant party. From that moment, no disposals (*Verfügungen*) may be made in relation to assets belonging to the insolvent person (Section 91 of the German Insolvency Code).

### **Over-collateralisation**

Under German law, pursuant to court rulings of the German Supreme Court, taking of initial excessive security (initial over-collateralisation, *anfängliche Übersicherung*) results in the relevant security arrangement being void. In order to ascertain whether an initial over-collateralisation is given, it is, pursuant to a court ruling of the German Supreme Court, necessary to calculate the liquidation value of all security assets which can be realised in the insolvency of the security grantor (*realisierbarer Wert*). While the German Supreme Court does the calculation on a case-by-case basis,



legal authors estimate that an initial over-collateralisation is given if the realisation value of the security exceeds the aggregate amount of secured claims by more than 100 per cent.

Under French law, pursuant to article L. 650-1 of the French Commercial Code, a creditor may be held liable towards an insolvent professional debtor for any damage deriving from the credit granted by it to such debtor if the security interest securing such credit is disproportionate (*disproportionné*) compared to that credit. In such case, such security interest can be declared null and void or reduced by a judge if certain conditions are satisfied.

No assurance can be given as to how a competent court would view the security structure of the transaction due to the over-collateralisation of the claims of the Issuer (as a lender) under the Common Terms Agreement. The security is sized according to the principal amount of the Senior Loan plus interest, in addition to costs and fees (including, among other things, anticipated enforcement costs), which is in line with commercial lending practices and is based on expected enforcement proceeds. However, no assurance can be given that the Common Transaction Security will not be found to be excessive.

### **Equitable subordination in Germany**

Although no Senior Obligor is incorporated in Germany, if the centre of main interests of any Senior Obligor shifted to Germany (for example as a result of their owning German Properties) the following may apply.

Under German law, if, as a result of the provisions of any Senior Finance Document, a Senior Finance Party is found to control a Senior Obligor in respect of their executive decisions or the running of their business, such Senior Finance Party could be treated as being in a similar position to that of a shareholder of that Senior Obligor. The result is that such Senior Finance Party's claims against that Senior Obligor may be subordinated upon the insolvency proceedings of the relevant Senior Obligor. In addition, any security granted to secure such claim may be subject to further hardening periods.

Whether or not the exercise and enforcement of its rights under the Senior Finance Documents by a Senior Finance Party would be found to amount to control of a Senior Obligor and therefore result in a subordination of that Senior Finance Party's claims against the relevant Senior Obligor, is a matter of fact and only becomes relevant in the case of an insolvency of a Senior Obligor.

### **Limitations on security over future receivables under Dutch law**

Under the Dutch Law Security Agreements, each Dutch Senior Borrower has pledged present and future rights. However, if a Dutch Senior Obligor is declared bankrupt (*failliet verklaard*) or is granted a suspension of payments (*surséance van betaling*) prior to the moment such right comes into existence, such future assets of the security provider will not form part of the security package but will form part of the bankruptcy estate which is available to all creditors. This means that if the Common Security Agent has any remaining claims after the proceeds of their other secured assets have been fully used, such claims will rank *pari passu* with all unsecured claims but after deduction of general bankruptcy costs and certain preferred claims, for example, tax claims.

Lease receivables are deemed to be future receivables which only come into existence after the lessor has complied with its obligations under the lease. Therefore, any lease receivables that will only come into existence or will only be acquired by a Dutch Senior Borrower after it is declared bankrupt or is granted a moratorium of payments will not be subject to the right of pledge created thereon and these lease receivables will fall into the bankruptcy estate of such Dutch Senior Borrower. The Common Security Agent will therefore not have any right of preference in respect of the proceeds of these lease receivables. The bankruptcy proceeds (including the lease receivables that form part of the bankruptcy estate) will be paid on a *pro rata* basis to the bankrupt company's unsecured creditors,

after deduction of general bankruptcy costs and preferred claims. When such payment will be made depends on the complexity of the bankruptcy and may take a year or longer.

The risk set out in the preceding paragraph is mitigated by the fact that, if the Common Security Agent enforces its right of mortgage over the Dutch Properties, the lease contracts will automatically be transferred to the new owner of the Dutch Properties. Only the lease receivables that come into existence after the Dutch Senior Borrower is declared bankrupt or is granted a suspension of payments and before the Common Security Agent enforces its right of mortgage and sells and transfers the Dutch Properties to the new owner will form part of the bankruptcy estate.

In respect of bank accounts, this applies to any monies that are paid into the relevant pledged Senior Obligor Account after the relevant Dutch Senior Obligor is declared bankrupt or is granted a suspension of payments, as such monies will not be subject to the rights of pledge created thereon and will fall into the bankrupt estate of the relevant Dutch Senior Obligor. The Common Security Agent will therefore not have any right of preference over these monies. To the extent the claim pursuant to which those monies were paid was itself pledged to the Dutch Senior Obligor, the Common Security Agent would, however, retain its position as a preferred creditor in relation to those monies and those monies would be paid to the Common Security Agent after deduction of that part of the general bankruptcy costs that is allocated to those monies.

No mortgage can be granted over future real property, i.e. real property that will only be acquired after the deed of mortgage by the security provider.

#### **Uncertainties under Dutch law as to the creation of certain security interests in the Senior Secured Liabilities and the enforcement thereof**

Under Dutch law, it is uncertain as to whether security interests can be granted to a party other than the creditor of the claim which is purported to be secured by such security interests. For that reason, the Intercreditor Agreement provides for the creation of so-called "parallel debt obligations". The Common Security Agent is the holder of the parallel debt claim under the Intercreditor Agreement and therefore is the holder of a separate and independent claim equal to the total amount payable by the Senior Obligors under the Senior Loan. The parallel debt claim is secured by certain security rights that are governed by Dutch law. The parallel debt structure may be subject to uncertainties as to its validity and enforceability. There can be no assurance that the parallel debt structure will eliminate or mitigate the risk of enforceability of security rights which exists under Dutch law.

#### **Dutch law risks relating to security trust**

Pursuant to the Intercreditor Agreement, an English law trust has been created in respect of the Dutch law security rights, the proceeds of enforcement of Dutch law security and the parallel debt claim. The Netherlands is party to the 1985 Hague Trusts Convention, which was implemented in the Netherlands by the Act on Conflict Rules on Trusts (*Wet conflictenrecht trusts*) and came into force in the Netherlands on 1 February 1996 (**the Hague Trusts Convention**). Dutch law does not have a trust concept. However, on the basis of the Hague Trusts Convention and title 11 Book 10 of the Dutch Civil Code, a foreign law trust will, in principle, be recognised in the Netherlands.

As a matter of Dutch law, the Common Security Agent, as legal owner (holder) of the parallel debt claim, will have the benefit of the Dutch security rights and as such both the parallel debt claim and the enforcement proceeds will, whether or not a trust is created, benefit the Common Security Agent. However, in respect of a trust created over the Dutch law security rights, the proceeds of enforcement of Dutch law security and the parallel debt claim, a remaining uncertainty stems from article 13 of the Hague Trusts Convention. On the basis of this provision, no contracting state is bound to recognise a trust where its significant elements are more closely connected to a state that does not recognise trusts

in its own jurisdiction. In assessing whether this is the case, the place of domicile and administration of the trust and the law applicable to the trust are not taken into consideration.

It is unclear what elements precisely should be regarded as significant in the context of article 13 of the Hague Trusts Convention and how each element should be weighed. It cannot be ruled out that where the assets held in trust are located in the Netherlands or otherwise governed by Netherlands law, as may be the case in respect of the proceeds of enforcement of Dutch law security, a trust created over such assets will not be recognised by a Dutch court, or such assets may be considered to fall into the trustees insolvent estate on its insolvency.

### **Assignment by way of security of rents and other proceeds (*cession à titre de garantie*) in France**

Under the French Master Receivables Security Assignment Agreement, the French Senior Borrowers have agreed to assign to the Senior Lenders, represented by the Common Security Agent, by way of security (*cession à titre de garantie*) pursuant to articles L. 313-23 *et seq.* of the Financial Code any receivables that the French Senior Borrowers hold or may come to hold (a) under any Lease Document, (b) under any guarantee granted or to be granted to their benefit as security for the payment of all or part of any amount due by a tenant under any Lease Document against the grantor of such guarantee, and (c) any insurance policies governed by French law, subscribed by or on behalf of the French Senior Borrowers in respect of the French Properties (to the extent such insurance receivables are not the subject matter of a payment objection under article L.121-13 of the French Insurance Code) and (d) under any property management agreement governed by French law.

Under article L. 313-27 of the Financial Code, an assignment of receivables comes into effect between the relevant parties and is binding upon third parties (*opposable aux tiers*) as of the date of the relevant transfer deed (*acte de cession de créances*). Notwithstanding the foregoing, an assignment of future receivables by way of security (i.e. receivables resulting from the performance of on going contracts (*contrats à execution successive*) such as the lease agreements) may be deemed to be ineffective in the event of the opening of insolvency proceedings against the relevant pledgor (i.e. a French Senior Borrower). Indeed, in a decision rendered by the French supreme judicial court (*Cour de cassation*) dated 26 April 2000, the French supreme judicial court (*Cour de cassation*) made a distinction between sums paid by the assigned debtors resulting from the performance of the ongoing contracts prior to the commencement of the insolvency proceedings and sums resulting from the performance of the ongoing contracts after the commencement of such proceedings. According to those decisions, while sums paid in respect of ongoing contracts performed prior to the commencement of such proceedings belong to the assignee, sums paid in respect of ongoing contracts performed after the commencement of such proceedings fall into the bankruptcy estate of the assignor. The French supreme judicial court (*Cour de cassation*) rendered two further decisions on 7 December 2004 and 22 November 2005 stating that the payment of receivables assigned prior to the opening of insolvency proceedings shall not be affected by the subsequent opening of insolvency proceedings against the assignor. This position was more recently confirmed by a decision of the Versailles Court of appeal (*Cour d'appel*) dated 28 February 2013 taken after the decision of the French supreme judicial court (*Cour de cassation*) dated 8 March 2011 on "*Coeur Défense*" (the ***Coeur Défense* case**). In that decision, the court held that the opening of an insolvency proceeding against an assignor did not prevent the assignee from notifying the assigned debtors of the assignment, provided that that assignment took place prior to the opening of insolvency proceedings.

If the assigned debtors under the Senior Loan French Master Receivables Security Assignment Agreement were not notified of the assignor's assignment of their claims to the assignee, they continue to validly discharge their debts by paying the assignor acting as collection agent on behalf of the assignee. Even after such notification has been made, the assigned debtors can invoke the claims they would otherwise have against the assignor and in particular, they can reduce their payments to the assignee by the amount of any claims they are able to set off against the assignor provided that the payments and claims are inter-related (*créances connexes*).

## French foreclosure rules in respect of secured real property

The French legal procedures to be followed in relation to the enforcement of security interests over the French Properties and related expenses may affect the Issuer's ability to liquidate the Property efficiently and in a timely fashion. An outline of these procedures is set out below.

Foreclosure on property situated in France by secured creditors (*saisie immobilière*) may require the sale of the property at a public auction (*vente aux enchères*) if the sale cannot be made voluntarily by the debtor (*conversion en vente volontaire* or *à l'amiable*). The foreclosure procedure may take up to a year and a half in normal circumstances. The beneficiary of a lender's privilege or mortgage will rank in respect of the sale proceeds in the order of priority of registration of the privileges and mortgages (*droits de préférence*) encumbering such seized property (article 2461 of the French Civil Code).

The first step in the foreclosure procedure consists of delivering a foreclosure notice to the debtor by a bailiff or *huissier* (a process server or *commandement de saisie immobilière*). This notice should be filed at the French Land and Charges Registry having jurisdiction in the district where the relevant real property is located. The next step is to instruct a local lawyer (*avocat*) to prepare the terms of the sale of the property at auction, including the reserve price of the relevant real property. Finally, a number of legal notices are required to be given prior to the sale. The debtor may file objections against such foreclosure (including the reserve price), the validity of which will be decided by a competent court. If no bid is made at the public auction, and provided there is only one foreclosing creditor, such foreclosing creditor is declared the highest bidder and is thus obliged to purchase the property at a reserve price specified in the terms of the sale. Rules applicable to the *saisie immobilière* procedure have been recently modified by an Act (*ordonnance n° 2011-1895 relative à la partie législative du code des procédures civiles d'exécution*) dated 19 December 2011 and codified in the French *Code des procédures civiles d'exécution*. The purpose of the legislation is to simplify the foreclosure process by encouraging voluntary sales (*ventes à l'amiable*) and to reduce the duration and complexity of the process.

In accordance with article 2461 of the French Civil Code, secured creditors will continue to benefit from the lender's privilege or mortgage, even if the relevant property is transferred by the debtor to a third party without the lenders' consent. This right is known as *droit de suite*. If the secured creditor wishes to exercise this right, an order to pay is required to be served on the debtor by a bailiff and notice is required to be served on the third party to whom the relevant secured property was transferred (*tiers détenteur de l'immeuble hypothéqué*) with a view either to paying the debt secured over the property or to surrendering such property at an auction.

The exercise of such *droit de suite* is often paralysed due to an "advanced clearing" of the privileges and mortgages granted over the relevant property (*purge des privilèges et hypothèques*). If the debtor and all secured creditors agree, in accordance with article 2475 of the French Civil Code, that the sale proceeds will be allocated (*affecté*) to them, the secured creditors exercise their preferential rights (*droits de préférence*) over the sale proceeds, the payment of which will discharge all privileges and mortgages granted over the property (*purge amiable*). If no agreement is reached (for instance if the sale price of the relevant property is substantially below the amount of the secured debt), the third party will still be entitled to offer to pay the sale price to the secured creditors in order to clear all privileges and mortgages granted over the relevant property (*purge judiciaire*, articles 2478 *et seq.* of the French Civil Code). Secured creditors may refuse this offer if they consider that the sale price has been underestimated by the debtor and the third party. In this case, an auction will be ordered with a minimum bid exceeding 10 per cent. of the price offered by the relevant third party being made to the secured creditor.

## **Force majeure in France**

The laws of France recognise the doctrine of *force majeure*, permitting a party to a contractual obligation to be freed from it upon the occurrence of an event, which must be (i) unforeseeable at the time of entering into the contract, (ii) unavoidable and insurmountable, and which renders impossible the performance of such contractual obligation, and (iii) external to the parties. The French supreme judicial court (*Cour de cassation*) has held that a *force majeure* event would be characterised by the occurrence of an insurmountable event, irrespective of whether it is unforeseeable or unavoidable.

There is no assurance that the tenants of the French Properties will not be subject to a *force majeure* event (or damage to the Property, which as a consequence of article 1722 of the French Civil Code would have the same effect as a *force majeure* event) leading to their being freed from their obligations under their leases. This could undermine the generation of rental income and hence the ability of the French Senior Borrowers to pay interest on or repay the principal in respect of the Senior Loan.

## **CONSIDERATIONS RELATING TO THE SENIOR OBLIGORS AND/OR THE ISSUER**

### **Risks relating to the insolvency of the Senior Obligors**

Although the Senior Obligors have been established as limited purpose entities they may, nonetheless, become insolvent and subject to insolvency proceedings under the relevant local law. The Senior Obligors – which have been established under the laws of France, the Netherlands and Luxembourg – are subject to the provisions of French, Dutch and Luxembourg insolvency law (as applicable) *provided that* their Centre of Main Interests is in that relevant jurisdiction. The Common Terms Agreement provides that each Senior Obligor must maintain its Centre of Main Interests in its jurisdiction of incorporation or formation. The Senior Loan Facility Agent or the Common Security Agent (as the case may be) will have certain rights under the Common Terms Agreement if any of the Senior Obligors become insolvent or subject to insolvency proceedings (resulting in a Senior Loan Event of Default). Such rights include the ability to accelerate the Senior Loan and enforce the Common Transaction Security. This could result in significant delays in the receipt by the Issuer of payments under the Senior Loan which could adversely affect its ability to make all payments due on the Notes.

The security structure with respect to the Common Transaction Security has been established in order to yield sufficient access to all potential proceeds in an insolvency of the Senior Obligors and to satisfy in full all the obligations under the Senior Loan (although the amount of any such proceeds will be calculated by, among other things, market values and economic conditions at the time of enforcement). However, there can be no assurance that an insolvency administrator will not successfully contest any part of the Common Transaction Security. In the event that the Securitised Senior Loan is not repaid in full following the enforcement of the Securitised Senior Loan and the related Common Transaction Security, the Issuer may not have sufficient resources to satisfy in full its obligations under the Notes.

### **Limitation of recoverability of legal fees in enforcement**

There can be no assurance that the Issuer will be able to recover legal fees incurred or advanced in connection with the enforcement of the Senior Loan or the related Common Transaction Security from the Senior Obligors (in particular, to the extent that such legal fees exceed the statutory limits provided by law). There can be no assurance that the legal fees relating to an enforcement of the Senior Loan or the related Common Transaction Security will fall within the limitation of what can be charged to a debtor under applicable law. Any amounts of legal fees in excess of such limitation could result in a shortfall to amounts that would otherwise be distributed on the Notes.

In Germany, legal fees that can be charged to an obligor in connection with the enforcement of a loan are limited based on the Lawyers Fees Act (*Gesetz über die Vergütung der Rechtsanwältinnen und Rechtsanwälte – RVG*). Such legal fees are based on the specific stage of enforcement and the amount of the claim.

### **Risks relating to litigation**

Each of the Senior Obligors represented on the date of the Common Terms Agreement, on the date of the Senior Utilisation Request and on the Senior Utilisation Date that no litigation, arbitration or administrative proceedings of, or before, any court, arbitral body or agency are current or, to the best of its knowledge (having made due enquiry appropriate and consistent for entities of a similar nature to the Senior Obligors acting on transactions similar to those contemplated by the Senior Loan Transaction Documents), pending against it or any of its Subsidiaries which if adversely determined would have a Material Adverse Effect.

However, there may be pending or threatened legal proceedings against one or more of the Senior Obligors, and/or their respective affiliates arising out of the ordinary business of the Senior Obligors.

The Senior Obligors are obliged to notify the Senior Loan Facility Agent of the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group (or against its directors or officers) and which would, if adversely determined, have a Material Adverse Effect, promptly upon becoming aware of them.

### **English law security and insolvency considerations**

The Issuer will enter into the Issuer Deed of Charge and the German Security Agreement pursuant to which it will grant the Issuer Security in respect of certain of its obligations, including its obligations under the Notes (as to which, see "*Description of Note Trust Deed and Issuer Security Documents – Issuer Security Documents*"). Similarly, the Senior Obligors have entered into the various Common Transaction Security Documents pursuant to which each Senior Obligor has granted certain security in respect of certain of its obligations, including its obligations under the Common Terms Agreement (as to which, see "*The Key Characteristics of the Common Transaction Security*").

In certain circumstances, including the occurrence of certain insolvency events in respect of the Issuer or a Senior Obligor, the ability to realise the Issuer Security and/or the relevant Common Transaction Security, respectively, may be delayed and/or the value of the relevant security impaired. While the transaction structure is designed to minimise the likelihood of the Issuer or (by limiting their ability to incur financial indebtedness and limiting their business activities) any of the Senior Obligors becoming insolvent, there can be no assurance that the Issuer and/or one or more of the Senior Obligors will not become insolvent and/or the subject of insolvency proceedings and/or that the Noteholders would not be adversely affected by the application of insolvency laws (including, in the case of the Issuer, English insolvency laws).

In addition, it should be noted that, to the extent that the assets of the Issuer are subject only to a floating charge (including any fixed charge recharacterised by the courts as a floating charge), in certain circumstances under the provisions of Section 176A of the Insolvency Act 1986, certain floating charge realisations which would otherwise be available to satisfy the claims of secured creditors under the Issuer Deed of Charge and the German Security Agreement may be used to satisfy any claims of unsecured creditors. While certain of the covenants given by the Issuer in the Issuer Transaction Documents are intended to ensure it has no significant creditors other than the secured creditors under the Issuer Deed of Charge and the German Security Agreement, it will be a matter of fact as to whether the Issuer has any other such creditors at any time. There can be no assurance that the Noteholders will not be adversely affected by any such reduction in floating charge realisations upon the enforcement of the Issuer Security.

### **Further insolvency considerations given that the Issuer is an Irish company**

As stated above, the Issuer will enter into the Issuer Deed of Charge and the German Security Agreement pursuant to which it will grant the Issuer Security in respect of certain of its obligations, including its obligations under the Notes. It is not expected that the Issuer would enter into insolvency proceedings in England and Wales on the basis that:

- (a) the Issuer's COMI should be and should remain in Ireland, and the Issuer should have no establishment outside of Ireland (the Issuer will covenant to conduct its business and affairs such that its Centre of Main Interests for the purposes of the Insolvency Regulation (**COMI**) will remain in Ireland and that it will not have an establishment other than in Ireland); and
- (b) on the basis of paragraph (a) above, it would not be possible to have a full administration, company voluntary arrangement, winding-up through administration or liquidation of the Issuer in England. However, it should be noted that under Section 426(4) of the Insolvency Act 1986, the English courts are required to assist courts having corresponding jurisdiction in any "relevant country or territory". Ireland is a relevant country for these purposes. Accordingly, there is a residual argument that section 426 would enable a court to make certain insolvency-related orders (including an administration order or a winding-up order) in respect of the Issuer.

### **Liquidation expenses**

On 6 April 2008, a provision in the Insolvency Act 1986 came into force which effectively reversed by statute the House of Lords' decision in the case of *Leyland Daf* in 2004. Accordingly, the costs and expenses of an English law liquidation of the Issuer (including certain tax charges) will be payable out of floating charge assets in priority to the claims of the floating charge-holder. In respect of certain litigation expenses of the liquidator only, this is subject to approval of the amount of such expenses by the floating charge-holder (or, in certain circumstances, the court) pursuant to provisions set out in the Insolvency Rules 1986.

As a result of the changes described above, upon the enforcement of the floating charge security granted by the Issuer and/or each Senior Obligor, respectively, floating charge realisations which would otherwise be available to satisfy the claims of secured creditors under the Issuer Deed of Charge and the German Security Agreement or the relevant Common Transaction Security Document will be reduced by at least a significant proportion of any liquidation expenses. There can be no assurance that the Noteholders will not be adversely affected by such a reduction in floating charge realisations.

### **Risks relating to insolvency of a French Senior Borrower or the opening of French safeguard proceedings**

The French Senior Borrowers are (like any other Senior Obligor having its Centre of Main Interests located in France) subject to the provisions of French insolvency legislation. Although the French Senior Borrowers have a limited scope of activities, they may nonetheless become insolvent or subject to moratorium proceedings under French law. In such a case, the right of the Issuer to instruct the enforcement of the Common Transaction Security in relation to the French Senior Borrowers will be limited by mandatory provisions of the French insolvency legislation, and the legal procedures to be followed in France in relation to an insolvency of a French company may affect the ability of the Issuer to liquidate the assets of the French Senior Borrowers efficiently and in a timely fashion.

For instance, the legal representative (i.e. the president or manager, depending on the corporate legal form) of an insolvent French Senior Borrower is required to file a request for the commencement of reorganisation or liquidation proceedings (*procédures de redressement judiciaire de liquidation*

*judiciaire*) (**Insolvency Proceedings**) to the relevant court within 45 days of the date on which such French Senior Borrower is under *cessation des paiements*, that is when such French Senior Borrower is unable to meet its current liabilities out of its current available assets (cash available or assets which may be quickly turned into cash) taking into account available credit lines, existing debt rescheduling agreements and moratoria. In addition, any unpaid creditor may file a request to commence Insolvency Proceedings against a French Senior Borrower if that creditor has already tried to obtain payment –for example, by attempting to seize the relevant French Senior Borrower's assets. If the creditor requests liquidation proceedings (meaning that the French Senior Borrower is going to be put in liquidation without any observation period), it will have to prove that the Senior Borrower has actually ceased business or that recovery is obviously impossible. The relevant court or the state prosecutor (*Procureur de la République*) may also commence Insolvency Proceedings.

When the court declares the commencement of Insolvency Proceedings, it will have to decide whether or not the business can be continued as a going concern. If it decides that it cannot, the court will make an immediate order for the business to be liquidated. If the court considers that the business may be continued as a going concern, it will order the commencement of an observation period (*période d'observation*) during which an administrator (*administrateur*) appointed by the court will investigate the affairs of the relevant French Senior Borrower and make proposals for the continuation of its business. At the end of the observation period, the court will make an order for the continuation of the Senior Borrower, for the sale of its business or for its liquidation, as appropriate.

The observation period can last up to 18 months and includes in particular the following consequences: (a) the relevant French Senior Borrower will be prevented from making payments in respect of any debts incurred before the commencement of the observation period; (b) creditors to whom the relevant French Senior Borrower became indebted prior to this date are required to send a statement of their claims (creditors must file their claims in the Insolvency Proceedings within two months (four months for non-French resident creditors)) of the official commencement of the proceedings (i.e. the publication of the judgment opening the proceedings in the *Bulletin Officiel des Annonces Civiles et Commerciales* (BODACC)), and failure to file the claim within these time limits results in the relevant creditors being barred from receiving distributions made in accordance with the proceedings; (c) secured creditors will not be entitled to enforce their security (i.e. the Issuer will not be able to enforce the Common Transaction Security in respect of the relevant French Senior Borrower); (d) in principle, no further security may be granted over the assets of the relevant French Senior Borrower; (e) all actions and proceedings against the relevant French Senior Borrower will be stayed insofar as they relate to the payment by the relevant French Senior Borrower of any sum, or the termination of a contract for default (events of default linked to insolvency or similar events will, therefore, not be enforceable); (f) the administrator may decide whether or not to continue the execution of ongoing contracts; and (g) two committees of creditors must be created if: (i) the accounts of the relevant French Senior Borrower have been either certified by statutory auditors or made by chartered accountants; and (ii) either the relevant French Senior Borrower has more than 150 employees or its turnover is higher than €20,000,000.

During the observation period, the relevant French Senior Borrower may sell assets, with the consent of the administrator and the *juge-commissaire*. If those assets are subject to security interests which do not confer an actual right of retention such as the relevant Common Transaction Security, an amount equal to the lesser of the sale price and the secured debt will be deposited in an account. At the end of the observation period, the secured creditors of the relevant French Senior Borrower will be paid from this account in accordance with their respective rank. The secured creditors may also be required to accept alternative security.

At the start of the Insolvency Proceedings, the court will appoint a judicial agent (*mandataire judiciaire*), who will notably be in charge of representing the creditors' interests during the proceedings. At the end of the observation period, the court will adopt one of three options: (i)



continuation of the business: in this case, the court will adopt a continuation plan (*plan de continuation*) to ensure the successful continuation of the relevant French Senior Borrower's business. Such a plan may provide for delayed payments and impose obligations on the relevant French Senior Borrower. The court cannot force creditors of the relevant French Senior Borrower to waive part of their claims, but it can spread the payment of their claims over a maximum period of 10 years. If the relevant French Senior Borrower does not comply with the obligations provided by the continuation plan, any creditor may request the termination of the plan. Such termination will result in the automatic liquidation of the relevant French Senior Borrower; (ii) sale of the business: in this case, the court will adopt a plan of sale of the business (*plan de cession*) to ensure the sale of the relevant French Senior Borrower's business (and the transfer of the employees related to this business), either in whole or in part, if it appears that the business is commercially viable but that the relevant French Senior Borrower is not the appropriate person to manage it. Based on the purchaser's offer, the court may order that certain of the relevant French Senior Borrower's contracts are transferred to the purchaser (if such contracts are necessary for the continuation of the business); or (iii) liquidation of the relevant French Senior Borrower. In this case, the court will appoint a liquidator whose responsibility is to sell the assets of the company and to settle its debts.

It is only in the event of the sale of the business or liquidation that there will be an immediate distribution of monies to the creditors since, in the event of continuation, creditors will be paid according to the continuation plan. In such cases, either the person responsible for the execution of the sale plan (*commissaire à l'exécution du plan*) or a liquidator appointed by the court will carry out the liquidation proceedings. If the court orders the sale of a secured asset (such as the relevant Property) within the scope of a plan of sale of the business, a portion of the proceeds resulting from the sale of the secured assets of the relevant French Senior Borrower (i.e. the relevant Property) will be allocated by the court to the Issuer, as secured creditor.

When the court declares the opening of Insolvency Proceedings, it will also fix the date on which the Senior Borrower effectively became technically insolvent (*date de cessation des paiements*). This date can be fixed at any time up to 18 months prior to the order declaring the opening of the insolvency. The period between the date of effective insolvency and the date when the court declared the commencement of Insolvency Proceedings is known as the suspect period (*période suspecte*). Certain acts are automatically null and void if they fall within the suspect period. These include, in particular, voluntary disposals of assets including, with respect to the relevant French Senior Borrower, the relevant Property, contracts which impose unduly onerous obligations on the relevant French Senior Borrower, payments of unexpired debts before they are due, payments which are not made in cash, or by certain specific means described in the Insolvency Regulation, or by normal commercial means, and mortgages and charges granted by the relevant French Senior Borrower over its movable or immovable property in order to secure a previously incurred debt. The court may also, at its discretion, declare void any transaction entered into by the relevant French Senior Borrower after the deemed insolvency date, if it is proved that the other party had actual knowledge that the relevant French Senior Borrower was insolvent when it entered into such transaction. If an act or a transaction is declared void by the court, the relevant creditor will be deprived of rights and will have no claim in respect of the void act or transaction.

The potential difficulty with all of these situations is that the claim of most secured creditors to the proceeds of sale will be subordinated to the claims of certain prior ranking creditors, namely the French state (in respect of taxes), creditors having granted new financings to the relevant French Senior Borrower during conciliation proceedings, and "Article 40" creditors (being those persons whose claims against the relevant French Senior Borrower arose after the opening of the Insolvency Proceedings).

A French Senior Borrower or may also initiate, in its sole discretion, safeguard proceedings (*procédure de sauvegarde*) (**Safeguard Proceedings**) with respect to itself. A French Senior

Borrower cannot apply for Safeguard Proceedings when it is already under *cessation des paiements* (see above for the definition of *cessation des paiements*) but can apply for them if (i) it is able to pay its due debts out of its available assets, and (ii) it experiences difficulties which it is not able to resolve.

A French Senior Borrower may also initiate an express financial safeguard (*sauvegarde financière accélérée*), with respect to itself where it is already in a conciliation (*conciliation*) and being otherwise entitled to file for a traditional safeguard (*sauvegarde*) provided, further, that the following conditions are met: (i) it meets the thresholds for having creditors' committees; (ii) a draft plan has been negotiated between it and its creditors during the conciliation and; (iii) such plan is supported by a majority of creditors (the law does not specify how many of them must support the plan), such that it is likely that the plan will be adopted within one month (or two months, if the procedure is extended by the court) of the opening judgment (*jugement d'ouverture*) of the procedure. In practice, the purpose of the express financial safeguard is to (i) circumvent the unanimity rule applicable to conciliation proceedings in situations where the majority of "financial" creditors is favourable to the draft plan and (ii) accelerate the consultation and voting process of the "financial" creditors of the company on the draft plan. A new form of express safeguard proceeding was introduced by the Ordinance dated 12 March 2014 (*Ordonnance n°2014-326*) applicable to any insolvency proceeding opened as of 1 July 2014. Based on the express financial safeguard proceeding, it aims at adopting a plan with all the creditors and not only the "financial" creditors.

The opening of Safeguard Proceedings will have similar effects as the opening of Insolvency Proceedings and in particular, the appointment of an administrator (*administrateur*) and of a judicial agent, the beginning of an observation period and the creation of committees of creditors who will vote on the draft safeguard plan. The main differences with Insolvency Proceedings are that: (a) the proceedings will always start with an observation period as the court is not empowered to order the immediate judicial liquidation of the company; and (b) the court cannot order a sale of the business without the relevant French Senior Borrower's consent. The purpose of Safeguard Proceedings is to reach the adoption of a safeguard plan (*plan de sauvegarde*), similar to the continuation plan (*plan de continuation*) which can be adopted within the scope of Insolvency Proceedings (see above).

Although it is the beneficiary of the relevant security, including a lender's privilege/mortgage over the French Properties, the Issuer will not be in a position to avoid or otherwise suspend (unless, with respect to Insolvency Proceedings, by granting a moratorium to the relevant French Senior Borrower if the cause of the French Senior Borrower's insolvency is its inability to pay any amount due and payable to the Issuer) the commencing of Insolvency Proceedings or Safeguard Proceedings in respect of a French Senior Borrower. Its position as first ranking secured creditor will only allow it to be paid ahead of certain other secured or unsecured creditors (*créancier chirographaire*) of the relevant French Senior Borrower subject to the payment of judicial expenses, the payment of new financings (if any) granted during any conciliation proceedings (*procédure de conciliation*) and the payment of the debts which arose after the opening of any Safeguard Proceedings.

It should also be noted that the above considerations regarding Insolvency Proceedings and Safeguard Proceedings can also apply to a tenant of a French Property.

As noted above, it is the responsibility of a French Senior Borrower's legal representative to take actions in relation to the commencement, continuation or termination of Insolvency Proceedings or Safeguard Proceedings. Accordingly, the exercise of any such action may be affected by the fact that the legal representative(s) of a French Senior Borrower will have been substituted as a result of the Issuer taking control of Spear Bidco SCA (being the French Senior Borrowers' indirect controlling shareholder) which could take place following a relevant voting or enforcement event under the Luxembourg law governed share pledge over the shares in Spear Bidco SCA and its general partner Spear GP (Bidco) S.à r.l. and by then replacing management in the relevant subsidiaries of Spear Bidco SCA. In such context, the relevant French Senior Borrower's legal representative(s) may take

the following actions in respect of any ongoing Safeguard Proceedings or Insolvency Proceedings affecting the relevant French Senior Borrower (depending on which stage the relevant Safeguard Proceedings or Insolvency Proceedings are at): (i) request the court to terminate such Safeguard Proceedings (which would require that satisfactory evidence is provided to the court demonstrating that the relevant French Senior Borrower is not insolvent (*en état de cessation des paiements*) and that the circumstances which led to the opening of Safeguard Proceedings are resolved) or Insolvency Proceedings (which would require that satisfactory evidence is provided to the court demonstrating that the relevant French Senior Borrower has sufficient available cash to discharge all sums owed by it to all of its creditors and to pay all costs and liabilities related to the reorganisation proceedings); (ii) seek the adoption by the court of a safeguard or reorganisation plan on terms agreed by the Issuer; or (iii) seek or consent to amendments to any safeguard or reorganisation plan already adopted by the court prior to the Issuer taking, through Spear Bidco SCA, control of the French Senior Borrowers.

Notwithstanding the above, it should be noted that a "double-Luxco" structure is not based on specific legislation but rather on a combination of legal theory and practice. The structure has not yet been tested by the French courts and therefore its benefits cannot be definitively determined.

Additionally, to mitigate the risks of non-payment of the Senior Loan as a result of the opening of a Safeguard Proceedings, the French Senior Borrowers have undertaken in the Common Terms Agreement not to initiate any Safeguard Proceedings. To back up this undertaking, the Sauvegarde Guarantors have entered into a guarantee agreement in favour of the Senior Finance Parties under which they jointly and severally, irrevocably and unconditionally agree, subject to and in accordance with the terms of the guarantee, to guarantee the performance of the French Senior Borrowers' obligation not to initiate Safeguard Proceedings and to indemnify the Senior Finance Parties on demand against any cost, loss or liability incurred as a result of any French Senior Borrower not paying any amount which would have been payable by it under the Senior Finance Documents. The guaranteed amount is capped at 25 per cent. of the aggregate of: (a) the principal amount of the Senior Loan made to refinance the acquisition of the Property owned by the relevant French Senior Borrower or any of its subsidiaries outstanding at that time; and (b) in relation to any claim by the Mezzanine Finance Parties, the Mezzanine Allocated Loan Amount of that Property at that time.

The Issuer also benefits from an assignment by way of security under the "*loi Dailly*" over the receivables arising, *inter alia*, from lease documents entered into or to be entered into in respect of the French Properties, which can be enforced notwithstanding the opening of Safeguard Proceedings (please refer to "*Assignment by way of security of rents and other proceeds (cession à titre de garantie) in France*") for further details.

### **Failure to file accounts**

The annual accounts of many of the Luxembourg Senior Obligors were not filed within the legal time frame. As a result, such companies face the risk of criminal sanctions and judicial liquidation, although the Luxembourg public prosecutor would generally not initiate liquidation proceedings against a company that ultimately did publish its annual accounts, which was stated in the relevant due diligence reports to be the case with the relevant Luxembourg Senior Obligors.

Additionally the annual accounts of certain Dutch Senior Borrowers were not deposited with the Dutch Chamber of Commerce (*Kamer van Koophandel*) within the requisite time frame. This is an economic offence under Dutch law, leading to a potential fine of €20,500, a criminal sentence or even a detention, although this is rarely enforced in practice. If a Dutch company becomes insolvent, its managing director could be held liable for not filing its annual accounts on time.

## CONSIDERATIONS RELATING TO THE PROPERTY PORTFOLIO

### Limited due diligence in relation to Properties

The due diligence exercise carried out with respect to the Properties was limited in scope.

In particular, the following should be noted in relation to the Legal DD Reports (please refer to the section entitled "*The Origination and Due Diligence Process*" for a summary of the Reports and the date of each Report):

- (a) the Hengeler Legal DD Report contains only a limited review exclusively based on (i) the Hogan Lovells Report and (ii) certain other documents provided to Hengeler Mueller Partnerschaft von Rechtsanwälten mbB in relation to the German Properties. The purpose of the Hengeler Legal DD Report was to identify relevant legal issues as regards the acquisition of the German Properties. The Hengeler Legal DD Report is limited to major legal risks with a focus on the review of real estate, lease and certain public law-related aspects. The Hengeler Legal DD Report reviewed only 17 Lease Documents, representing approximately 84 per cent. of annual rental income available income receivable in respect of the German Properties. The Hengeler Legal DD Report does not expressly cover any financial, labour and employment law, pensions, tax law, commercial, insurance, technical or environmental matters. The tax due diligence report was also limited in scope, partly due to missing documents; for example it did not analyse risks arising in relation to German land tax;
- (b) the DLA Legal DD Report identified that insufficient documentation and information was disclosed to enable DLA Piper to confirm a valid and uninterrupted chain of ownership in respect of certain French Senior Borrowers. DLA Piper also noted that insufficient information had been disclosed in respect of the corporate reorganisation completed by the Vendor (including the reorganisation of the French Senior Borrowers which form part of the Aberdonia Portfolio) to enable DLA Piper to confirm the validity of the corporate reorganisations;
- (c) the Attal Legal DD Report stated that 18 of the French Properties were subject to particular rules applicable to public enquiry development zone (*Zone d'Aménagement Concerté*) (**ZAC**), division into plots for development (*Lotissement*) (**Lotissement**) or that the relevant French Senior Borrowers were members of an association (*Association Syndicale Libre* or *Association Foncière Urbaine Libre*) whose purpose is to own and manage common equipment and areas of the ZAC or the *Lotissement*. These particular rules are listed in specific documents called "*cahier des charges de cession de terrain*" or "*règlement d'aménagement*" for the ZAC and "*cahier des charges du lotissement*" or "*règlement du lotissement*", but this documentation was not provided. Accordingly, Attal & Associés could not assess in its report whether these rules raise any issues for the relevant French Properties. The Attal Legal DD Report also does not compare the authorised surface areas set out in the building permits with the effective surface areas of the French Properties and does verify that no construction has been built without building permits, because the seller either did not provide any recent measurements or provided incomplete measurements for 48 French Properties. This could potentially give rise to remedial action by the authorities, especially in situations where new planning permissions are sought. Lastly the Attal Legal DD Report does not confirm whether the building permits have been displayed on site in compliance with applicable regulations and whether they had become final (i.e. free from challenge and withdrawal). Attal & Associés did not confirm whether the constructions on the French Properties were duly erected in compliance with the building permits, because the seller did not provide documentation relating to several building permits. The Attal Legal DD Report also states that, in relation to eight of the French Properties, construction works were carried out during the last 10 years but the seller did not disclose any documentation in respect of

insurance construction (general and particular conditions, certificate of payment of the premiums and statement of ongoing claims);

- (d) the Loyens Legal DD Report was stated to reflect the results of Loyens' investigation as at 8 May 2018: that Loyens are unaware of any changes since that date; and that the scope of Loyens' review was limited to the documents which they received. The scope of the due diligence carried out for the purposes of both the Loyens Legal DD Report and the Loyens VDD Report was limited to a high-level review of the designated use under the applicable zoning regime. Permits and environmental issues, such as soil and/or groundwater contamination, asbestos, energy efficiency, etc., were out of scope. The Loyens Legal DD Report and the Loyens VDD Report do not include an assessment of whether the Dutch Properties were built in accordance with the permits issued and/or the applicable building and fire safety regulations;
- (e) the Tax Red Flag Report stated that it did not cover entities that had been subject to reorganisation operations (i.e. mergers or equivalent). Around 30 *reorganization operations* have occurred in relation to the French Senior Borrowers in the last three years; and
- (f) the scope of the technical due diligence reports instructed by the Vendor, which were prepared by Turnbull Associés and Nova Consulting and may be relied upon by the Issuer (the **Vendor Technical DD Reports**), was limited. The Vendor Technical DD Reports did not fully consider statutory compliance, planning permits or, in relation to the French Properties, *installation classée pour la protection de l'environnement (ICPE)*. In addition, their assessment of the mechanical, plumbing and engineering (**MEP**) service installations was limited and the MEP service installations were not inspected by a MEP qualified engineer. The Vendor Technical DD Reports were reviewed by Arcadis (UK) Limited (**Arcadis**), acting for the Issuer, who prepared a capex budget for each Property. Each budget was generally twice as high as that reported by the Vendor Technical DD Reports which were used by the Sponsor to prepare its business plan.

Notwithstanding the due diligence and reports which have been prepared as described above and relied upon by the Issuer, such due diligence and reports were not comprehensive and there is no guarantee that they disclosed all relevant and/or material issues to the Issuer. In the Common Terms Agreement, the Senior Obligors have provided representations and warranties as to certain matters which have been described, verified and/or disclosed in the due diligence or reports, but also in relation to matters which were not described, verified and/or disclosed therein. As such, it is possible that matters which could not be verified by reference to the due diligence and/or reports are the subject of warranties provided by the Senior Obligors which are subject to their best knowledge of the related circumstances. If such matters were subsequently shown to have been incorrect, inaccurate or untrue, but were not known by the Senior Obligors at the relevant time to the best of their knowledge, it is possible that the Issuer's remedies under the Common Terms Agreement, including its ability to declare a Senior Loan Event of Default on this basis, would be limited or non-existent. Depending on the nature of these matters, costs or liabilities could arise for the Senior Obligors that would negatively impact upon the ability of the Senior Obligors to make payments under the Senior Loan, and therefore to the Issuer's ability to pay amounts due under the Notes.

### **Geographic concentration risk**

The Senior Loan is secured by, among other things, a portfolio of nine office and industrial properties located in the Netherlands, 37 logistics and light industrial properties, seven office properties, six mixed use properties and three other properties in France and 13 logistic and light industrial properties and 14 mixed-use properties in Germany. Repayments under the Senior Loan and the market value of the Properties could be adversely affected by conditions in the local property market where the Properties are located, acts of nature, for example floods or earthquakes (each of which may result in

uninsured losses), and other factors which are beyond the control of the Senior Obligor. In addition, the performance of the Property Portfolio will be dependent upon the strength of the economy in the relevant countries and regions in which the Properties are located.

For example, a weakening of the light industrial sector in a relevant region or in a country generally may adversely affect demand for space at the Properties located in that region or that country and thus affect the Property Portfolio's operation and lessen its market value. Conversely, strong conditions could lead to increased building activity resulting in increased competition for tenants. The operation of the Property Portfolio could be adversely affected by circumstances referred to in this paragraph.

### **Performance risks**

The repayment of the Securitised Senior Loan may be, and the payment of interest on the Securitised Senior Loan is, dependent on the ability of the Properties to generate cashflow. There are two primary risks involved in relation to the Properties: (i) that underlying Property cashflows will be insufficient to service the interest payments and principal repayments over the life of the Securitised Senior Loan; and (ii) that proceeds from the sale or refinancing of the Properties will be insufficient to repay the Securitised Senior Loan at maturity. In both cases, the Senior Obligor's ability to make payments on the Securitised Senior Loan may be impaired which would affect the Issuer's ability to make payments under the Notes.

The income-producing capacity of, and accordingly the cashflow from, the Properties, as well as the market value of the Properties, may be adversely affected by a large number of factors. Some of these factors relate specifically to a Property itself, such as the age, design and construction quality of the Properties; perceptions regarding the safety, convenience and attractiveness of each Property; the proximity and attractiveness of competing properties; the adequacy of the Property's management and maintenance; and an increase in the capital expenditure needed to maintain the relevant Property or make improvements. Other factors which could have an impact on the value of a Property are more general in nature, such as: national, regional or local economic conditions (including industry slowdowns and unemployment rates); local property conditions from time to time (such as an oversupply or undersupply of space); demographic factors; consumer confidence; consumer tastes and preferences; retrospective changes in building codes or other regulatory changes; changes in governmental regulations, fiscal policy, planning/zoning or tax laws; potential environmental legislation or liabilities or other legal liabilities; the availability of refinancing; and changes in interest rate levels or yields required by investors in income-producing commercial properties.

The Senior Obligor's ability to perform will depend upon the continuity of substantial rental payments under the leases pertaining to the Property Portfolio. An increase in vacancy rates or delinquency of a significant number of tenants under their leases may adversely affect such continuity. Rental levels, operating expenses and available space, the quality and location of the Property Portfolio, their amenities, transport infrastructure and the age of the Property Portfolio are factors bearing upon tenant demand. Changes in demographics, zoning by-laws and economic or political conditions may produce similar effects.

### **Risks relating to office properties**

20.6 per cent. of the Properties by lettable area comprise office properties.

The income from and market value of an office property, and a borrower's ability to meet its obligations under a loan secured by an office property, are subject to a number of risks. In particular, a given property's age, condition, design, access to transportation and ability to offer certain amenities to tenants, including sophisticated building systems (such as fibre-optic cables, satellite communications or other base building technological features) all affect the ability of such a property to compete against other office properties in the area in attracting and retaining tenants. Other

important factors that affect the ability of an office property to attract or retain tenants include the quality of a building's existing tenants, the quality of the building's property manager, the attractiveness of the building and the surrounding area to prospective tenants and their customers or clients, access to public transportation and major roads and the public perception of safety in the surrounding neighbourhood. Attracting and retaining tenants often involves refitting, repairing or making improvements to office space to accommodate the type of business conducted by prospective tenants or a change in the type of business conducted by existing major tenants. Such refitting, repairing or improvements are often more costly for office properties than for other property types. Local and regional economic conditions and other related factors also affect the demand for and operation of office properties. For example, decisions by companies to locate an office in a given area will be influenced by factors such as labour cost and quality, and quality of life issues such as those relating to schools and cultural amenities.

Also, changes in local or regional population patterns, the emergence of telecommuting, sharing of office space and employment growth also influence the demand for office properties and the ability of such properties to generate income and sustain market value. In addition, an economic decline in the businesses operated by tenants can affect a building and cause one or more significant tenants to cease operations and/or become insolvent. The risk of such an adverse effect is increased if revenue is dependent on a single tenant or a few large tenants or if there is a significant concentration of tenants in a particular business or industry.

Each of the foregoing circumstances and events may, individually or in the aggregate, adversely affect the income from and market value of any of the Properties that comprise office property and thereby increase the possibility that the Senior Obligors will be unable to meet their obligations in respect of the Senior Loan.

### **Risks relating to logistics, light industrial and warehouse properties**

55 Properties, representing 63.4 per cent. of the market value of the Property Portfolio according to the Initial Valuation, comprise logistics, light industrial and/or warehouse properties. Significant factors are involved in determining the value of such, including: the quality of the tenants; the effect on demand for logistics, light industrial or warehousing space; a property becoming functionally obsolete; building design and adaptability; the availability of labour sources; changes in access, energy prices, relocation or the construction of additional highways or other factors; changes in proximity of supply sources; the expenses of converting a previously adapted space to general use; and the location of the relevant property.

Concerns about the quality of tenants are similar in both office properties and logistics, light industrial and warehouse properties, although logistics, light industrial and warehouse properties are more frequently dependent on a single or small number of tenants.

Logistics, light industrial and warehouse properties may be adversely affected by a decline in a particular industry segment (for example, a decline in the clothing or telecommunications sector or a decline in consumer demand for products sold by a tenant using the property as a distribution centre). In addition, a particular logistics, light industrial or warehouse property that suited the needs of the original tenant may be difficult to re-let to another tenant due to its specifications or may become functionally obsolete relative to newer properties. Properties used for logistics, light industrial and/or warehouse purposes are often more prone to environmental concerns than other property types.

In addition, because of unique construction requirements of many light industrial properties, any vacant logistics, light industrial or warehouse space may not be as easily converted to other uses as other property types. For example, characteristics that are generally desirable to a warehouse/logistics property include high clear ceiling heights, a large number of bays (loading docks) and large bay depths, warehouse floor loading capacity, a layout that can accommodate large-truck-minimum-

turning-radii and overall functionality and excellent communication links with one or a combination of roads, ports, rail and air.

Location is also important as a logistics, light industrial or warehouse property requires the availability of labour sources, proximity to supply sources and customers and accessibility to rail lines, major roadways and other distribution channels. Each logistics, light industrial or warehouse property competes with other properties in the related city and surrounding areas. Any new supply of logistics, light industrial or warehouse assets through creation of new parks/units coming off existing leases is likely to have an impact on rentals and value of other properties in the surrounding areas.

Any of the factors described above could adversely affect income derived from the related Property, which could in turn cause the Senior Obligors to default on the Securitised Senior Loan.

### **Set-off of rental payments**

It is possible that a tenant may seek to set-off part of its rent. The exercise of such set-off could, if exercised across a significant number of Properties, materially reduce the amount of net rental income available, the Senior Obligors' ability to make payments under the Securitised Senior Loan and therefore, the Issuer's ability to make payments under the Notes.

### **Property condition, technical assessments and environmental assessments**

The Property Portfolio consists of office, logistics, industrial, light industrial, mixed use, automotive servicing and other assets that were built between 1970 and 2008. The condition of the Properties was as expected for a portfolio of this nature and age.

Given the age of a large portion of the Property Portfolio, multiple Properties were identified in the technical and environmental due diligence reports as containing asbestos. For the majority of these Properties, no remediation is necessary unless the asbestos is disturbed, i.e. if there was a refurbishment. In some Properties, asbestos was suspected but no formal investigations have been undertaken. The Senior Obligors are required to, within six months of the date of the Common Terms Agreement, use reasonable endeavours to ensure the resolution of certain asbestos-related issues and deliver to the Senior Loan Facility Agent a new environmental due diligence report in respect of the relevant Properties in form and substance satisfactory to the Senior Loan Facility Agent.

A number of Properties were also identified as having an elevated flood risk and some were listed in the register of contaminated sites.

The technical due diligence carried out in respect of the Properties also highlighted a number of minor health and safety issues at certain Properties. The Senior Obligors are required to, within six months of the date of the Common Terms Agreement, use reasonable endeavours to ensure the resolution of such issues and deliver to the Senior Loan Facility Agent a new technical due diligence report in respect of these Properties in form and substance satisfactory to the Senior Loan Facility Agent.

### **Limitations of valuations**

Cushman & Wakefield produced the Initial Valuation. According to the Initial Valuation, the aggregate market value of the Properties was €441,986,000 as at 30 June 2018.

The Initial Valuation was as at 30 June 2018 and there can be no assurance that the market value of the Properties will continue to equal or exceed such valuation or that the value of the Properties has not changed materially since the date of the Initial Valuation. In valuing properties, valuers are required to make certain assumptions in respect of matters including, but not limited to, the existence of willing buyers, title and other legal matters, condition of the properties, statutory, regulatory and



planning requirements, estimated rental values, market-based yields, expected future rental revenues and other factors. Assumptions may differ from the current facts regarding such matters and are subject to various risks and contingencies, many of which are not within the control of the Issuer, the Note Trustee, the Issuer Security Trustee or the Senior Obligors.

Some of the assumptions in the Initial Valuation might not materialise, and unanticipated events and circumstances may occur or have occurred subsequent to the date of this valuation. As the market value of the Property Portfolio fluctuates, there can be no assurance that the market value of the Property Portfolio will be equal to or greater than the unpaid principal and accrued interest and any other amounts due under the Senior Loan. Therefore, the actual results achieved may vary from the related valuation and such variations may be material.

Valuations represent the analysis and opinion of qualified valuers and are not guarantees of present or future value. One valuer may reach a different conclusion than the conclusion that would be reached if a different valuer were appraising the same property, even if theoretically prepared on the same basis. Moreover, valuations seek to establish the amount that a typically motivated buyer would pay a typically motivated seller and, in certain cases, may have taken into consideration the purchase price paid by the existing property owner. As the market value of the Properties fluctuates, there can be no assurance that the market value of the Properties will be equal to or greater than the unpaid principal and accrued interest and any other amounts due on the Notes. If the Properties are sold following a Senior Loan Event of Default, there can be no assurance that the net proceeds of such sale will be sufficient to pay in full all amounts due under the Notes.

#### **Risks relating to property management and advisory services**

As at the date of this Offering Circular, the Initial Property Management Agreements and the Senior Property Manager Duty of Care Agreements in relation to management of all or any part of any Properties have not been entered into by the Senior Permitted Property Managers. It is a requirement under the Common Terms Agreement that the Initial Property Management Agreements and the Senior Property Manager Duty of Care Agreements will be in place on or before 90 days after the Senior Utilisation Date and that they will be in form and substance satisfactory to the Servicer on behalf of the Issuer. However, while these do not constitute Initial Property Management Agreements, there are certain property management arrangements in place in relation to the Properties as at the date of this Offering Circular. Refer to the section entitled “*Management and Administration of the Properties*” for further details.

There is currently no asset management agreement in place, although the Senior Obligors have advised the Loan Sellers that they intend to enter into such an agreement (refer to the section entitled “*Management and Administration of the Properties*” for further details). The Senior Obligors have also advised the Loan Sellers that they do not intend to enter into a duty of care agreement in respect of any asset management agreement that may be entered into. However, the Common Terms Agreement requires that any asset management agreement (which the Operational Management Agreement is deemed to be) provides that if the Common Transaction Security over the shares in any Senior Obligor is the subject of enforcement action by the Common Security Agent in accordance with the terms of the relevant Common Transaction Security Document, the Senior Loan Facility Agent may immediately terminate that asset management agreement by notice to the relevant asset manager (subject to certain conditions).

The net cashflow realised from and/or the residual value of the Property Portfolio may be negatively affected by poor management decisions of the Senior Permitted Property Managers and/or asset managers which may interrupt or restrict the Issuer's ability to make payments under the Notes. While the Senior Permitted Property Managers and the asset managers should be experienced in managing commercial properties, there can be no assurance that decisions taken by them or by any future Senior Permitted Property Manager or asset manager will not adversely affect the values and/or

cashflows of the Property Portfolio. There can also be no assurance that a substitute Senior Permitted Property Manager or a substitute asset manager will be found in a timely fashion should any Property Management Agreement or asset management agreement terminate or be terminated which may impede efficient management.

No representation or warranty can be made as to the skills or experience of any future managers or advisers. Additionally, there can be no assurance that a Senior Permitted Property Manager or asset manager will be in a financial condition to fulfil their respective management responsibilities throughout the term of its engagement.

### **Cashflow calculations**

Cashflow figures in relation to the Property Portfolio contained in this Offering Circular are based on specific assumptions which cannot be taken as an indication of any future cashflows with respect to the Property Portfolio. Each investor should make its own determination of the appropriate assumptions to be used in determining the cashflow to be generated in relation to the Property Portfolio.

### **Insurance**

The Senior Obligors have undertaken in the Common Terms Agreement that they will ensure certain insurances are in full force and effect (for further details refer to the "*Description of the Common Terms Agreement – General undertakings – VAT*" section).

There is no assurance that the Senior Obligors will procure the maintenance of the insurances required under the Common Terms Agreement or that such insurances will be adequate to cover potential losses.

If a claim under an Insurance Policy is made but the relevant insurer fails to make payment in respect of that claim on a timely basis or at all, this could prejudice the ability of the relevant Senior Obligor to make payments in respect of its Senior Loan, which would in turn prejudice the ability of the Issuer to make payments in respect of the Notes. The Common Terms Agreement imposes upon the Senior Obligors various requirements regarding the insurance policies, in particular ensuring that each Insurance Policy is in the name of the relevant Obligor and the Common Security Agent (on behalf of the Senior Finance Parties as co-insured), with the interests of the Common Security Agent noted on each policy.

Insurance for loss of rent will cover the loss of rent during a period of no less than three years. If a Property has been damaged or destroyed, it is likely that a tenant so affected would exercise any rights it might have to terminate its lease (where such right is granted) if the premises are not repaired during the period of rent cessation. In such circumstances, after the expiry of the period of coverage for loss of rent, the relevant Senior Obligor will not be entitled to loss of rent insurance and may not be receiving rent from the relevant Property and, if those circumstances were to apply, any proceeds of insurance taken out by the relevant Senior Obligor (which are intended to cover the costs of reinstatement) may be insufficient to cover amounts due by the Senior Obligors under the Common Terms Agreement.

The Sponsor obtained a blanket English law insurance policy with AoN (the **Blanket Insurance Policy**) to cover the Properties, but certain Properties were already covered by the relevant local policies of insurance or assurance in the name of Senior Obligors that were in existence prior to the (indirect) acquisition of the Senior Obligors by the Initial Investors in accordance with the Acquisition Agreements (the **Vendor Insurance Policies**), in particular because it is a requirement under French law that certain insurable risks be insured under French law. Therefore, the Blanket Insurance Policy

acted only as a contingent policy in respect of these Properties. Certain Vendor Insurance Policies contain certain deficiencies:

- (a) it was not possible for the Senior Loan Facility Agent to be noted as loss payee or for the Common Security Agent to be noted as co-insured on certain of the Vendor Insurance Policies, meaning that in the event of an insurance claim the insurance provider will pay insurance proceeds directly to the relevant Senior Obligor rather than to the Senior Finance Parties (and if applicable the Mezzanine Finance Parties); and
- (b) certain Vendor Insurance Policies provided cover on the basis of insured values which are lower than the values ascribed to the relevant Properties by the Initial Valuation. In the event of a claim, the relevant Vendor Insurance Policy would provide cover only up to its policy limit. The Blanket Insurance Policy will generally provide top up cover in respect of any shortfalls in the insured values, up to its policy limit, but the Blanket Insurance Policy does not cover natural catastrophes (*catastrophes naturelles*) or terrorism.

The risk outlined under paragraph (a) above is mitigated to some extent by the fact that the Senior Obligors are required under the terms of the Common Terms Agreement to pay insurance proceeds into the relevant Senior Prepayment Account which is controlled by the Senior Loan Facility Agent. However, there is a risk that they may not comply with this provision. Accordingly, certain Sponsor-related entities entered into the Insurance Guarantee in favour of the Common Security Agent under which they undertake to cover any losses suffered by the Senior Finance Parties or the Mezzanine Finance Parties if any insurance claim proceeds are misappropriated by the Senior Obligors.

Under the terms of the Common Terms Agreement, the Senior Obligors are required, by 1 January 2019, to replace the relevant Vendor Insurance Policies and update the Blanket Insurance Policy in order to ensure that all insurance policies which are in place in respect of the Properties comply with the terms of the Common Terms Agreement and the above deficiencies are rectified, at which point, the Insurance Guarantee falls away. However, there can be no guarantee that the Senior Obligors will comply with this requirement (although a failure to comply would result in a Senior Loan Event of Default).

### **Uninsured Losses**

Certain types of risks and losses (such as losses resulting from war, terrorism, nuclear radiation, radioactive contamination and heaving or settling of structures) may be or become either uninsurable or not economically insurable or are not covered by the required Insurance Policies. Other risks might become uninsurable (or not economically insurable) in the future. If an uninsured or uninsurable loss were to occur, the relevant Senior Obligor might not have sufficient funds to repay in full all amounts owing by it under the Common Terms Agreement.

### **Risks relating to tenants and leases**

The Senior Obligors' ability to make payments under the Common Terms Agreement is dependent on payments being made by the lessees of premises within the Properties. No assurance can be given that lessees in the Properties will continue making payments under their leases or that any such lessee will not become insolvent or subject to insolvency proceedings in the future or, if any such lessees become subject to insolvency proceedings, that they will continue to make rental payments in a timely manner. In addition, a tenant may, from time to time, experience a downturn in its business, which may weaken its financial condition and result in a failure to make rental payments when due. If a lessee defaults in its obligations under its lease, the lessor may experience delays in enforcing its rights as lessor and may incur substantial costs and experience significant delays associated with protecting its investment, including costs incurred in renovating and re-letting the Properties. In any of the above circumstances, the decrease in rental income may have an adverse effect on the Senior

Obligors' ability to meet its debt service on the Senior Loan and subsequently the Noteholders may not receive the timely repayment of interest and principal on the Notes.

The Senior Obligors will generally rely on periodic service charge payments from tenants to pay for maintenance and other operating expenses in respect of the Property Portfolio, and periodic rental payments to service the Securitised Senior Loan and any other debt or obligations they have outstanding.

There can be no guarantee that tenants will renew leases upon expiry or refrain from terminating leases early when they have the ability to do so. There can also be no guarantee that a tenant will remain solvent and able to perform its obligations throughout the term of its lease. Income from, and the market value of, the Properties would be adversely affected if any of the Properties could not be re-let, if tenants were unable to meet their lease obligations, if a significant tenant (or a number of smaller tenants) were to become insolvent, or if for any other reason, rental payments could not be collected. Additional considerations could cause tenants in the Properties to cease making payments under their leases (including, without limitation, as a result of the poor performance of a tenant's business, or as a result of exercising rights of set-off available (where applicable) under a lease or under law).

As of the date of this Offering Circular, the income profile of the Property Portfolio is highly granular with no significant tenant concentration risk.

As at 30 April 2018, and taking into account subsequent updates to the tenancy rent roll provided by the Sponsor, the level of physical occupancy for the Property Portfolio was 90.7 per cent., calculated as occupied area in square metres divided by the total area in square metres. 35 per cent. of the assets (by reference to the Initial Valuation) have some level of vacancy. Most of the vacancy rate is concentrated in a limited number of assets (five assets with vacancy above 50 per cent.). 24 per cent. of the Properties, per market value, have a vacancy rate above 10 per cent.

Certain specific risks have been identified in relation to the Properties in the Property Portfolio. These include the following:

- (a) many of the Lease Documents in place in respect of the Properties (representing, as at the Cut-Off Date 44.6 per cent. of annual gross rental income receivable in respect of the Properties ignoring break clauses and 84.2 per cent. assuming that break clauses are exercised at their earliest opportunity) provide for fixed lease terms which (irrespective of extension options, the execution of termination rights or the conclusion of amendment agreements that would prolong the terms) expire in less than five years or have already expired. Certain of these lease agreements include renewal or extension options. However, since there is no obligation for the relevant tenant to make use of these options or to conclude the respective amendments agreement, the rental income under these lease agreements upon expiry of the lease terms is not secured from the landlord's perspective;
- (b) certain of the Lease Documents for the German Properties (as at the Cut-Off Date individually representing between 0.476 per cent. and 2.271 per cent. of annual gross rental income receivable in respect of the Properties, and together representing approximately 10.6 per cent of gross rental income in respect of the Properties) provide for special termination rights in favour of the respective tenants;
- (c) a sample check performed by the company providing the tax due diligence report on the Lease Documents in respect of the Dutch Properties showed that approximately 11.5 per cent. of these agreements do not meet formal requirements. As a result, the company providing the tax due diligence report roughly estimates that annually €25,000 in VAT costs may be non-recoverable (based on 2017 figures). Assuming that in previous years similar VAT expenses

were incurred, the total exposure should amount to approximately €125,000. It is not possible to 'repair' this issue with retroactive effect. As such, this liability can materialise if the Dutch tax authorities impose additional VAT assessments for this period within five years after this period has ended. Going forward, it may be possible for the relevant Dutch group companies to mitigate this liability by ensuring that they act in compliance with the relevant VAT requirements;

- (d) the DLA Legal DD Report stated that six Lease Documents in respect of the French Properties had at the date of the report expired and were therefore under tacit extension. Under article L.145-9 of the French Commercial Code, if the lease term expires without either party serving a notice for termination or renewal, the lease will automatically continue and all terms and conditions of the lease will remain in force with each party being entitled to terminate the lease at any time on the last day of a civil quarter (provided the relevant party has provided six months' prior notice). The renewal of the relevant lease agreement, with a new rent, shall therefore be envisaged. If the landlord decides to terminate the lease agreement in these circumstances, it will be liable for an indemnity for eviction. The DLA Legal DD Report did not provide the details of these Lease Documents but when preparing the Initial Valuation Cushman & Wakefield took into account the rent roll (which included remaining lease terms) and the findings of the Allen & Overy overview report;
- (e) the DLA Legal DD Report identified 22 Lease Documents (and the Franklin Legal DD Report identified eight Lease Documents) in respect of the French Properties which have a tenant break option or an expiration date falling in 2018, and the DLA Legal DD Report identified nine Lease Documents (and the Franklin Legal DD Report identified eight Lease Documents) which will terminate between 2018 and 2019 due to service of a termination notice or entry into a termination agreement. The DLA Legal DD Report did not provide the details of these Lease Documents but when preparing the Initial Valuation Cushman & Wakefield took into account the rent roll (which included expiry dates, termination dates and break option dates) and the findings of the Allen & Overy overview report; and
- (f) the DLA Legal DD Report referred to certain tenant arrears in respect of certain French Properties as at December 2017, resulting in unpaid amounts of €3,560,550 (less than 30 days overdue) and €3,840,826 (overall including arrears less than 30 days overdue) for the Aberdonia Portfolio, and unpaid amounts of €2,230,252 (less than 30 days overdue) and €3,340,413 (overall including arrears less than 30 days overdue) for the Mistral 1 and Mistral 2 Portfolios. Additionally, the DLA Legal DD Report states that Tenant Contributions totalling €1,500,000, owed by a tenant representing as at the Cut-Off Date 1.721 per cent. of annual gross rental income receivable in respect of the Properties were outstanding as at the cut-off date of the DLA Legal DD Report.

## Encumbrances

Certain of the German Properties are encumbered with tenant easements (*Mieterdienstbarkeiten*). These German Properties are located in Klipphausen, Malchow, Sehnde-Häver and Tollwitz. Certain of the German Properties are in each case encumbered with a limited personal easement (*beschränkte persönliche Dienstbarkeit*) regarding the right to construct and maintain photovoltaic facilities (*Recht zur Errichtung und zum Betrieb von Photovoltaikanlagen*) (in each case combined with additional priority notices (*Vormerkungen*) to secure the conditional claim to register a restricted personal easement at the same rank and with the same contents for the financing bank of the beneficiary of such photovoltaic facilities). These German Properties are located in Bremen, Melle II and Oldenburg. Easements regarding the operation of photovoltaic facilities have the same potential impact as a tenant and are thus typically as a tenant easement. Tenant easements (as well as the aforementioned easements to operate and construct photovoltaic facilities) may have a negative impact on the future marketability of the respective property as a potential acquirer will be bound to

the tenant for the term of the existing lease (i.e. the relevant German Property cannot be sold free of the lease). A tenant easement may also have an impact on the value of such German Properties.

The Property located in Kritzkow is encumbered with a pre-emption right (*Vorkaufsrecht*) for all cases of sales (*Vorkaufsrecht für alle Verkaufsfälle*) in favour of the respective owner of the real property registered in folio 10181 (boundary Laage) – registered on 23 February 2017 due to a deed of approval dated 14 November 2011 (notarial deeds number 1201/2011) of the notary Ulrich Hollenberg, Halle. The pre-emption right only applies in case of an "asset deal" and not in case of a sale of the entire shares in the property owning company. Such pre-emption rights are prior in ranking to the relevant German New Land Charge. If and for so long as the relevant beneficiary of such prior ranking pre-emption rights is entitled to exercise its pre-emption right, a subsequent disposal over the property – such as the creation and registration of that German New Land Charge – is invalid vis-à-vis the relevant beneficiary and such beneficiary would be entitled to claim deletion of such German New Land Charges.

There are also certain other easements and encumbrances registered in section II of the relevant land registries such as, but not limited to, rights of ways (*Wegerechte*), rights to maintain and operate gas pipes (*Ferngasleitungsrechte*) or other facilities and rights to run, operate, maintain and remove sub-surface pipes for electricity or water supply including building restrictions (*Kabel-/Leitungsrechte nebst entsprechender Baubeschränkungen*), restriction on use (*Nutzungsbeschränkungen*) or regarding the construction (*Baubeschränkungen*), restrictions on business operations, easements regarding a right to co-use parking space and an easement regarding a pumping station (*Pumpwerk*). Such rights and interests may, *inter alia*, affect the relevant Senior Obligor's ability to use, let, further encumber or sell such German Property or the value of such German Property and may rank ahead of the German New Land Charges.

Pursuant to article L.125-5 of the French Environmental Code, a statement on risks and pollution statement (ERP – formerly known as Natural, Mining and Technological Risks Report) (*état des risques naturels, miniers et technologiques* – ERNMT) must be attached to any lease. If this is not done, the tenant has the right to request before a court, either termination of the lease or a rent reduction. According to the DLA Legal DD Report, 51 of the Lease Documents (and 34 of the Lease Documents according to the Franklin Legal DD Report) relating to the French Properties do not comply with this regulation. This matter was covered in a warranty under the Mistral SPA.

### **Risks relating to rent indexation and adjustments under Lease Documents**

Some lease agreements provide for rent indexation clauses whereby the rent will be increased or decreased in accordance with the relevant index.

In relation to the French Properties, the DLA Legal DD Report identified 44 Lease Documents which include indexation clauses with a floor or a cap, while the Franklin Legal DD Report identified 46 of such Lease Documents. In addition, the DLA Legal DD Report refers to two tenants which are currently challenging the validity of the relevant lease indexation clauses. In a decision dated 14 January 2016 (Cass. civ. 3, 14 January 2016, no. 14-24681), the highest French civil court ruled that upwards only indexation clauses are invalid on the grounds that the purpose of indexation is to enable rent to vary both upwards and downwards. The court in that case cancelled the entire clause and not just the part relating to upwards indexation. This position was confirmed by the Court of Appeal of Paris (CA Paris, pole 5, ch. 3, 13 April 2016, n°14/06301) which cancelled an entire indexation clause although the upwards only provisions had never been applied by the landlord.

Additionally, the Franklin Legal DD Report identified four Lease Documents in relation to which there could be a discrepancy between the period of variation of rent and the period of variation of the indexes. Such discrepancies are prohibited by article L.112-1 of the Financial Code and as a result the indexation may not be implemented accordingly, or may be considered invalid for the relevant part of

the rent. As a result, the tenant would have grounds to challenge the validity of the indexation clause if it evidences this discrepancy.

In relation to the French Properties, if a tenant's action is successful and a court rules that an indexation clause is invalid, the relevant indexation clause would be cancelled and would not apply in future, rent would be reset at the amount it would have been at had it never been indexed and the tenant would be entitled to re-claim the difference of rent paid between the indexed rent and the above reset rent for up to five years previously.

Additionally, two Lease Documents relating to the Dutch Properties (the Houten Property and the Roosendaal Property) allow the relevant tenant and landlord to request a rent review, which could lead to an upwards or downwards adjustment of rent. Any Lease Documents relating to Dutch Properties (the IJsselstein Property and Roosendaal Property) which are subject to the regime of Article 7:290 of the Dutch Civil Code are also subject to such rent review mechanic.

### **Risks relating to building permits**

The Properties could be exposed to the risk of non-compliance with building permits and/or obligations under statutory planning and building laws (the **Building Permits**).

It is possible that the construction of the Properties and their use is not in compliance with the Building Permits. In addition, even properly constructed and properly used Properties may be subject to changes in building law requirements, in particular with regard to health and safety obligations (for example, fire protection requirements).

It may not always be possible to obtain the records and documents that are needed in order to fully verify that each Property was constructed and are being used in compliance with planning and building law requirements (and as noted in "*Limited due diligence in relation to Properties*" above, a review of building permits did not form part of the Senior Lenders' due diligence). These circumstances could lead to additional costs and restrictions of use and could have an adverse effect on the proceeds from sales and rentals of the affected Properties.

In Germany, the illegitimacy of a Building Permit may negatively impact on the legitimacy of the commercial authorisations. In France, if a construction does not comply with the provisions of the relevant building permit, there is a risk, in theory, that a third party who demonstrates that it has incurred a loss as a direct result of such non-compliance could, within 10 years of the work's completion date, request remedial works or demolition of the relevant construction.

### **Dutch zoning issues**

According to the Loyens Legal DD Report and the Loyens VDD Report, it cannot be determined that all Dutch Properties fully comply with the restrictions under the applicable zoning regimes. Only a high-level assessment of the permitted use was conducted. With respect to some Dutch Properties, the Loyens Legal DD Report and the Loyens VDD Report do not rule out non-compliance with the applicable zoning regime and/or they conclude that such non-compliance is pending.

This more specifically concerns the following: (i) the Amsterdam Property's zoning plan only allows for offices on the ground floor. However, as offices are also located on other floors than the ground floor, the current use of the Amsterdam Property does not comply with this requirement; (ii) the Schipholweg I Property's zoning plan contains an office space ratio of 30 per cent. with a maximum of 500 m<sup>2</sup> and it is not entirely clear whether said ratio is being complied with (and it is also not entirely clear whether the restrictions under the zoning plan as to the activities that may be conducted in the property are being complied with); and (iii) the office space ratio included in the Schipholweg II Property's zoning plan is not being complied with.

In addition, with respect to various other properties (including the Almere Property, the Capelle Property, the IJsselstein Property, the Houten Property and the Roosendaal Property), the Loyens Legal DD Report and the Loyens VDD Report conclude that the current use complies with the applicable zoning regime but refer to a lack of information regarding the activities of all tenants.

In the Netherlands, if the zoning regime does not allow for a property or the activities conducted, this may nevertheless be legalised by amending the zoning plan or issuing an integrated environmental permit that contains a permission to deviate from the zoning regime (while, under established case law, the permission may, under certain circumstances, also follow from a building permit that is legally irrevocable). In addition, the transitional laws included in a zoning plan may allow for the (temporary) use of a property in violation with the zoning plan to be continued, when said use already existed when the zoning plan was adopted and was allowed for under the previous zoning regime. The Loyens Legal DD Report and the Loyens VDD Report provide only limited information as to whether the relevant non-compliances with the applicable zoning regimes have been legalised or are nevertheless allowed under the transitional laws included in the applicable zoning plan.

It is not uncommon for a portfolio of this size, type and nature that some properties are in breach of the applicable zoning regimes. However, in the Netherlands, such non-compliance should in principle be, and is in fact, enforced, unless the relevant local authority is willing to legalise such non-compliance, for which they have broad discretionary powers. Typical enforcement action would entail an order under penalty payment (or possibly, but less common, public coercion). The order would be aimed at ending the breach (for example by reducing the office space in use), or granting the breaching party a grace period to cure the violation without forfeiting a penalty payment. There is no maximum in respect of the penalty amount; the penalty amount must be effective, yet proportionate. In theory, zoning violations may also be prosecuted under criminal law, although that risk is very remote. However, as long as non-compliances are pending, enforcement action may and must in principle be taken.

### **Absence of general conditions in Dutch Properties**

In relation to one Dutch Property (the Amsterdam Property), the relevant tenant has not provided signed confirmation that it has received the general conditions to the lease agreement. Under Dutch law, general conditions are only applicable if they have been handed over to the tenant. The general conditions deviate from Dutch lease law as they are more favourable to the landlord, with regard to matters such as maintenance, delivery and liability for defects. If the general conditions do not apply to the lease agreement, it will be subject to mandatory provisions which are not necessarily in favour of the landlord.

### **Early termination of leases in respect of German Properties due to defects with regard to the requirements of written form**

Lease agreements in respect of German Properties with a fixed term exceeding one year are subject to the requirements of written form under Section 550 of the German Civil Code. If the parties of the lease agreement do not observe the statutory requirements of written form, then the lease agreement remains generally valid and continues for an indefinite period of time but can be terminated with six months' prior notice with effect as per the end of a calendar quarter. Therefore, a contract may be terminated early despite an originally agreed fixed lease term of several years. As a result, long-term lease agreements which would (if not terminated) generate a steady rental income may be terminated early (see also "*Certain Matters of German Law – Leases in Germany – Obligations and liabilities of commercial property landlords and tenants in Germany*" and "*Termination of leases in Germany*" below). Financial losses due to vacancy periods may be incurred as a consequence. The Hengeler Legal DD Report has identified written form issues in a number of lease agreements relating to the German Properties (see "*Description of the Common Terms Agreement – Property undertakings – Occupational Leases*").



## Ancillary costs in Germany

In general, in Germany, a tenant is only responsible for ancillary costs, such as insurance, operating or management costs, costs of maintenance and repair works, water and heating costs, with respect to a leased property where such costs were explicitly agreed with the landlord in the lease agreements. It is possible that the agreements with the tenants are not comprehensive. Also, certain costs cannot be charged to the tenants at all. The level of service charges (if any) payable by tenants under their respective leases may differ, but the overall level of service charges payable by all tenants is normally calculated by reference to expenditure with a final reconciliation so as to ensure that the landlord recovers from the tenants (taken as a whole) substantially all of the service costs associated with the management and operation of the relevant Properties to the extent that the relevant Senior Obligor itself does not make a contribution to those costs.

Under German law, the landlord is not entitled to recover from the tenants the costs associated with any major improvements to or refurbishments of the relevant German Property except for certain limited permitted modernisation measures. Also, to the extent that there are any unlet units in any of the German Properties, the relevant Senior Obligor will generally experience a shortfall depending on the portion of the relevant German Properties that are vacant.

Furthermore, there is a wide field of case law in Germany in relation to general terms and conditions which are subject to permanent development and as the courts have broad discretion in their scrutiny of the relevant clauses, it cannot be excluded that certain clauses contained in the commercial lease agreements would not be accepted by a competent court with the consequence that the landlord would have to bear these costs.

## Restrictions under German planning law

Under German planning law, the competent municipality may enact by-laws (*Satzungen*) which are, for example, intended to ensure a proposed reallocation of properties (*Umlegung*), redevelopment (*Sanierung*) or a preservation (*Erhaltung*) of the existing urban or residential structures. German Properties located in such areas may be subject to various restrictions which may impact, *inter alia*, the ability of the owner to use, redevelop, let, sell or encumber the relevant property and the value of such property.

In particular, in relation to properties in redevelopment areas (*Sanierungsgebiete*) the sale, encumbrance and letting of such German Properties, as well as reconstruction and refurbishment measures, are generally subject to special consent by the building authorities and as a consequence such measures may be delayed or even prevented. It has not been assessed whether commercial lease agreements are subject to consent requirements as they have a term of more than one year and, if so, whether the required consents have been obtained. If the required consents have not been obtained, such lease agreements are provisionally void (*schwebend unwirksam*). Tenants under the lease agreements will still be required to pay a compensation for the use of the lease objects to the relevant Senior Borrowers which should generally be equal to the rent if such rent reflects market rents. As a result of the redevelopment, properties within the redevelopment area are likely to increase in value. The respective cities may request compensation for such increase in value from the owners of properties located in such areas as a result of the works carried out by the respective cities. However, none of the German Properties is located in a refurbishment area.

Building authorities may decide to further develop certain areas of a city, including the construction of new streets or pavements. The respective costs will then be charged to the adjacent or otherwise profiting property owners. Pursuant to the legal due diligence, there may be constructions works in the area of at least one property, which may be charged to the Property owner. However, none of the German Properties is located in a refurbishment area.

## **Restrictions in relation to public building charges (*Baulasten*) in relation to German Properties**

Building charges (*Baulasten*) are encumbrances under public law, which do not have any civil law consequences and are therefore not registered in the land register, but in a separate register of public building charges (*Baulastenverzeichnis*). Building charges solely entitle the relevant public institution (e.g. city or district) or the general public to use, to prohibit or to tolerate certain uses or buildings at the given property. Private third parties do not have any rights under a building charge.

Some of the German Properties are encumbered with public building charges such as public building charges according to which several sub-plots have to be regarded as one property when applying public building law provisions (*Vereinigungsbaulast*). Public building charges may, *inter alia*, considerably impact the future development of a property.

## **Compulsory purchase in Germany**

In Germany, a property may, in specific cases, be expropriated (*enteignet*) in connection with the fulfilment of public tasks, such as redevelopment or infrastructure projects. An expropriation must be based on a specific aim and must be indispensable for the general public welfare (*Allgemeinwohl*). In connection with an expropriation (*Enteignung*), adequate compensation must be paid to the owner of the relevant property (or the holder of the Head Lease or building right) in the amount of the open market value (*Verkehrswert*).

In the event of an expropriation of a German Property, tenants would cease to be obliged to make any further rental payments to the relevant Senior Borrowers and/or assignees of the rent receivables under the relevant leases. The risk for Noteholders is that the amount received by way of compensation for the expropriation of the German Property or any other compensation may be less than the relevant principal amount outstanding under the Senior Loan. In the event of an expropriation of a German Property, the amount of the compensation could lead to a shortfall in funds available to meet the payments due under the Notes, and consequently the Noteholders may suffer a loss.

In the event of an expropriation of a German Property, entitled parties will be notified in writing of the draft expropriation order. An application will be served on the mortgagees and/or seizers registered as such in the land register. As at the date of this Offering Circular, there is no indication that any German Property is subject to a compulsory purchase as far as can be ascertained on the basis of a German land registry check, however, expropriation of a property for compulsory purchase is not necessarily registered with the land register.

## **GENERAL**

### **Forward-looking statements**

This Offering Circular includes statements that are, or may be deemed to be, forward-looking statements. By their nature, forward-looking statements involve risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. These risks and uncertainties include, but are not limited to, those described in this "*Risk Factors*" section of this Offering Circular. Such risks and uncertainties should not be construed as exhaustive and should be read in conjunction with the other cautionary statements in this Offering Circular.

The forward-looking statements are not guarantees of future performance and the actual results of operations, financial condition and liquidity, and the market in which the Issuer and the Senior Obligors operate may differ materially from those made in or suggested by the forward-looking statements set out in this Offering Circular. In addition, even if the results of operations, financial condition and liquidity of the Issuer and the Senior Obligors, and the development of the market in

which the Issuer and the Senior Obligors operate are consistent with the forward-looking statements set out in this Offering Circular, those results or developments may not be indicative of results or developments in subsequent periods. Many factors could cause the Issuer's or the Senior Obligors' actual results, performance or revenues to be materially different from any future results, performance or revenues that may be expressed or implied by such forward-looking statements including, but not limited to, the other risks described in this section.

Any forward-looking statements which are made in this Offering Circular speak only as of the date of such statements. Neither the Issuer nor the Senior Obligors intend, nor undertake any obligation, to revise or update the forward-looking statements included in this Offering Circular to reflect any future events or circumstances.

### **Historical financial information in relation to the Property Portfolio**

Historical financial information is referred to in this Offering Circular in relation to the Property Portfolio. Such information may not be indicative of future results of operations.

### **Risks not exhaustive**

The Issuer believes that the risks described above are the material risks inherent in an investment in the Notes for Noteholders, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Notes may occur for other reasons currently not known or believed to be not material and the Issuer does not represent that the above statements regarding the risks relating to the Notes are exhaustive. Although the Issuer believes that the various structural elements described in this Offering Circular might to some degree lessen some of these risks for Noteholders, there can be no assurance that these measures will be sufficient to ensure payment to Noteholders of interest, principal or any other amounts on or in connection with the Notes on a timely basis or at all.

## THE ISSUER

### General

The Issuer was incorporated in Ireland as a designated activity company limited by shares on 10 October 2018, with registered number 635518, under the Irish Companies Act. The registered office of the Issuer is 5th floor, The Exchange, George's Dock, I.F.S.C., Dublin 1, Ireland. The telephone number of the Issuer is +353 14706600. The Issuer has no subsidiaries.

### Principal activities

The principal objects of the Issuer are set forth in Clause 3 of its constitution and include, *inter alia*, the power to raise or borrow money, to issue securities and to grant security over its assets for such purposes and to lend money with or without security and to enter into derivatives transactions.

Since the date of its incorporation, the Issuer has not commenced operations and no accounts have been made up as at the date of this Offering Circular. The activities in which the Issuer has engaged, or will engage in, are those incidental to its incorporation and registration as a designated activity company with limited liability under the Irish Companies Act, the authorisation of the issue of the Notes, the matters referred to or contemplated in this Offering Circular and the authorisation, execution, delivery of and performance of obligations under the other documents referred to in this Offering Circular to which it is a party and matters which are incidental or ancillary to the foregoing.

The Issuer will covenant that its directors will remain independent and that it will observe certain restrictions on its activities which are detailed in Condition 4.1 (Restrictions) of the Notes, the Issuer Deed of Charge and the Note Trust Deed and, as such, the Issuer is a special purpose vehicle established for the purpose of issuing asset-backed securities.

### Directors and secretary

- (a) The directors of the Issuer and their other principal activities are:

Name	Principal Activities
Fiona de Lacy Murphy	Director
Iwona Halpin	Director

- (b) The business address for the directors is 5th Floor, The Exchange, George's Dock, I.F.S.C., Dublin 1, Ireland. The company secretary of the Issuer is Walker's Corporate Services (Ireland) Limited whose principal address is at 5th Floor, The Exchange, George's Dock, I.F.S.C., Dublin 1, Ireland.
- (c) The directors do not, and it is not proposed that they will, have service contracts with the Issuer. No director has entered into any transaction on behalf of the Issuer which is or was unusual in its nature of conditions or is or was significant to the business of the Issuer since its incorporation.
- (d) At the date of this Offering Circular, there were no loans granted or guarantees provided by the Issuer to any director.

- (e) The constitution of the Issuer provides that:
- (i) subject to the provisions of the Irish Companies Act, a director may vote in respect of any contract, appointment or arrangement in which he or she is interested and he or she shall be counted in the quorum present at the meeting; and
  - (ii) subject to the provisions of the constitution, a director will hold office until such time as he is removed from office by an ordinary resolution of the Issuer or is otherwise removed or becomes ineligible to act as a director in accordance with the constitution.

### **Auditors**

The auditors of the Issuer are Grant Thornton, who are chartered accountants and are members of the Institute of Chartered Accountants of Ireland and registered auditors qualified to practise in Ireland. The financial year end of the Issuer is 31 December.

### **Shareholder**

The authorised share capital of the Issuer is one ordinary share of €1 (the **Share**). The Issuer has issued the Share, which is fully paid up and is held on trust by Walkers Global Shareholding Services Limited (the **Share Trustee**) under the terms of a declaration of trust dated 12 October 2018, under which the Share Trustee holds the Share on trust for charitable purposes. The Share Trustee has no beneficial interest in and derives no benefit (other than its fees for acting as Share Trustee) from its holding of the Share of the Issuer. The Share Trustee will apply any income derived from the Issuer as set out in the declaration of trust.

### **Material adverse change**

Since its incorporation on 10 October 2018, there has been no material adverse change in the financial position or the prospects of the Issuer.

### **Corporate Services Agreement**

Pursuant to the terms of the agreement dated on or about the Closing Date between, among others, the Corporate Services Provider and the Issuer (the **Corporate Services Agreement**), the Corporate Services Provider will perform various management functions on behalf of the Issuer, including the provision of certain administrative, accounting and other services until termination of the Corporate Services Agreement. In consideration of the foregoing, the Corporate Services Provider receives various fees and other charges payable by the Issuer at rates agreed upon from time to time plus expenses.

The terms of the Corporate Services Agreement provide that:

- (a) either party may terminate the Corporate Services Agreement forthwith by notice in writing to the other party upon the occurrence of certain stated events, including any material breach by the other party of its obligations under the Corporate Services Agreement which is either incapable of remedy or has not been remedied within 30 days (or such other period as shall be agreed between the parties) from the date on which it was notified of such breach (and required to remedy the same) by the other party; and
- (b) either party may terminate the Corporate Services Agreement at any time upon 90 days' notice in writing to the other party thereto or such other period as may be agreed between the parties.

The Corporate Services Provider shall, on the passing of an Ordinary Resolution of the Noteholders (acting as a single Class) requiring termination of the Corporate Services Agreement, promptly terminate the Corporate Services Agreement.

Any such termination will not take effect until a replacement corporate services provider has been appointed.

## THE SENIOR BORROWERS AND THE SENIOR GUARANTORS

### The Luxembourg Senior Borrowers and Luxembourg Senior Guarantors

Each Luxembourg Senior Borrower and each Luxembourg Senior Guarantor is a private limited liability company (*société à responsabilité limitée*) established under the laws of Luxembourg. Each Luxembourg Senior Borrower and each Luxembourg Senior Guarantor is registered with the following number and established on the date set out below.

	Company name	Registration number	Date of establishment
<b>Senior Borrowers and Senior Guarantors</b>			
1.	IT 1 S.à r.l.	B114305	30 January 2006
2.	Ger Log 1 S.à r.l.	B113075	23 December 2005
3.	Ger Log 4 S.à r.l.	B113078	23 December 2005
4.	Ger Log 5 S.à r.l.	B113079	23 December 2005
5.	Ger Log 6 S.à r.l.	B122692	28 November 2006
6.	Ger Log 7 S.à r.l.	B125888	1 March 2007
7.	Ger Log 8 S.à r.l.	B127179	13 April 2007
8.	Ger Log 9 S.à r.l.	B127178	13 April 2007
<b>Senior Guarantors</b>			
9.	Spear Pledgeco S.à r.l.	B224.497	11 May 2018
10.	Spear German 2018 Pledgeco S.à r.l.	B224.555	11 May 2018
11.	Spear German 2018 Holdco S.à r.l.	B224.582	11 May 2018
12.	Spear Investment 2018 Pledgeco S.à r.l.	B224.618	11 May 2018
13.	Spear Investment 2018 Holdco S.à r.l.	B224.650	11 May 2018
14.	Spear GP (Bidco) S.à r.l.	B220.772	7 December 2017
15.	Spear Bidco SCA	B224.233	3 May 2018
16.	Aberdonia Holding S.à r.l.	B187776	5 June 2014
17.	MPIT Lux 1 S.à r.l.	B190629	17 September 2014
18.	MPIT Lux 2 S.à r.l.	B196914	4 May 2015
19.	IS EF One S.à r.l. (previously named IS	B117043	7 June 2006

	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>
	EF One S.A.)		
20.	IS EF Two S.à r.l.	B117042	7 June 2006
21.	IS EF Three S.à r.l.	B128334	21 May 2007
22.	Aberdonia France One S.à r.l.	B201354	27 October 2015
23.	IT Top S.à r.l.	B114304	30 January 2006
24.	INL Top S.à r.l.	B128315	21 May 2007
25.	INL 1 S.à r.l.	B128305	21 May 2007
26.	Aberdonia France Two S.à r.l.	B201387	27 October 2015
27.	Aberdonia France A S.à r.l.	B103765	28 October 2004
28.	IG Log A S.à r.l.	B211392	28 November 2016
29.	IG Log B S.à r.l.	B211645	28 November 2016
30.	IG Log 2 S.à r.l.	B117030	7 June 2006
31.	IG Log 3 S.à r.l.	B128318	21 May 2007
32.	IG Log S.à r.l.	B113071	23 December 2005

The registered office of each Luxembourg Senior Borrower and each Luxembourg Senior Guarantor is 2-4, rue Eugène Ruppert, L-2453 Luxembourg.

### **The Dutch Senior Borrowers and Dutch Senior Guarantors**

Each Dutch Senior Borrower and each Dutch Senior Guarantor is a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) established under the laws of the Netherlands. Each Dutch Senior Borrower and each Dutch Senior Guarantor is registered with the following number and established on the date as set out below.

	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>
<b>Senior Borrowers and Senior Guarantors</b>			
1.	MPIT Netherlands 1 B.V.	62673785	17 February 2015
2.	Dutchprop 5 B.V.	34270485	28 March 2007
3.	Dutchprop 6 B.V.	34270486	28 March 2007
<b>Senior Guarantors</b>			
4.	Dutchprop 1 B.V.	34264111	3 January 2007



	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>
5.	Dutchprop 4 B.V.	34270421	26 March 2007
6.	Dutchprop 9 B.V.	34270489	28 March 2007

The registered office of each Dutch Senior Borrower and each Dutch Senior Guarantor is Suikersilo-Oost 17, 6th floor, 1165 MS Halfweg, the Netherlands.

### **The French Senior Borrowers and French Senior Guarantors**

Each French Senior Borrower and each French Senior Guarantor is a private limited company (*société à responsabilité limitée*) established under the laws of the Republic of France. Each French Senior Borrower and each French Senior Guarantor is registered with the following number and established on the date set out below.

	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>	<b>Registered address</b>
<b>Senior Borrowers and Senior Guarantors</b>				
1.	Digem SARL	492 803 176 RCS Paris	15 November 2006	17 rue Galilée 75116
2.	Industrial Securities Onnaing SAS	482 050 572 RCS Paris	28 April 2005	17 rue Galilée 75116
3.	Paned SARL	488 817 610 RCS Paris	28 February 2006	17 rue Galilée 75116
4.	SARL Innovalisses	488 817 586 RCS Paris	28 February 2006	17 rue Galilée 75116
5.	Nescourt SCI	492 365 978 RCS Paris	17 October 2006	17 rue Galilée 75116
6.	IF Three Log 1 SCI	824 081 160 RCS Paris	2 December 2016	17 rue Galilée 75116
7.	Chapelyon S.a r.l.	492 803 234 RCS Paris	15 November 2006	17 rue Galilée 75116
8.	Abervest SARL	509 498 952 RCS Paris	23 December 2008	17 rue Galilée 75116

	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>	<b>Registered address</b>
9.	S.L.P.1. SARL	484 756 135 RCS Paris	25 October 2005	17 rue Galilée 75116
10.	MPITS 1 SCI	804 719 607 RCS Paris	23 September 2014	17 rue Galilée 75116
11.	MPITS 2 SCI	810 430 983 RCS Paris	23 March 2015	17 rue Galilée 75116
12.	MPITS 3 SARL	819 129 511 RCS Paris	18 March 2016	17 rue Galilée 75116
13.	MPITS 21 SCI	812 673 598 RCS Paris	21 July 2015	17 rue Galilée 75116
14.	MPITS 22 SCI	812 673 606 RCS Paris	21 July 2015	17 rue Galilée 75116
15.	MPITS 23 SARL	493 026 496 RCS Paris	27 November 2006	17 rue Galilée 75116
16.	Foncière Trinité Dix Neuf SCI	409 221 843 RCS Paris	23 October 1996	17 rue Galilée 75116
17.	Foncière Trinité Vingt et Un SCI	412 799 116 RCS Paris	2 July 1997	17 rue Galilée 75116
<b>Senior Guarantors</b>				
18.	MPIT France 2 SCI	812 193 936 RCS Paris	23 June 2015	17 rue Galilée 75116 Paris
19.	Mistral Properties 2 SPPICAV	820 651 032 RCS Paris	31 May 2016	35 boulevard des Capucines 75002 Paris
20.	Mistral Properties 1 SPPICAV	813 064 011 RCS Paris	14 August 2015	35 boulevard des Capucines 75002 Paris
21.	Aberdonia Properties SPPICAV	814 789 632	19 November 2015	35 boulevard des Capucines 75002

	<b>Company name</b>	<b>Registration number</b>	<b>Date of establishment</b>	<b>Registered address</b>
		RCS Paris		Paris

## **General**

The Senior Obligors are subject to certain representations and covenants in the Common Terms Agreement which require them to be and remain corporate entities whose businesses consist primarily of acquiring, owning, managing, financing, developing and leasing of its interests in the Properties and any activities directly related thereto, or in the case of a Holdco, the administration and business of being a Holding Company and the ownership of subsidiaries. The key representations and covenants in this respect are set out below.

Each Senior Obligor has represented in the Common Terms Agreement that it has not traded or carried on any business since the date of its incorporation other than (a) in the case of a Propco, the acquisition, development, ownership and management of the Properties set out next to its name at Appendix 2 (The Properties) and (b) in the case of a Holdco, effecting transactions in the administration and business of being a Holding Company and the ownership of subsidiaries.

Each Holdco has covenanted in the Common Terms Agreement that it shall not trade, carry on any business, own any asset or incur any liability other than in the ordinary course of business in relation to the ownership of shares in its subsidiaries, intra Group debit balances and credit balances, other incidental assets and the incurrence of liabilities and consummation of other transactions in compliance with the Transaction Documents and each Propco has covenanted that it shall only shall only conduct the business of acquiring, owning, managing, financing, refinancing, developing and letting the Properties and any activities directly related thereto in any manner which is in compliance with the Senior Finance Documents.

Each Senior Obligor has represented in the Common Terms Agreement that it does not have any employees other than Permitted Employees ( **Permitted Employees** being no more than 5 employees provided that such employees are not employed by a Propco, in aggregate, do not attract a liability of more than €100,000 per annum and do not benefit from a defined pension scheme) and it is not an employer under any defined pension scheme.

Each Senior Obligor has represented in the Common Terms Agreement that no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency are current which, if adversely determined would have a Material Adverse Effect.

## **DESCRIPTION OF THE SERVICER AND THE SPECIAL SERVICER**

Situs Asset Management Limited (**SAM**) is a limited liability company incorporated under the laws of England and Wales with company registration number 06738409, with its registered offices at 27/28 Eastcastle Street, London W1W 8DH, United Kingdom.

SAM operates through its office located at 34th Floor, 25 Canada Square, Canary Wharf, London E14 5LB, United Kingdom (tel: +44 (0) 20 7220 1850).

SAM is part of Situs Holdings LLC. Historically, Helios AMC, LLC acquired The Situs Companies LLC in October 2011. Shortly thereafter, the name of Helios AMC, LLC was changed to Situs Holdings, LLC. On 1 April 2015, Stone Point Capital LLC acquired Situs Holdings, LLC. In November 2016, Situs completed its acquisition of Hatfield Philips International bringing together two of Europe's leading commercial real estate loan servicers.

Since 1985, Situs has provided commercial real estate advisory, due diligence and business solutions to the lending and real estate industries. Situs has offices located across the United States of America and Europe (including San Francisco, New York, Houston, London, Frankfurt, Madrid and Dublin).

SAM currently services and asset manages in excess of €40 billion of pan-European commercial real estate debt through its European platform comprising both CMBS and balance sheet loan positions for lenders across Europe. SAM acts in various capacities including as facility agent, security agent, primary servicer and special servicer. Jurisdictions covered include the United Kingdom, Germany, France, the Netherlands, Italy, Portugal and Spain.

SAM is the primary servicer and/or special servicer on more than 25 current CMBS transactions. SAM has a servicer ranking from Fitch.

In addition to the above, the company also provides real estate advisory, due diligence and underwriting services to clients in Europe.

## DESCRIPTION OF THE NOTE TRUSTEE AND THE ISSUER SECURITY TRUSTEE

U.S. Bank Trustees Limited is a limited liability company incorporated under the laws of England and Wales with its office at 125 Old Broad Street, Fifth Floor, London, EC2N 1AR, United Kingdom.

U.S. Bank Trustees Limited, as part of the U.S. Bancorp group and in combination with Elavon Financial Services DAC (the legal entity through which European agency and banking appointments are conducted) and U.S. Bank National Association (the legal entity through which the Corporate Trust Division conducts business in the United States) (the **U.S. Bank National Association**), is one of the world's largest providers of trustee services with more than USD4 trillion in assets under administration in municipal, corporate, asset-backed and international bonds. The division provides a wide range of trust and agency services such as calculation/paying agent, collateral administration and document custody through its network of more than 50 U.S.-based offices and European offices in London and Dublin.

U.S. Bancorp (NYSE: USB), with USD462 billion in assets as of 31 December 2017, is the parent company of U.S. Bank National Association, the fifth largest commercial bank in the United States. The company operates 3,067 banking offices in 25 states and 4,771 ATMs, and provides a comprehensive line of banking, investment, mortgage, trust and payment services products to consumers, businesses and institutions. Visit U.S. Bancorp on the web at [www.usbank.com](http://www.usbank.com).

## **DESCRIPTION OF THE ISSUER CASH MANAGER AND THE ISSUER ACCOUNT BANK**

U.S. Bank Global Corporate Trust Services, which is a trading name of Elavon Financial Services DAC (a U.S. Bancorp group company), is an integral part of the worldwide Corporate Trust business of U.S. Bank. U.S. Bank Global Corporate Trust Services in Europe conducts business primarily through the UK Branch of Elavon Financial Services DAC from its offices in London at 125 Old Broad Street, London EC2N 1AR, United Kingdom.

Elavon Financial Services DAC is a bank incorporated in Ireland and a wholly owned subsidiary of U.S. Bank National Association. Elavon Financial Services DAC is authorised by the Central Bank and the activities of its UK Branch are also subject to the limited regulation of the UK Financial Conduct Authority and the Prudential Regulation Authority.

U.S. Bank Global Corporate Trust Services in combination with U.S. Bank National Association, the legal entity through which the Corporate Trust Division conducts business in the United States, is one of the world's largest providers of trustee services with more than USD4 trillion in assets under administration in municipal, corporate, asset-backed and international bonds. The division provides a wide range of trust and agency services such as calculation/paying agent, collateral administration and document custody through its network of more than 50 U.S.-based offices and European offices in London and Dublin.

U.S. Bancorp (NYSE: USB), with USD462 billion in assets as of 31 December 2017, is the parent company of U.S. Bank National Association, the fifth largest commercial bank in the United States. The company operates 3,067 banking offices in 25 states and 4,771 ATMs, and provides a comprehensive line of banking, investment, mortgage, trust and payment services products to consumers, businesses and institutions. Visit U.S. Bancorp on the web at [www.usbank.com](http://www.usbank.com).

## **DESCRIPTION OF THE HEDGE COUNTERPARTY**

Please refer to the section entitled "*Description of the Issuer Liquidity Facility Providers – Société Générale, London Branch*".

## DESCRIPTION OF THE ISSUER LIQUIDITY FACILITY PROVIDERS

### **Deutsche Bank AG, London Branch**

Deutsche Bank Aktiengesellschaft (**Deutsche Bank**) originated from the reunification of Norddeutsche Bank Aktiengesellschaft, Hamburg, Rheinisch Westfälische Bank Aktiengesellschaft, Düsseldorf and Süddeutsche Bank Aktiengesellschaft, Munich; pursuant to the Law on the Regional Scope of Credit Institutions, these had been disincorporated in 1952 from Deutsche Bank which was founded in 1870. The merger and the name were entered in the Commercial Register of the District Court Frankfurt am Main on 2 May 1957. Deutsche Bank is a banking institution and a stock corporation incorporated under the laws of Germany under registration number HRB 30 000 at the local court in Frankfurt am Main.

Deutsche Bank has its registered office in Frankfurt am Main, Germany. It maintains its head office at Taunusanlage 12, 60325 Frankfurt am Main branch offices in Germany and abroad including in London, New York, Sydney, Tokyo and an Asian Pacific head office in Singapore which serve as hubs for its operations in the respective regions.

Deutsche Bank is the parent company of a group consisting of banks, capital market companies, fund management companies, a real estate finance company, instalment financing companies, research and consultancy companies and other domestic and foreign companies (the **Deutsche Bank Group**).

Deutsche Bank AG, London Branch is the London branch of Deutsche Bank. On 12 January 1973, Deutsche Bank filed the documents required in the United Kingdom pursuant to Section 407 of the Companies Act 1948 to establish a place of business within Great Britain. On 14 January 1993, Deutsche Bank registered under Schedule 21A to the Companies Act 1985 as having established a branch (Registration No. BR000005) in England and Wales.

Deutsche Bank AG, London Branch is an authorised person for the purposes of Section 19 of the Financial Services and Markets Act 2000. In the United Kingdom, it conducts wholesale banking business and through its Private Wealth Management division, it provides holistic wealth management advice and integrated financial solutions for wealthy individuals, their families and selected institutions.

As of 31 March 2018, Deutsche Bank's subscribed capital amounted to €5,291 million consisting of 2,065 million ordinary shares without par value. The shares are fully paid up and in registered form. The shares are listed for trading and official quotation on all Germany Stock Exchanges. They are also listed on the New York Stock Exchange.

As of 31 March 2018, Deutsche Bank Group had total assets of €1,477,735 million, total liabilities of €1,409,710 million, and total equity of €68,025 million on the basis of IFRS (unaudited). As of 16 October 2018, Deutsche Bank's long-term senior debt has been assigned a rating of "BBB+" (outlook stable) by S&P, "A3" (outlook negative) by Moody's and "BBB+" (outlook negative) by Fitch (outlook negative).

### **Société Générale, London Branch**

Société Générale is a French limited liability company (*société anonyme*) having the status of a bank and is registered in France in the Trade and Companies Register of Paris under number 552120222. It has its registered office at 29 Boulevard Haussman, 75009 Paris, France and its head office at Tour S.G., 17, Cours Valmy, 97972 Paris La-Défense.



Société Générale is one of the leading financial services groups in Europe. Based on a diversified and well-balanced banking model, the group combines financial strength with a strategy of sustainable growth, putting its resources to work to finance the economy and its clients' plans. With a solid position in Europe and a presence in countries with strong potential, the group's 145,700 employees in 67 countries support 31 million individual customers, large corporates and institutional investors worldwide by offering a wide range of advisory services and financial solutions.

The group is built on three complementary core businesses:

- (a) French Retail Banking, which encompasses the Société Générale, Crédit du Nord and Boursorama brands. Each offers a full range of financial services with multi-channel products at the cutting edge of digital innovation;
- (b) International Retail Banking, Insurance, and Financial Services to Corporates, with networks in developing regions and specialised businesses that are leaders in their markets; and
- (c) Corporate and Investment Banking, Private Banking, Asset Management and Securities Services, which offer recognised expertise, key international locations and integrated solutions.

As of the date of this Offering Circular, Société Générale's long-term rating is A+ at Fitch, A at S&P, A2 at Moody's and A (high) at DBRS.

As Liquidity Facility Provider, Société Générale has acted through its London Branch, with registered address at 41 Tower Hill, London EC3N 4SG, United Kingdom.

## DESCRIPTION OF THE PROPERTY PORTFOLIO

*All of the information in this "Description of the Property Portfolio" section is current as at the Cut-Off Date.*

*The below description of the Property Portfolio is largely based on information obtained from the Sponsor, the Group and the Initial Valuation. Though parts of the information have been audited by external advisers, it cannot be excluded that minor discrepancies may exist, for example, as a result of rounding of numbers.*

### **Description**

The Property Portfolio consists of 89 properties located across three jurisdictions (France, Germany and the Netherlands) and comprises predominantly logistics, urban logistics and light-industrial properties, along with mixed-use and complementary office properties (each a **Property** and together the **Properties**). The Properties offer approximately 611,593 square metres of total lettable area which is currently let to 349 tenants with a physical occupancy of 90.7 per cent..

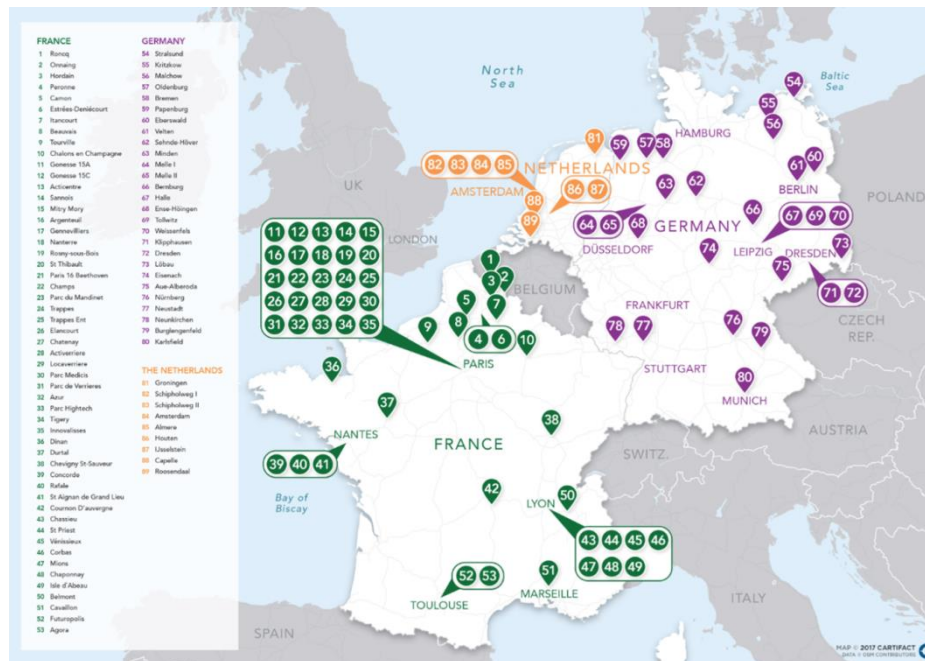
### **Location**

The Property Portfolio is well diversified across France, Germany and the Netherlands. With 53 Properties and 69.5 per cent. of market value, the Property Portfolio is dominated by French Properties, followed by 27 German Properties representing 23.1 per cent. of total market value. Only nine Properties are located in the Netherlands, with 7.5 per cent. of the Property Portfolio market value. 47.7 per cent. of the Property Portfolio's market value comprises logistics and light industrial assets.

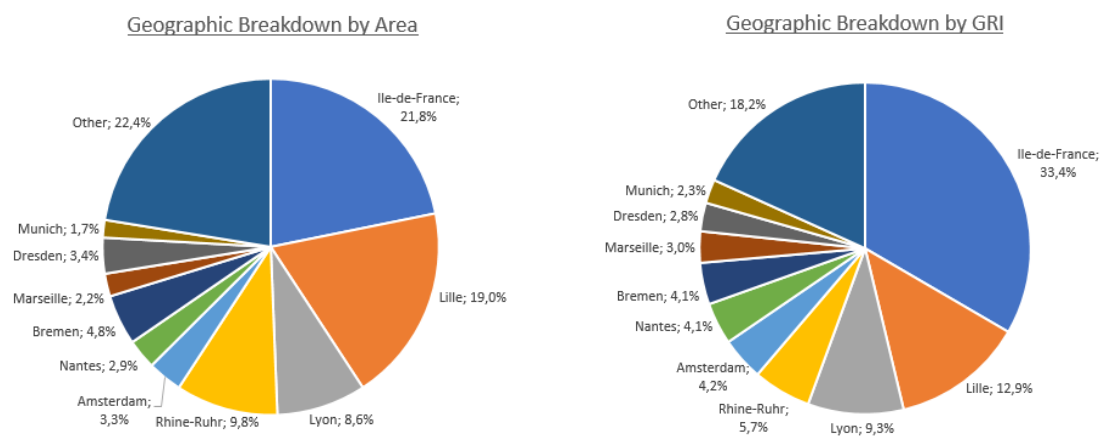
The majority of the Properties are located in the major French, German and Dutch logistics hub markets with 83.2 per cent. of value, 81.8 per cent. of gross rental income and 77.6 per cent. of lettable area located in the logistic hubs of Ile-de-France, Lyon, Lille, the Rhine-Ruhr area, Amsterdam, Nantes, Bremen, Marseille, Dresden and Munich.

The map below shows the location of the Properties for each jurisdiction:

### Property Portfolio: Locations



The graphs below show the geographic break down by area and total gross rental income (GRI):



Source of underlying data: Cushman & Wakefield, Sponsor

## Tenure

The majority of the Properties in the Property Portfolio are held freehold.

Tenure	Number of Properties	Area (m <sup>2</sup> )	Market value (€'000)	% of Market value	GRI (€'000)	% of GRI
Freehold .....	75	541,762	366,425	82.9%	28,402	84.6%
Co-Ownership .....	12	64,645	69,988	15.8%	4,745	14.1%
Freehold/Co-Ownership .....	2	5,185	5,573	1.3%	426	1.3%
<b>Total .....</b>	<b>89</b>	<b>611,593</b>	<b>441,986</b>	<b>100%</b>	<b>33,573</b>	<b>100%</b>

Source of underlying data: Cushman & Wakefield, Sponsor

## Property type and tenancy

The Property Portfolio consists of predominantly logistics (34.0 per cent. of market value, 46.7 per cent. of lettable area and 36.3 per cent. of gross rental income), light industrial (13.7 per cent. of market value, 16.9 per cent. of lettable area and 15.9 per cent. of gross rental income), urban logistics (15.7 per cent. of market value, 14.6 per cent. of lettable area and 14.2 per cent. of gross rental income), mixed-used (23.2 per cent. of market value, 16.3 per cent. of lettable area and 23.4 per cent. of gross rental income), offices (7.5 per cent. of market value, 3.9 per cent. of lettable area and 7.1 per cent. of gross rental income), school (3.9 per cent. of market value, 0.3 per cent. of lettable area and 2.4 per cent. of gross rental income) and redevelopment (2.0 per cent. of market value, 1.3 per cent. of lettable area and 0.6 per cent. of gross rental income) Properties.

The Property Portfolio comprises 47 single-let Properties (44.8 per cent of gross income rental) and 42 multi-let Properties (55.2 per cent of gross income rental). Single-let assets benefit from higher physical occupancy of 93.2 per cent (versus 88.2 per cent for the multi-let portion) and longer WALT/B of 6.3/3.5 years.

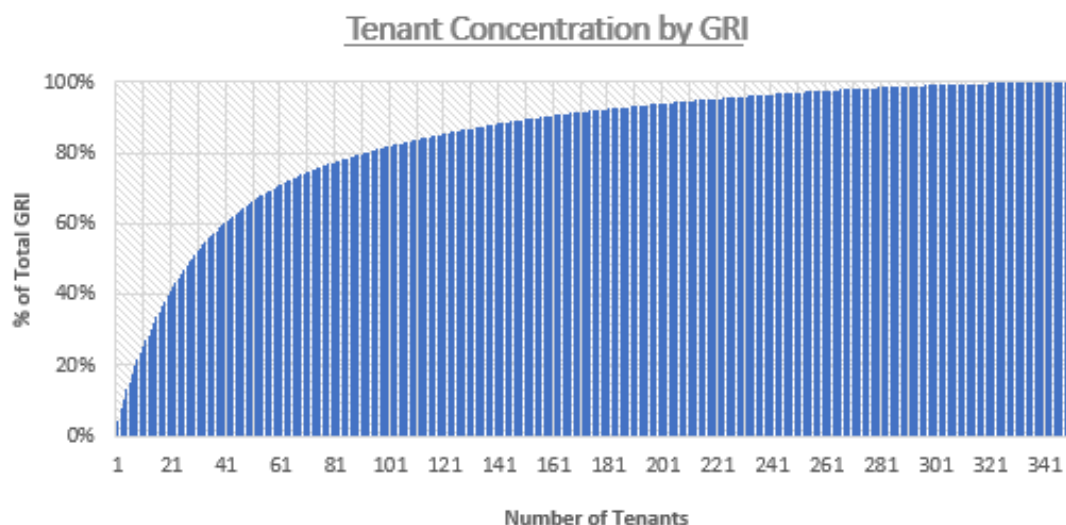
	Number of Properties	Area (m <sup>2</sup> )	Market value (€'000)	% of Market value	GRI (€'000)	% of GRI	WALT	WALB
Single-Let	47	305,311	193,264	43.7%	15,028	44.8%	6.2Y	3.4Y
Multi-Let	42	306,282	248,722	56.3%	18,545	55.2%	4.4Y	1.8Y
<b>Total</b>	<b>89</b>	<b>611,593</b>	<b>441,986</b>	<b>100%</b>	<b>33,573</b>	<b>100%</b>	<b>5.2Y</b>	<b>2.5Y</b>

The physical vacancy rate of the Property Portfolio is approximately 9.3 per cent. The Property Portfolio benefits from a diversified granular tenant base and is let to 349 tenants.

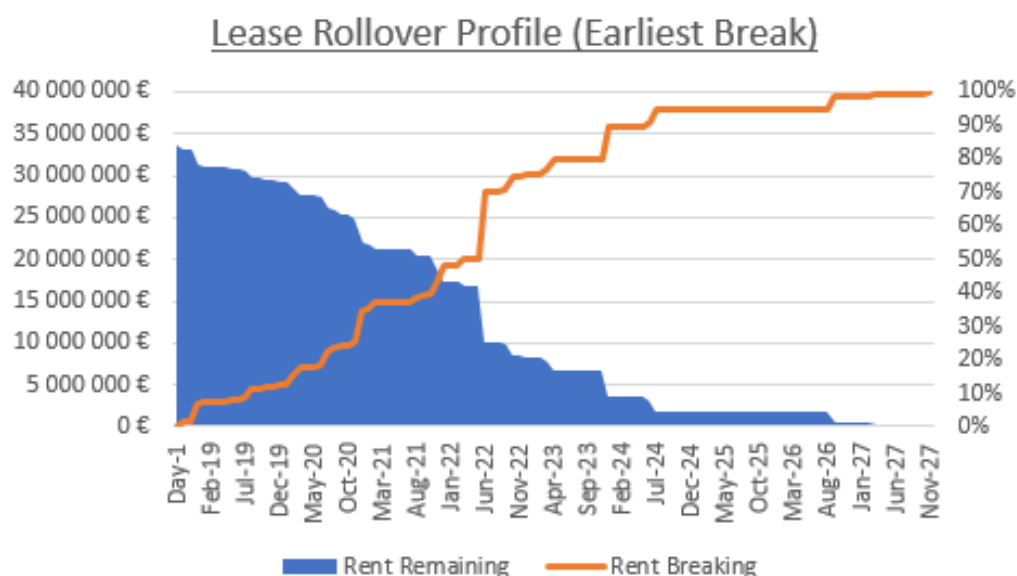
The Property Portfolio is well diversified with the top 10 tenants accounting for 25.2 per cent of the total GRI (EUR 8.5m) and the rest of the risk is distributed among a number of smaller tenants of which none contributing more than 1.7 per cent of GRI. The top 50 tenants account for 66.3 per cent (EUR 22.3m).

The weighted average unexpired lease term (**WALT**) of the Property Portfolio is 5.2 years (weighted by income) and the weighted average lease term to first break (**WALB**) is 2.5 years.

The charts below show the tenants' contribution to the Property Portfolio GRI and rent roll over profile assuming all break options are exercised:



Source of underlying data: Cushman & Wakefield, Sponsor



Source of underlying data: Cushman & Wakefield, Sponsor

The table below shows the top 10 Properties (by market value).

Country	Hub	Property	Property Type	# of Tenants	Market value (€'000)	Lease area (m <sup>2</sup> )	Rent (€'000)
France	IdF	Parc Medicis	Mixed-Use	14	22,476	13,984	1,568
France	IdF	Paris Beethoven	16 School	1	17,082	2,032	818
France	IdF	Gennevilliers	Mixed-Use	6	16,346	9,637	1,026
France	Lille	Hordain	Logistics	5	15,790	31,777	1,185
France	IdF	Parc de Verrieres	Mixed-Use	36	15,712	13,144	1,188
Germany	Munich	Karlsfield	Urban Logistics	12	13,900	10,346	780
Germany	Bremen	Oldenburg	Mixed-Use	1	13,100	16,805	1,159
Germany	Rhine-Ruhr	Melle II	Logistics	6	10,200	25,782	582
France	IdF	Parc du Mandinet	Light Industrial	39	10,151	12,043	786
France	Lille	Itancourt	Logistics	1	10,121	18,000	886
				<b>125</b>	<b>144,878</b>	<b>154,329</b>	<b>10,041</b>

Source of underlying data: Cushman & Wakefield, Sponsor

The table below shows top 10 tenants (by current passing rent).

Tenant	Current passing rent		Lease area		WALB
	EUR'000	% of total	m <sup>2</sup>	% of total	Years
Trans-o-flex Schnell-Lieferdienst ....	1,525	4.5%	28,447	4.7%	3.8
Dipl. Betriebswirt U. Zimmer .....	1,159	3.5%	16,805	2.7%	3.8
Cereal Partners France .....	886	2.6%	18,000	2.9%	4.0
The International School of Paris.....	818	2.4%	2,032	0.3%	2.0
Carrefour Supply Chain .....	793	2.4%	10,153	1.7%	0.4
NTG Logistics GmbH.....	762	2.3%	20,699	3.4%	2.3
STEF .....	687	2.0%	9,334	1.5%	0.5
ID Logistics.....	625	1.9%	23,058	3.8%	2.1
Bollore .....	621	1.8%	13,800	2.3%	2.6
Docapost DPS .....	585	1.7%	8,476	1.4%	0.6
	<b>8,461</b>	<b>25.2%</b>	<b>150,804</b>	<b>24.7%</b>	<b>2.5</b>

Source of underlying data: Cushman & Wakefield, Sponsor

**Market rental value**

The Property Portfolio is currently 3.1 per cent. under-rented. The average Property Portfolio market rent is EUR 57.4/m<sup>2</sup> (based on total area), resulting in a potential market rent of EUR 35,094,782 per annum.

**Market value**

According to the Initial Valuation, the market value of the Properties as at 30 June 2018 was €441,986,000.

## MANAGEMENT AND ADMINISTRATION OF THE PROPERTIES

### Overview

As at the date of this Offering Circular, the Senior Obligors have advised the Loan Sellers that there are property management agreements in place in respect of all of the Properties. The intention of the Senior Obligors is to amend certain of these property management agreements. It is a condition subsequent under the Common Terms Agreement that the Senior Lenders are provided with a copy of each Initial Property Management Agreement and a Property Manager Duty of Care Agreement in respect of each such Initial Property Management Agreement within 90 days after the Senior Utilisation Date.

The terms described below reflect the existing terms of the property management agreements as at the date of this Offering Circular. There can be no guarantee that there will not be material deviations from the below, as the intention of the Senior Obligors is to amend the property management agreements.

In relation to 35 of the Properties, the existing property management agreements are not in the name of the Senior Obligor that owns such Property, and as such, the Senior Obligors have advised that their intention is to have these agreements novated to each relevant Senior Obligor that owns the Property to which each such agreement relates.

There are currently no Property Manager Duty of Care Agreements.

The Properties are managed by one of three Property Managers, depending on the jurisdiction in which a Property is located. By way of summary, the Property Manager:

- (d) for the French Properties will be Workman Turnbull SAS (the **French Property Manager**);
- (e) for the German Properties will be PRIAM Asset Management GmbH (the **German Property Manager**); and
- (f) for the Dutch Properties will be NTC Vastgoed Beheer B.V. (the **Dutch Property Manager**).

All of the property management agreements have the same general terms and conditions, with specific terms and conditions, relating to, among other things, duration of the contract and management fees, applicable to each property management agreement.

### French Property Management Agreements

#### *General – scope of duties*

The duties of the French Property Manager pursuant to each French Property Management Agreement include technical management, general care, maintenance and budgeting. The French Property Manager has responsibilities in, among other things:

- (a) providing accounting services, managing landlord/tenant relationships, assistance with identifying and pursuing opportunities to enhance the value of the French Properties;
- (b) producing rent demands for all tenants, invoicing increases in rent arising through indexation, recovering outstanding monies when necessary;



- (c) inspecting the French Properties from time to time to report on any repairs, breaches of covenant and other matters relating to the relevant Property, liaising with the relevant technical manager in the provision of information and advice;
- (d) technical management, including general care, maintenance invoicing and rent collecting; and
- (e) managing relationship with property insurers and indemnity insurers, including notification of any relevant claims.

#### *Termination*

In the event that:

- (a) a party to a French Property Management Agreement commits a material breach of the agreement and, if capable of remedy, fails to remedy such material breach within 30 days written notice of the breach; or
- (b) the property owner transfers its interest in the Property,

the relevant French Property Management Agreement shall be terminated.

#### *Fees*

Fees are calculated using one of two methods:

- (a) as a percentage of annual rent invoiced, excluding VAT. Fees range from 1 per cent. of the annual rent (with a minimum of 750€) of a Property, up to 3 per cent. of the annual rent (with a minimum of up to 750€) of a Property; or
- (b) as a fixed annual fee ranging from €1080 to €8688, subject to increases.

#### *Governing law*

The French Property Management Agreements are governed by French law.

### **Dutch Property Management Agreements**

#### *General – scope of duties*

The duties of the Dutch Property Manager pursuant to each Dutch Property Management Agreement include technical management, general care, maintenance and budgeting. The Dutch Property Manager has responsibilities in, among other things:

- (a) supplies and services, including verifying, paying and administering bills related to supplies and services, and monitoring the costs;
- (b) budgeting including drawing up annual budget for supplies and deliveries;
- (c) technical management, including general care, maintenance invoicing and rent collecting; and
- (d) receiving certain fees for the provision of the property management services.

### *Termination*

In the event that a party:

- (a) transfers ownership in a Property company to a third party or in the event that the shares in the owner will be transferred to a third party;
- (b) is declared bankrupt;
- (c) becomes insolvent; or
- (d) fails to fulfil its obligations under the agreement within 15 calendar days following the sending of a notice by registered mail requesting that the other party remedy its failure (and the party giving notice is itself not guilty of breaching the respective declarations, guarantees, warranties or agreements,

each other party is entitled to declare the relevant Dutch Property Management Agreement terminated.

A Dutch Property Management Agreement may also be terminated by either party without any reason after a 30 day notice period.

### *Fees*

The Dutch Property Manager will be paid fixed annual fees in the amount of €55,000 in aggregate for each of the Properties governed by it, excluding VAT.

### *Governing law*

The Dutch Property Management Agreements are governed by Dutch law.

## **German Property Management**

### *General – scope of duties*

The duties of the German Property Manager pursuant to the German Property Management Agreements include the commercial property management, technical property management, accounting and reporting. The German Property Manager has responsibilities in, among other things:

- (a) commercial property management, including tenant support, client support, property support, budgeting, preparing annual reports, preparing monthly reports, contracting and cancelling services, managing deposits, managing billing of running and heating costs and insurance management;
- (b) technical property management reporting, including maintenance and service contracts, property documentation, maintenance and construction works and following up warranties in the case of normal repairs;
- (c) accounting, including object accounting, collection of rentals and additional charges, adjustment of rentals and additional charges, debt enforcement and day-to-day accounting; and
- (d) reporting, including report property management and budgets.

### *Termination*

The relevant Propco or the German Property Manager may terminate a German Property Management Agreement by not less than two months' written notice prior to the expiry of the 12-month minimum term. A German Property Management Agreement will also be terminated if, among other things, a party to the agreement:

- (a) is in material breach of contract;
- (b) violates any fundamental obligation under the contract;
- (c) fails to remedy any material breach or material default within a specified period;
- (d) is insolvent or if insolvency proceedings have been applied for;
- (e) is in default of payment; or
- (f) undergoes a change of control.

### *Fees*

The Property Manager will receive annual fees amounting to 2 per cent. of the net annual rent of the Properties, excluding VAT.

### *Governing law*

The German Property Management Agreements are governed by German law.

## **Operational Management Agreement**

As at the date of this Offering Circular, the Senior Obligors have advised the Loan Sellers that they will enter into an operational management agreement (the **Operational Management Agreement**) in respect of all of the Properties. The Operational Management Agreement constitutes an asset management agreement for the purposes of the Common Terms Agreement and it is a requirement under the Common Terms Agreement that the Senior Loan Facility Agent be provided with a copy of any asset management agreement within five business days of the Senior Obligors entering into it. As at the date of this Offering Circular, the operational manager is ISELF S.à r.l. (the **Operational Manager**).

The terms described below reflect the draft terms of the Operational Management Agreement as at the date of this Offering Circular. There can be no guarantee that there will not be material deviations from the below, as such agreement has not yet been entered into.

Pursuant to the draft Operational Management Agreement, the Operational Manager agrees to provide general operational management services, including (among others): (i) recommendations with regards to investments, dispositions and potential acquisitions and the implementation of a business plan; and (ii) advising on capex, marketing, promoting, budgets and assisting with the preparation of reports and materials in relation to any financings.

The Operational Manager will not be able to carry out a number of material actions without a delegation of authority. Such material actions that require prior written consent from the relevant Propco include (but are not limited to):

- (a) discussions regarding rent reviews;

- (b) any redevelopment, refurbishment or capex;
- (c) initiation or defence of litigation;
- (d) borrowing of any amounts;
- (e) operations of accounts linked to a Property; and
- (f) settlement of any tax liability.

### *Termination*

Either party is able to terminate the Operational Management Agreement if the other party commits a material breach of the Operational Management Agreement, which, if capable of being remedied, is not remedied within 30 days' written notice of the breach. Both parties also have a no cause termination right to terminate the Operational Management Agreement at any time on 120 days' notice (90 days if it is in the first 18 months of the Operational Management Agreement).

The Operational Management Agreement may be terminated by the relevant Propco if the Operational Manager:

- (a) is insolvent or if insolvency proceedings have been applied for ;
- (b) commits gross negligence, fraud or wilful misconduct; or
- (c) undergoes a change of control.

The Operational Manager is able to terminate the agreement: (i) upon insolvency of the relevant Propco; or (ii) if the relevant Propco ceases to be an affiliate of the Sponsor.

In addition, the Senior Loan Facility Agent is able to terminate the agreement if any of the shares in the relevant Propco (or its Affiliates) become the subject of an enforcement action.

### *Fees*

The Operational Manager will receive certain fees for the provision of the operational manager services. These comprise of:

- (a) an Acquisition Fee;
- (b) an Incentive Fee; and
- (c) a Management Fee.

The **Acquisition Fee** shall be an ad hoc fee of 1 per cent. of the purchase price of an investment opportunity that was introduced by the Operational Manager.

The **Incentive Fee** shall be €1,250,000 (at the end of the first and second anniversaries of the effective date of the Operational Management Agreement) and is discretionary upon certain rental income thresholds being met within the first two years of the effective date of the Operational Management Agreement, being 30 June 2018.

The **Management Fee** shall be an annual fee of 7 per cent. of the overall rental income for each Property.

The Operational Management Agreement is governed by English law.

There is no duty of care agreement in respect of the Operational Management Agreement.

## THE ORIGINATION AND DUE DILIGENCE PROCESS

### Origination of the Senior Loan

The Loan Sellers have internal policies and procedures in relation to the granting of credit, administration of credit risk-bearing portfolios and risk mitigation. The policies and procedures of the Loan Sellers in this regard broadly include the following:

- (a) criteria for the granting of credit and the process for approving, amending, renewing and re-financing credits;
- (b) systems in place to administer and monitor the various credit risk-bearing portfolios and exposures; and
- (c) policies and procedures in relation to risk mitigation techniques.

### Due diligence process

In connection with the origination of the Senior Loan, the Loan Sellers evaluated the Property Portfolio by:

- (a) instructing its solicitors to review the Legal DD Reports (as defined below) delivered in connection with the Senior Loan;
- (b) instructing its solicitors to review the Vendor Legal DD Reports (as defined below) delivered in connection with the Senior Loan;
- (c) instructing its solicitors to review the Tax Red Flag Report dated 10 August 2018 prepared by Darrois Villey Maillot Brochier (the **Tax Red Flag Report**) and the tax due diligence report dated 22 May 2018 prepared by a report provider (the **Tax DD Report**);
- (d) reviewing the financial due diligence report dated 23 May 2018 prepared by a report provider in respect of the Group (the **Financial DD Report**);
- (e) reviewing the Tax Structure Paper;
- (f) reviewing the technical due diligence reports dated 13 April 2018 prepared by Arcadis and the "Vendor Technical Due Diligence Report" dated January 2018 prepared by Turnbull Associés and Nova Consulting in respect of the Properties (the **Technical DD Reports**);
- (g) reviewing the environmental due diligence reports dated 14 May 2018 prepared by Ambiente Ltd. (the **Ambiente Report**) and the "Vendor Environmental Due Diligence Reports" dated March 2018 prepared by RPS Group Plc in respect of the Properties (the **Vendor Environmental DD Reports** and together with the Ambiente Report the **Environmental DD Reports**); and
- (h) instructing Cushman & Wakefield to value the Properties (as to which see the Initial Valuation which is incorporated by reference into this Offering Circular).

## The legal and vendor due diligence

The Loan Sellers' solicitors reviewed the following reports delivered in connection with the Senior Loan:

- (a) the "Project Spear Legal Due Diligence Report" dated 28 May 2018 (including all schedules thereto and the responses received by Allen & Overy LLP to the questions raised on the report) and prepared by Hengeler Mueller Partnerschaft von Rechtsanwälten mbB (the **Hengeler Legal DD Report**);
- (b) the "Red Flag Legal Due Diligence Report" dated 11 May 2018 prepared by DLA Piper (the **DLA Legal DD Report**);
- (c) the "Red Flag Due Diligence Report" dated 5 September 2018 prepared by Attal & Associés notary firm (the **Attal Legal DD Report**);
- (d) the "Legal Issues Due Diligence Report" dated 9 May 2018 prepared by Loyens & Loeff (the **Loyens Legal DD Report**); and
- (e) the "Due Diligence Report in Executive Summary Form" dated 4 June 2018 prepared by Elvinger Hoss Prussen (the **EHP Corporate DD Report**),

(together, the **Legal DD Reports**).

The Loan Sellers' solicitors also reviewed the following reports prepared for the Vendor:

- (a) the "Vendor Legal Due Diligence Reports" dated 9 May 2018 prepared by Franklin & Lasaygues (the **Franklin Legal DD Report**);
- (b) the second draft of the "Project Spear Overview Report Germany" dated 3 May 2018 prepared by Hogan Lovells International LLP (the **Hogan Lovells Report**) ((including its appendices providing reports on title for each German Property) (each a **Hogan Lovells Report on Title**));
- (c) the "Arendt Red Flag Legal Due Diligence Report" dated 9 May 2018 prepared by Arendt & Medernach (the **Arendt Corporate DD Report**); and
- (d) the "Vendor Legal Due Diligence Reports" dated 30 April 2018 prepared by Loyens & Loeff (the **Loyens VDD Report**),

(together, the **Vendor Legal DD Reports**).

The review performed for the purposes of the Legal DD Reports and the Vendor Legal DD Reports was limited to the extent required to carry out certain verification exercises and reviews, which, by way of overview only, included the following core matters:

- (a) with respect to the Hengeler Legal DD Report:
  - (i) a review of certain leases with respect to the German Properties;
  - (ii) a review of land register excerpts in relation to the German Properties; and
  - (iii) a review of selected public law issues in relation to the German Properties;
- (b) with respect to the DLA Legal DD Report:

- (i) a review of corporate documentation and public searches in relation to the French Senior Obligors; and
  - (ii) a review of selected Lease Documents with respect to the French Properties;
- (c) with respect to the Attal Legal DD Report:
  - (i) a review of titles and land registry extracts with respect to the French Properties;
  - (ii) a review of town planning documents with respect to the French Properties; and
  - (iii) a review of the building permits with respect to the French Properties;
- (d) with respect to the Loyens Legal DD Report:
  - (i) a review of certain leases with respect to the Dutch Properties;
  - (ii) a review of land register excerpts in relation to the Dutch Properties; and
  - (iii) a review of zoning issues in relation to the Dutch Properties;
- (e) with respect to the EHP Corporate DD Report: review with respect to corporate documents (e.g. annual accounts, articles of association, minutes of the board, shareholders' resolutions, share and loan registers, service agreements, security documents) relating to IT 1 S.à r.l., GER LOG 1 S.A., GER LOG 4 S.A., GER LOG 5 S.A., GER LOG 6 S.A., GER LOG 7 S.A., GER LOG 8 S.A., GER LOG 9 S.A., IG Log A S.à r.l., IG Log B S.à r.l., IG LOG S.à r.l., IG Log 2 S.à r.l., IG Log 3 S.à r.l., IS EF One S.A. (now named IS EF One S.à r.l.), IS EF Two S.à r.l., Aberdonia France One S.à r.l., Aberdonia France Two S.à r.l., Aberdonia France A, BEL TOP S.à r.l., IT TOP S.à r.l., IS EF Three S.à r.l., INL Top S.à r.l., INL 1 S.à r.l., Aberdonia Holding S.à r.l., MPIT Lux 1 S.à r.l., MPIT Lux 2 S.à r.l. (the **Luxembourg Companies**) in order to identify material corporate law issues relevant to the acquisition;
- (f) with respect to the Arendt Corporate DD Report:
  - (A) review of the constitutional documentation and registers of the Luxembourg Companies, to identify any issue in relation to the existence, valid issuance of and valid title to the shares of the Luxembourg Companies and any transfer and other restrictions relevant to the acquisition; and
  - (B) review of Luxembourg financing documents to which the Luxembourg Companies are party, with particular reference to the following issues/provisions in relation thereto:
    - (i) existence of (a) the facility agreements entered into by the Luxembourg Companies and (b) the related Luxembourg security documents entered into by the Luxembourg Companies (the **Luxembourg Security Documents**);
    - (ii) completion of perfection formalities in relation to the Luxembourg Security Documents; and
    - (iii) transfer restrictions included in the Luxembourg Security Documents; and
- (g) with respect to the Franklin Legal DD Report, a review of the regulatory issues relating to the French SPPICAVs.



## **Financial and tax due diligence**

### *Financial DD Report*

The Financial DD Report relates to a review of trading of the Group at a consolidated portfolio level, i.e. the Aberdonia Portfolio, the MP1 Portfolio and the MP2 Portfolio, added together to present an aggregated income statement and balance sheet. The Financial DD Report focuses on the historical results for the financial years ended 31 December 2016 and 31 December 2017 and a review of the "Luxembourg Vendor Assistance Report" dated 17 April 2018 prepared by a report provider.

### *Tax DD Report*

The tax due diligence in the Tax DD Report was limited to key historic tax affairs and current tax attributes of the property holding entities in Germany, the Netherlands, Belgium and Luxembourg. It covered real estate transfer tax, corporate income tax, trade tax (in Germany), VAT as well as certain local property taxes. For Germany and Belgium, it covered all financial years still open for audit whereas for the Netherlands it covered the 2015 financial year onwards and for Luxembourg the 2013 financial year onwards. The tax due diligence in the Tax Red Flag Report was limited to corporate income tax, real estate transfer tax, VAT (limited to VAT election), 3 per cent. tax and local taxes (property tax, annual tax on office space and additional tax on parking lot spaces, tax on the creation of office spaces). A number of entities within the French Senior Borrower group were merged in previous fiscal years and such entities were not covered in the Tax Red Flag Report (see further under "*Risk Factors – Considerations relating to the Property Portfolio – Limited due diligence in relation to Properties*").

### *Tax Structure Paper*

The Tax Structure Paper relates to the acquisition of the Aberdonia Portfolio as well as the Mistral Portfolio by way of share deals. It addresses certain possible tax consequences of these acquisitions relevant to investors and lenders (such as the Issuer), including those relevant to the ongoing tax position of the property holding entities after the acquisitions. This report covered Germany, the Netherlands, France, Belgium and Luxembourg.

## **The non-legal due diligence**

### *Initial Valuation*

Cushman & Wakefield prepared the Initial Valuation (dated 11 September 2018 with the valuation date of 30 June 2018). The Initial Valuation concluded that the market value of the Property Portfolio as at 30 June 2018 was €441,986,000.

The market value was determined in accordance with the RICS Valuation – Professional Standards (the RICS Red Book).

For further details, see the section entitled "*Risk Factors – Considerations relating to the Property Portfolio – Limitations of valuations*".

### *Technical DD Report*

Arcadis identified missing information in respect of the Vendor Technical DD Reports. The scope of the Vendor Technical DD Reports (subject to certain gaps identified by Arcadis) included an assessment of building permits, building conditions, fire and life safety installations, energy performance certificates, ICPE and the five-year capital expenditure budgets in relation to the Properties.

Please see the section entitled "*Risk Factors – Considerations relating to the Property Portfolio – Property condition, technical assessments and environmental assessments*" for further details.

#### *Environmental DD Reports*

Ambiente prepared an executive summary of findings and identified missing information in respect of the Vendor Environmental DD Reports, and provided a resultant management action plan. The Vendor Environmental DD Reports contained phase 1 environmental desktop assessments with respect to the Properties. The Vendor Environmental DD Reports generally (subject to certain gaps identified by Ambiente) assessed risks relating to land quality, its current use, contamination, flooding and asbestos. Based on their findings, the Vendor Environmental DD Reports drew an overall risk classification for each site, which Ambiente summarised.

Please see the section entitled "*Risk Factors – Considerations relating to the Property Portfolio – Property condition, technical assessments and environmental assessments*" for further details.

## THE KEY CHARACTERISTICS OF THE COMMON TRANSACTION SECURITY

The obligations of the Senior Obligors under the Senior Finance Documents will be secured by the following security interests created under the Common Transaction Security Documents which are held by all Senior Finance Parties (in the case of accessory security rights) and the Common Security Agent only (in the case of non-accessory security rights).

### English law Common Transaction Security

The English Law Security Agreements comprise: (a) an assignment of rights, entered into by the Senior Obligors (other than the French Senior Obligors) in respect of the acquisition agreements, Insurance Policies governed by English law and Hedge Documents; and (b) an assignment of rights, entered into by the French Senior Obligors, in respect of Insurance Policies governed by English law and Hedge Documents.

Under the assignment of rights in respect of the acquisition agreements, Insurance Policies governed by English law and Hedge Documents, each Senior Obligor (other than a French Senior Obligor) assigned absolutely (subject to a proviso for re-assignment on redemption) in favour of the Common Security Agent, all of its rights under:

- (a) any contract of insurance taken out by it or on its behalf or in which it has an interest and all monies payable and all monies paid to it under or in respect of all such contracts of insurance;
- (b) any Hedging Agreement to which it is a party; and
- (c) each acquisition agreement to which it is a party. The Security created by this assignment is continuing security by each Senior Obligor (other than a French Senior Obligor) for the payment and satisfaction of all the Common Secured Obligations.

Under the assignment of rights under the assignment of rights in respect of the Insurance Policies governed by English law and Hedge Documents, each French Senior Obligor assigned absolutely (subject to a proviso for re-assignment on redemption) in favour of the Common Security Agent, all of its rights under:

- (a) any contract of insurance taken out by it or on its behalf or in which it has an interest and all monies payable and all monies paid to it under or in respect of all such contracts of insurance; and
- (b) any Hedging Agreement to which it is a party.

The Security created by this assignment is continuing security by each French Senior Obligor for the payment and satisfaction of all its present and future payment obligations and liabilities (whether actual or contingent and whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by that French Senior Obligor or by some other person), due by that French Senior Obligor, as applicable as Senior Borrower and/or Senior Guarantor, to any Senior Facility Creditor under each of the Senior Finance Documents, each as amended, varied, supplemented or novated from time to time, including, without limitation, any increase of principal or interest and any extension of maturity, novation, deferral or extension of such liabilities, in each case, together with any and all liabilities for damages or restitution in relation to the foregoing, subject to the limitations set out in the Common Terms Agreement.

## German law Common Transaction Security

The following German law security agreements were entered into:

- (a) a German New Land Charge dated 13 September 2018 (with a corresponding German Security Agreement dated 19 September 2018) over each Property located in Germany. Each Luxembourg Senior Borrower (other than the Lux Dutch Propco) as owners of the German Properties granted, in favour of the Common Security Agent, a non-certificated comprehensive land charge (*Gesamtbuchgrundschuld*) in the nominal amount of EUR100,500,000.00 plus 16 per cent. per annum *in rem* interest (on the amount of the land charge) and a 10 per cent. one-time ancillary payment over the Properties. The registration of such German New Land Charge is in process but has not been completed yet. The German New Land Charge is granted in connection with the *in rem* submission to immediate enforcement (*dingliche Zwangsvollstreckungsunterwerfung*) and the personal assumption of debt (*Übernahme der persönlichen Haftung*) in the amount of the relevant German New Land Charges.

In relation to the German New Land Charges, the German Security Agreement has been entered into between each Luxembourg Senior Borrower (other than the Lux Dutch Propco) and the Common Security Agent pursuant to which the German New Land Charge secures any and all present and future claims (whether actual or contingent and whether owned jointly or severally or in any other capacity whatsoever and whether originally incurred by a Senior Transaction Obligor or by some other person) of any of the Senior Finance Parties against any of the Senior Transaction Obligors under or in connection with the Senior Finance Documents irrespective of their legal nature. The German Security Agreement also provides for the assignment by the German Property Companies to the Common Security Agent of all redemption and deletion claims (*Löschungs- und Rückgewähransprüche*) in respect of prior or equally ranking land charges. The German Security Agreement contains customary covenants in relation to the Properties, such as notice obligations in case of third party enforcement actions or events which adversely affect the security;

- (b) pledges over each of the bank accounts held in Germany pursuant to the German Account Pledge Agreement dated 19 September 2018 (the **German Account Pledge Agreement**). Each Luxembourg Senior Borrower (other than the Lux Dutch Propco) pledged the bank accounts held by them in Germany to the Common Security Agent (as security agent and pledgee), the other Senior Finance Parties (as pledgees) and the Mezzanine Finance Parties (as pledgees) pursuant to the German Account Pledge Agreement. Each Luxembourg Senior Borrower (other than the Lux Dutch Propco) has undertaken to use best endeavours to procure that each Senior Obligor Account Bank releases any existing lien, including, without limitation, any pledge existing by operation of its general business conditions (*Allgemeine Geschäftsbedingungen*), and waives any right of set-off and right of retention in respect of the bank accounts. The German Account Pledge Agreement contains customary covenants in relation to the security, such as further assurance undertakings regarding the creation, of the security, notice obligations in case of third party enforcement actions or events which adversely affect the security. In case new accounts are opened in Germany, the relevant pledgor must promptly notify the Common Security Agent;
- (c) the German Global Assignment Agreement dated 19 September 2018 between each Luxembourg Senior Borrower (other than the Lux Dutch Propco), IG Log 2 S.à r.l., IG Log 3 S.à r.l. and IG Log B S.à r.l. as assignors and the Common Security Agent as assignee was entered into in relation to certain German law governed receivables of the assignors including, without limitation, rights and claims under: (i) any asset management agreement; (ii) any Property Management Agreement; (iii) any sales contract; and (iv) any property development and construction agreement; and

- (d) the German Rental Assignment Agreement dated 19 September 2018 between each Luxembourg Senior Borrower (other than the Lux Dutch Propco) and the Common Security Agent as assignee in relation to rental income under agreements for lease in respect of the German Properties (the **German Rental Assignment Agreement**).

The German Security Trust Agreement was entered into on 19 September 2018, under which the Common Security Agent is appointed and the trust is created under which it holds the German law governed Common Transaction Security on trust (the **German Security Trust Agreement**). On the Closing Date, the Issuer will accede to the German Security Trust Agreement. The Common Security Agent is acting pursuant to the German Security Trust Agreement according to which any and all German law governed non-accessory Common Transaction Security, any parallel obligations granted in favour of the Common Security Agent pursuant to the German Security Trust Agreement and any German law governed accessory Common Transaction Security granted to secure, *inter alia*, such parallel obligations, has been granted or transferred to the Common Security Agent for the purpose of being held by the Common Security Agent on trust, as security for the Senior Secured Liabilities. The Common Security Agent holds and administers such German law governed Common Transaction Security for the benefit of the Senior Finance Parties.

#### **Dutch law Common Transaction Security**

The following Dutch law security agreements were entered into:

- (a) the Dutch pledge of rights, insurances and bank accounts dated 19 September 2018, under which each Dutch Senior Obligor and the Lux Dutch Propco granted to the Common Security Agent a disclosed pledge over all its present and future rights under or in connection with any bank account, insurance, intercompany receivable or agreement (including any lease receivables) specified in the pledge, and an undisclosed pledge over all its rights;
- (b) the Dutch share pledge dated 18 September 2018, under which each shareholder of a Dutch Senior Obligor granted to the Common Security Agent a disclosed pledge over its shares held in the capital of the relevant Dutch Senior Obligor; and
- (c) a Dutch mortgage deed dated 18 September 2018 under which each Dutch Senior Borrower and Lux Dutch Propco granted to the Common Security Agent a mortgage over each Dutch Property owned by it.

#### **Luxembourg law Common Transaction Security**

The following Luxembourg law security agreements were entered into by:

- (a) each Luxembourg Senior Obligor granted an account pledge dated 19 September 2018, in favour of the Common Security Agent, over all monies, claims etc. held, deposited in or standing to the credit of any account held by the relevant Luxembourg Senior Obligor (the **Luxembourg Account Pledges**);
- (b) each Luxembourg Senior Obligor granted a receivables pledge dated 19 September 2018, in favour of the Common Security Agent, over the receivables owed by them to each other, including, without limitation, under certain intra-group loan agreements;
- (c) the Senior Company and Spear GP (Bidco) S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Spear Bidco SCA;

- (d) Spear Bidco SCA granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Aberdonia Holding S.à r.l., IS EF One S.à r.l., MPIT Lux 1 S.à r.l. and MPIT Lux 2 S.à r.l.;
- (e) IS EF One S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IS EF Two S.à r.l. and IS EF Three S.à r.l.;
- (f) IS EF Three S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in INL Top S.à r.l.;
- (g) INL Top S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in INL 1 S.à r.l.;
- (h) IS EF Two S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IT Top S.à r.l., Aberdonia France One S.à r.l. and Aberdonia France A S.à r.l.;
- (i) IT Top S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IT 1 S.à r.l.;
- (j) Aberdonia France One S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Aberdonia France Two S.à r.l.;
- (k) Spear Investment 2018 Pledgeco S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Spear Investment 2018 Holdco S.à r.l.;
- (l) Spear Investment 2018 Holdco S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IG Log A S.à r.l.;
- (m) IG Log A S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IG Log B S.à r.l.;
- (n) Spear German 2018 Pledgeco S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Spear German 2018 Holdco S.à r.l.;
- (o) Spear German 2018 Holdco S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IG Log S.à r.l.;
- (p) IG Log S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in IG Log 2 S.à r.l. and IG Log 3 S.à r.l.;
- (q) IG Log B S.à r.l. and IG Log 2 S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Ger Log 1 S.à r.l., Ger Log 4 S.à r.l., Ger Log 5 S.à r.l., Ger Log 6 S.à r.l., and Ger Log 7 S.à r.l.;
- (r) IG Log B S.à r.l. and IG Log 3 S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, over the shares each owns in Ger Log 8 S.à r.l. and Ger Log 9 S.à r.l.

## French law Common Transaction Security

The following French law security agreements were entered into by:

- (a) each French Senior Borrower, each OPCI, MPIT France 2 SCI granted an account pledge (*nantissement de comptes bancaires*) dated 19 September 2018, in favour of the Senior Finance Parties, in respect of each of its Senior Control Accounts located in France;
- (b) each French Senior Borrower granted a master agreement dated 19 September 2018, in favour of the Senior Finance Parties, for the assignment of receivables by way of security (*Cession de créances professionnelles à titre de garantie*) arising among others under any lease agreements and related guarantees, insurances governed by French law and Property Management Agreements governed by French law;
- (c) Mistral Properties 1 SPPICAV, MPITS 1 SCI, MPITS 2 SCI and MPITS 3 SARL granted a receivables pledge agreement dated 19 September 2018, in favour of the Senior Finance Parties, over any right and claims under the Senior Obligor cash management agreement;
- (d) Mistral Properties 2 SPPICAV, MPIT France 2 SCI, MPITS 21 SCI, MPITS 22 SCI and MPITS 23 SARL granted a receivables pledge agreement dated 19 September 2018, in favour of the Senior Finance Parties, over any right and claims under the Senior Obligor cash management agreement;
- (e) Aberdonia Properties SPPICAV, Digem SARL, Nescourt SCI, Industrial Securities Onnaing SAS, Paned SARL, IF Three Log 1 SCI, Chapelyon S.a r.l., Abervest SARL, S.L.P.1. SARL and SARL Innovalisses granted a receivables pledge agreement dated 19 September 2018, in favour of the Senior Finance Parties, over any right and claims under the Senior Obligor cash management agreement;
- (f) Aberdonia France Two S.à r.l. and each French Non-OPCI Borrower granted a receivables pledge agreement dated 19 September 2018, in favour of (i) with respect to Aberdonia France Two S.à r.l, the Senior Finance Parties and the Mezzanine Finance Parties and (ii) with respect to each French Non-OPCI Borrower, the Senior Finance Parties, over any right and claims under the Senior Obligor cash management agreement;
- (g) Aberdonia France Two S.à r.l. and Aberdonia France One S.à r.l. granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties and the Mezzanine Finance Parties, in respect of the shares in each French Non-OPCI Borrower;
- (h) each French Senior Borrower granted a French mortgage security over each French Property owned by it;
- (i) MPIT Lux 1 S.à r.l. granted a financial securities account pledge dated 19 September 2018, in favour of the Senior Finance Parties and the Mezzanine Finance Parties, in respect of the shares in Mistral Properties 1;
- (j) MPIT Lux 2 S.à r.l. granted a financial securities account pledge dated 19 September 2018, in favour of the Senior Finance Parties and the Mezzanine Finance Parties, in respect of the shares in Mistral Properties 2;
- (k) Mistral Properties 2 SPPICAV granted a share pledge dated 19 September 2018, in favour of the Common Security Agent, in respect of the shares in MPIT France 2 SCI;

- (l) Mistral Properties 1 SPPICAV granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of the shares in MPITS 3 SARL;
- (m) Mistral Properties 1 SPPICAV and MPITS 3 SARL granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of the shares in MPITS 1 SCI and MPITS 2 SCI;
- (n) Mistral Properties 2 SPPICAV and MPIT France 2 SCI granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of the shares in MPITS 21 SCI, MPITS 22 SCI and MPITS 23 SARL;
- (o) Aberdonia France Two S.à r.l. granted a financial securities account pledge dated 19 September 2018, in favour of the Senior Finance Parties and the Mezzanine Finance Parties, in respect of the shares in Aberdonia Properties SPPICAV;
- (p) Aberdonia Properties SPPICAV granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of the shares in S.L.P.1. SARL;
- (q) S.L.P.1. SARL granted a financial securities account pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of shares in Industrial Securities Onnaing SAS;
- (r) Aberdonia Properties and S.L.P.1. SARL granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of the shares in Nescourt SCI and IF Three Log 1 SCI; and
- (s) S.L.P.1. SARL granted a share pledge dated 19 September 2018, in favour of the Senior Finance Parties, in respect of shares in Digem SARL, Chapelyon S.a r.l., Abervest SARL, Paned SARL and SARL Innovalisses.

## **General**

The Senior Lenders and the Mezzanine Lenders (among others) both benefit from the Common Transaction Security, other than any French law Common Transaction Security which is granted for the benefit of the Senior Finance Parties only. However, the Mezzanine Lenders' ability to enforce the Common Transaction Security is limited by the terms of the Intercreditor Agreement. The Mezzanine Lenders also have the benefit of the Mezzanine Only Security – refer to "*Description of the Mezzanine Facility Agreement*" and "*Description of the Intercreditor Agreement*" for further details.

## **Enforceability**

The security under the Common Transaction Security Documents is expressed to be immediately enforceable if a Senior Loan Event of Default or a Mezzanine Loan Event of Default occurs and is occurring and, in respect of the (a) German Law Security Agreements, any of the Senior Secured Liabilities have become due and payable and (b) Dutch Law Security Agreements, there is a default in the performance of any of the Senior Secured Liabilities. The enforcement regime for the Common Transaction Security Documents is governed by the terms of the Intercreditor Agreement, as set out further in the section entitled "*Description of the Intercreditor Agreement – Enforcement action – Common Transaction Security – Enforcement of Common Transaction Security*".



## DESCRIPTION OF THE SECURITISED SENIOR LOAN SALE AGREEMENT

Pursuant to the terms of the Securitised Senior Loan Sale Documents, the each Loan Seller will sell (in the ordinary course of its business) and the Issuer will purchase, by way of assignment, a €292,700,000 interest in the Senior Loan (this is the Securitised Senior Loan) and all rights, title and interest of the relevant Senior Lender in respect thereof. Consequently, as and from the Closing Date, the Issuer will be a Senior Lender under the Common Terms Agreement (and will accede as such to the Intercreditor Agreement) and the French Facility Agreement.

### Consideration

The initial purchase consideration payable on the Closing Date by the Issuer to the Loan Sellers pursuant to the Securitised Senior Loan Sale Agreement will be approximately €146,350,000 to Société Générale, London Branch and €146,350,000 to Deutsche Bank AG, London Branch (the **Initial Consideration**).

In addition to the initial cash consideration:

- (1) the Issuer will, on the Closing Date, issue the Class X Notes to (or for the account or benefit of) each Loan Seller in an amount equal to the Proportionate Share of each Loan Seller of the principal amount of the Class X Notes (each Loan Seller will be free to deal with its Class X Notes); and
- (2) on each Note Payment Date, the Issuer will pay to the Loan Sellers or their respective assignee, to the extent that the Issuer has funds, an amount by way of Deferred Consideration for the purchase of the Securitised Senior Loan and the related Common Transaction Security in an amount equal to such Deferred Consideration Holder's Proportionate Share. The Deferred Consideration will be paid in accordance with the applicable Issuer Priority of Payments and will be an amount equal to the balance remaining after the application of funds in payment of all items ranking in priority under the relevant Issuer Priority of Payments.

The Loan Sellers will pay to the Issuer (to be deposited in the Issuer Transaction Account and credited to the Issuer Reserve Ledger) a fee in an amount equal to the Initial Issuer Reserve Amount on the Closing Date as consideration for the Issuer facilitating a securitisation.

See further "*Cashflow and Issuer Priorities of Payments*".

The Senior Loan Facility Agent will undertake to the Loan Sellers that it will, in accordance with the terms of the Common Terms Agreement, execute the Transfer Agreements on the Closing Date and that it will send a copy of the same to the Senior Company.

### *Withholding tax*

All payments made by the Issuer pursuant to the Securitised Senior Loan Sale Agreement shall be made free and clear of, and without withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature unless such withholding or deduction is required by applicable law. In that event, the Issuer shall make such payment after making such withholding or deduction, and shall account to the relevant authorities for the amount so required to be withheld or deducted. The Issuer will not be obliged to make any additional payments to the recipient.

All sums payable by the Issuer and by the Loan Sellers pursuant to the Securitised Senior Loan Sale Agreement will be made free of withholding tax unless otherwise required by law. In that event, the Issuer will make such payment after making the required withholding or deduction, and will not be

obliged to make any additional payments. The Loan Sellers will also make such payment after making the required withholding or deduction and will not be obliged to make any additional payments to the recipient save where the recipient is the Issuer, in which case the amount of the payment due to the Issuer will be increased to an amount which, after making such withholding or deduction, leaves an amount equal to the amount which would have been due if no such withholding or deduction had been required.

#### *VAT*

If VAT is properly chargeable in respect of a supply where the reverse charge provisions (pursuant to Section 12 of the Value Added Tax Consolidation Act 2010 of Ireland (as amended)) apply, the Issuer will account for such VAT to the relevant Tax Authority and the amount for which the Issuer accounts shall be deducted from the amount payable by the Loan Sellers pursuant to the Securitised Senior Loan Sale Agreement.

#### **Representations and warranties**

Neither the Issuer nor the Issuer Security Trustee has made any enquiries, searches or investigations of or in respect of the Senior Borrowers, any other Senior Obligor, the Securitised Senior Loan, the Common Transaction Security as it pertains to the Securitised Senior Loan, the sums receivable under or in respect of the Securitised Senior Loan or the Common Transaction Security, the terms and conditions of the Securitised Senior Loan or the Common Transaction Security, the creditworthiness or the suitability of the Senior Borrowers or the other Senior Obligors, in respect of the value, title or condition of the Property Portfolio or as to compliance with or the validity or enforceability of any of the Common Transaction Security. Each Loan Seller will give the representations and warranties on a several basis and only in relation to itself, and in respect of representations and warranties that relate to the Securitised Senior Loan, in respect of its Loan Seller Share only.

The Issuer and the Issuer Security Trustee will rely solely upon the representations and warranties given by each Loan Seller under the Securitised Senior Loan Sale Agreement.

Subject to the agreed exceptions, materiality qualifications and, where relevant, the general principles of law limiting the same, the representations and warranties to be given by the Loan Sellers, on a several basis, under the Securitised Senior Loan Sale Agreement will include (together, the **Loan Warranties**):

1. The Loan Seller's share of the Securitised Senior Loan carries a right to repayment of principal under the Common Terms Agreement in an amount not less than the Initial Consideration payable to that Loan Seller.
2. Interest is charged on the Loan Seller's Share of the Securitised Senior Loan at such a rate or rates as may be determined in accordance with the provisions of the Common Terms Agreement and the French Facility Agreement.
3. The Senior Loan has been advanced in full to the Senior Borrowers.
4. No Senior Lender is obliged, under the terms of the Common Terms Agreement and the French Facility Agreement, to make any further advance to the Senior Borrowers or any other party.
5. The Loan Seller has since the date of origination of the Senior Loan, kept full and proper accounts, books and records showing clearly all transactions, payments, receipts, proceedings and notices relating to its Loan Seller Share of the Senior Loan made or received by it and which are complete and accurate in all material respects.

6. Each Property is situated in Germany, France or the Netherlands.
7. So far as the Loan Seller is aware, no Senior Loan Event of Default or any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Senior Finance Documents or any combination of any of the foregoing) be a Senior Loan Event of Default which is material in the context of the issuance of the Notes has occurred and has not been cured or waived.
8. The Loan Seller is not aware (from any information received by it in the course of administering the Senior Loan without further inquiry) of any circumstances giving rise to a material reduction in the market value of the Properties since the funding date of the Senior Loan (other than market forces generally).
9. The Loan Seller is the sole legal and beneficial owner of its Loan Seller's Share of the Securitised Senior Loan and is the sole beneficial owner of its interest in the Common Transaction Security in so far as it pertains to its Loan Seller's Share of the Securitised Senior Loan, in each case free and clear of all encumbrances, claims and equities.
10. The Loan Seller is entitled, under the terms of the Common Terms Agreement and the French Facility Agreement and subject to the provisions for transfer as set out therein, to enter into the Securitised Senior Loan Sale Agreement, to execute and deliver a Transfer Agreement and to transfer its Loan Seller's Share of the Securitised Senior Loan (and its interest in the Common Transaction Security relating to the same) to the Issuer absolutely.
11. Prior to the advancing of the Senior Loan:
  - (a) the Loan Sellers commissioned a due diligence procedure which initially or after further investigation disclosed nothing which caused it to decline to proceed with the advance on its agreed terms; and
  - (b) the Loan Seller (having conducted the due diligence referred to in the section entitled "*The Origination and Due Diligence Process*") was not aware of any matter or thing affecting the title of the Senior Borrowers to any part of the Common Transaction Security which caused it to decline to proceed with the advance on its agreed terms.
12. To the best of the Loan Seller's knowledge (having made no investigation in respect thereof), no report on title given by a lawyer or a notary in connection with its origination of the Senior Loan was negligently or fraudulently prepared.
13. The Properties securing the Senior Loan were valued by an independent valuer prior to the advance of the Senior Loan.
14. To the best of the Loan Seller's knowledge (having made no investigation in respect thereof), the Initial Valuation was not fraudulently undertaken by the relevant valuer and such Initial Valuation did not fail to disclose any fact or circumstance which, if disclosed, would have caused the Loan Sellers to decline to proceed with its origination of the Senior Loan.
15. To the best of the Loan Seller's knowledge, the origination and advance of the Senior Loan and any relevant Common Transaction Security and the circumstances of the Senior Borrowers satisfied in all material respects the applicable parts of that Loan Seller's underwriting and lending criteria.
16. The Loan Seller has performed in all material aspects all of its obligations under or in connection with the Senior Loan and so far as such Loan Seller is aware the Senior Borrowers

have not taken or threatened to take any action against such Loan Seller, the Senior Loan Facility Agent or the Common Security Agent for any material failure on the part of the Loan Sellers, the Senior Loan Facility Agent or the Common Security Agent under or in respect of the Senior Loan to perform any such obligations.

17. The Loan Seller is not aware of any litigation or claim calling into question in any material way the Loan Seller's title to the Securitised Senior Loan or the Common Security Agent's title to any material part of the Common Transaction Security.
18. The Loan Seller has not received written notice of any default or forfeiture of any Lease granted in respect of any Property or of the insolvency of any tenant of any Property which would, in any case, render such Property unacceptable as security for the Senior Loan in the context of the applicable lending criteria.
19. Prior to making the initial advance under the Senior Loan, (i) no express recommendation was received by the Loan Seller from the Valuer in connection with its work on the Initial Valuation to carry out any further or additional environmental audit, survey or report of any Property which was not pursued, unless otherwise determined by such Loan Seller to not be necessary to perform prior to such origination or acquisition, and (ii) if any such environmental audit, survey or report was performed prior to such origination or acquisition, the results of any such environmental audit, survey or report which was procured by the Loan Sellers was made available to the Valuer in respect of the Initial Valuation.
20. The sale of the Securitised Senior Loan will occur in the ordinary course of the business of the Loan Seller and the Securitised Senior Loan does not relate to Irish land or buildings or any right over or interest in Irish land or buildings, or to any stocks or marketable securities of a company which is registered in Ireland.
21. The Senior Obligors had, as at the Senior Utilisation Date, subject to matters disclosed in the Reports, good and marketable title to the Properties.
22. On the basis of the legal opinions referred to in the Common Terms Agreement (where applicable) and the Legal DD Reports, (i) the Senior Loan constitutes a valid and binding obligation of, and is enforceable against, the respective Senior Obligors, and (ii) each German New Land Charge, Dutch mortgage and French mortgage security is a legal, valid, security interest to which it relates and constitutes a legal, valid and binding obligation of, and is enforceable against the relevant Senior Obligors, in each case subject to general principles of law limiting the same (including in relation to each German New Land Charge specifically subject to the registration of those German New Land Charges in each land register (*Grundbuch*) pertaining to the German Properties charged by such German New Land Charges) and assumptions with respect to certain relevant facts, as set out in the legal opinions referred to in the Common Terms Agreement.
23. So far as the Loan Seller is aware, the particulars of the related security have been perfected to the extent required in the Common Terms Agreement, save for the German New Land Charges which still have to be registered in each land register (*Grundbuch*) pertaining to the German Properties charged by such German New Land Charges in order to become effective.
24. To the best of the Loan Seller's knowledge, after using reasonable endeavours to procure the same, each Property is insured insofar as the same is required by the terms of the Common Terms Agreement. The Loan Seller has not received and (so far as the Loan Seller is aware) neither the Senior Loan Facility Agent nor the Common Security Agent has received written notice that any insurance policy is about to lapse on account of failure by the relevant entity maintaining such insurance policy to pay the relevant premium.

25. The Loan Seller has not received written notice and such Loan Seller is not aware of (without having made any specific enquiries) the bankruptcy, liquidation, receivership, administration or a winding-up or administrative order or dissolution made against any Senior Borrower or owner of a Property.
26. So far as the Loan Seller is aware, as at the Closing Date no amount of principal or interest due from the Senior Borrowers has at any time been overdue.

### **Remedy for Material Breach of Loan Warranty**

#### *Loan Sellers indemnity*

In the event of a Material Breach of Loan Warranty by a Loan Seller, the Loan Seller will, within 60 days (or such longer period not exceeding 90 days as the Issuer, the Servicer or the Special Servicer, as applicable, may agree) of receipt of written notice of the relevant Material Breach of Loan Warranty from the Issuer or the Servicer or, if at the relevant time the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer, remedy the matter giving rise to such breach of representation or warranty, if such matter is capable of remedy.

If a Material Breach of Loan Warranty is not capable of remedy or is not remedied within the specified period, the Loan Seller(s) will (subject to the proportionate share and the repurchase provisions below) be required to indemnify, on demand (such demand to be made by the Issuer, the Servicer or the Special Servicer, as applicable) the Issuer against all losses, claims, demands, taxes and all other expenses or other liabilities incurred by the Issuer as a result of such Material Breach of Loan Warranty by that Loan Seller, provided, however, that the aggregate amount of any such indemnities that may become due and payable (as quantified in certain circumstances as described below), whether with respect to one or more cases of a Material Breach of Loan Warranty, shall not (i) in aggregate, exceed an amount equal to the then outstanding principal balance of the Securitised Senior Loan, any accrued but unpaid interest thereon plus all other accrued but unpaid amounts relating to the Securitised Senior Loan (the **Aggregate Indemnity Amount**) and (ii) exceed, in respect of each Loan Seller, its Proportionate Share of the Aggregate Indemnity Amount. If a Material Breach of Loan Warranty occurs in respect of one Loan Seller only, then such Loan Seller only will indemnify the Issuer. If a Material Breach of Loan Warranty occurs in respect of both Loan Sellers, then each Loan Seller will indemnify the Issuer in a proportion equal to its Proportionate Share of the Aggregate Indemnity Amount.

To the extent such Material Breach of Loan Warranty relates to a Property, the losses, claims, demands, taxes and all other expenses or other liabilities referred to above will be quantified (and any amount of any indemnity that may become payable will be due) following the earlier of (A) the sale or other realisation of that Property, and (B) the date that falls three months prior to the Final Note Maturity Date. This restriction will not apply if the relevant Material Breach of Loan Warranty results in the relevant Property not being able to be sold.

Neither the Issuer nor the Issuer Security Trustee will have any claim in respect of any breach of any Loan Warranty that is not a Material Breach of Loan Warranty.

If:

- (a) a Loan Warranty relates to facts or circumstances which relate to the same subject matter as a warranty given under the Common Terms Agreement on the date of that agreement;
- (b) a Material Breach of Loan Warranty would arise as a result of those facts or circumstances; and

- (c) the relevant circumstances do not constitute a Senior Loan Event of Default by reason of the fact that the relevant Loan Warranty is qualified on its terms with reference to the knowledge and/or awareness of any Senior Obligor or other person,

then the existence of those facts and circumstances shall be deemed not to constitute a Material Breach of Loan Warranty for the purposes of the Securitised Senior Loan Sale Agreement.

A **Material Breach of Loan Warranty** means a breach of a Loan Warranty in any material respect where the facts and circumstances giving rise to that breach have a material adverse effect on the ability of the Issuer to make timely payment in full of its obligations under the Notes.

Any indemnity payable by the Loan Sellers pursuant to this section, will be payable by:

- (a) if the Material Breach of Loan Warranty to which such payment relates is due to a Material Breach of Loan Warranty by one Loan Seller (and that Loan Seller has not remedied the Material Breach of Loan Warranty) that Loan Seller only; and
- (b) if the Material Breach of Loan Warranty to which such payment relates is due to a Material Breach of Loan Warranty by both Loan Sellers:
  - (i) (and both Loan Sellers have not remedied the Material Breach of Loan Warranty) both Loan Sellers, each in an amount equal to its Proportionate Share of such aggregate indemnity payment; or
  - (ii) if one Loan Seller remedies the Material Breach of Loan Warranty and the other Loan Seller does not, by the Loan Seller that has not remedied the Material Breach of Loan Warranty,

and in each case, shall not in aggregate, exceed, in respect of a Loan Seller, its Proportionate Share of the Aggregate Indemnity Amount.

#### *Repurchase of the Securitised Senior Loan*

In the event that the Issuer or the Servicer or, if at the relevant time the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer makes a demand for indemnity in respect of a Material Breach of Loan Warranty, each Loan Seller will be entitled (but will not be obliged) as an alternative to the Loan Sellers being required to indemnify the Issuer, to repurchase the Securitised Senior Loan and the Common Transaction Security (the **Repurchase Option**) pertaining to it on a date not later than the second Senior Loan Payment Date following the demand by the Issuer, the Servicer or the Special Servicer (as applicable). Each Loan Seller will repurchase its Proportionate Share of the Securitised Senior Loan where the exercise of the Repurchase Option is due to a Material Breach of Loan Warranty by both Loan Sellers. The consideration payable in these circumstances will be an amount equal to (or equal to the Proportionate Share of the relevant Loan Seller of) the aggregate of (without duplication):

- (a) 100 per cent. of the then outstanding principal balance of the Securitised Senior Loan, any accrued but unpaid interest thereon plus all other accrued but unpaid amounts relating to the Securitised Senior Loan as at the date of repurchase;
- (b) any Break Costs which would be due to the Issuer from the Senior Borrowers in accordance with the Common Terms Agreement if the Securitised Senior Loan was prepaid in full on the repurchase date;

- (c) all other amounts due to the Issuer as a Senior Finance Party under the applicable Senior Finance Documents as at the repurchase date (excluding any Senior Loan Prepayment Fees which would otherwise be payable under the relevant Common Terms Agreement);
- (d) all fees, costs and expenses payable by the Issuer to the Servicer or the Special Servicer in respect of the Securitised Senior Loan;
- (e) any fees, costs and expenses incurred by any of the parties to the Issuer Transaction Documents in connection with the transfer of the Securitised Senior Loan and any related Common Transaction Security to the Loan Seller(s) following the service of a notice of breach of representation or warranty under the Securitised Senior Loan Sale Agreement; and
- (f) all fees, costs and expenses payable by the Issuer to any of the parties to the Issuer Transaction Documents (or properly owing to third parties in accordance with the Issuer Transaction Documents) upon the repayment or termination by the Issuer or any such party of the Notes or any Issuer Transaction Document,

(the **Repurchase Consideration**).

The Repurchase Consideration will be payable by both Loan Sellers, each in an amount equal to its Proportionate Share of such Repurchase Consideration (in consideration of the transfer to each Loan Seller of its respective Proportionate Share of the Securitised Assets).

*Joint action by Loan Sellers*

If a Material Breach of Loan Warranty relates to a breach of warranty by both Loan Sellers, then the Loan Sellers must jointly elect to either indemnify the Issuer or exercise the Repurchase Option. If the Loan Sellers cannot agree whether to indemnify the Issuer or exercise the Repurchase Option, then the Loan Sellers must both repurchase their respective Proportionate Share of the Securitised Assets. If a Material Breach of Loan Warranty relates to a breach by only one Loan Seller, then such Loan Seller must indemnify the Issuer.

**Retransfer of the Securitised Assets**

Under the terms of the Securitised Senior Loan Sale Agreement, if the Loan Sellers make full payment (not involving a repurchase pursuant to the provisions set out in the section entitled "*Remedy for Material Breach of Loan Warranty – Repurchase of the Securitised Senior Loan*" above) to the Issuer pursuant to any claim made in relation to a Material Breach of Loan Warranty, the Issuer shall, at the Loan Sellers' expense, reassign (or otherwise transfer by such other method as the Loan Sellers jointly may choose (subject to the application of applicable laws and the terms of the Common Terms Agreement)) to the Loan Sellers all such rights as the Loan Sellers may reasonably request against any third party which may enable the Loan Sellers to recover all or part of any such payment, provided that the Issuer shall not be obliged to effect such a reassignment or other transfer if it would prejudice the validity or enforceability of the Securitised Assets.

If only one Loan Seller makes full repayment to the Issuer pursuant to any claim made in relation to a Material Breach of Loan Warranty, the Issuer shall, at that Loan Seller's expense, reassign (or otherwise transfer by such other method as such Loan Seller may choose, subject to the application of applicable laws and the terms of the Common Terms Agreement) to such Loan Seller such rights as the Loan Seller may reasonably request against any third party which may enable the Loan Seller to recover all or part of any such payment provided that the Issuer shall not be obliged to effect such a reassignment or other transfer if it would prejudice the validity or enforceability of the Securitised Assets.

If a Loan Seller pays to the Issuer an amount in respect of any claim under the Securitised Senior Loan Sale Agreement and the Issuer subsequently recovers from a third party any sum in respect of the liability for such claim, the Issuer shall forthwith repay to that Loan Seller (and if a payment has been made by both Loan Sellers in relation to such claim, in such proportion as the original amount paid by the Loan Seller to the Issuer) so much of the amount paid by the Loan Seller(s) as does not exceed the sum recovered from the third party less all reasonable costs, charges and expenses incurred by the Issuer in recovering that sum from the third party (in such proportion as the original amount paid by the Loan Seller to the Issuer).

*Action to be taken jointly by the Loan Sellers*

If a Material Breach of Loan Warranty relates to a breach of warranty by both Loan Sellers:

- (a) where neither Loan Seller has remedied the relevant Material Breach of Loan Warranty pursuant to "*Remedy for Material Breach of Loan Warranty – Loan Sellers indemnity*" above, the Loan Sellers must, jointly, elect to either indemnify the Issuer pursuant to the same section or the repurchase the Securitised Assets pursuant to "*Remedy for Material Breach of Loan Warranty – Repurchase of the Securitised Senior Loan*". If the Loan Sellers cannot agree whether to indemnify the Issuer or repurchase the Securitised Assets, the Loan Sellers must both repurchase the Securitised Assets pursuant to "*Remedy for Material Breach of Loan Warranty – Repurchase of the Securitised Senior Loan*";
- (b) where one Loan Seller has remedied the relevant Material Breach of Loan Warranty pursuant to "*Remedy for Material Breach of Loan Warranty – Loan Sellers indemnity*" and the other Loan Seller has not, the Loan Seller that has not remedied the relevant Material Breach of Loan Warranty must indemnify the Issuer pursuant to the same section; and
- (c) it is not possible for one Loan Seller to elect to indemnify the Issuer pursuant "*Remedy for Material Breach of Loan Warranty – Loan Sellers indemnity*" and for the other Loan Seller to elect to repurchase the Securitised Assets pursuant to the same section.

If a Material Breach of Loan Warranty relates to a breach by only one Loan Seller (and such Loan Seller has not remedied the relevant Material Breach of Loan Warranty pursuant to "*Remedy for Material Breach of Loan Warranty – Loan Sellers indemnity*"), such Loan Seller must indemnify the Issuer pursuant to the same section.

**Loan Sellers as Senior Lenders of the Senior Retained Loan**

The Loan Sellers will agree with the Issuer that in respect of any amendment or waiver of any term of the Senior Finance Documents that requires the prior consent of all of the Senior Lenders under the Common Terms Agreement (see "*Description of the Common Terms Agreement – Amendments and waivers*" for further details), each Loan Seller will provide its consent to such matter, at the request of the Issuer, if the Issuer provides its consent to the same matter. Each Loan Seller will not otherwise reject or provide its consent to any request for consent under the Senior Finance Documents.

Each Loan Seller will not be required to provide its consent (and may reject the relevant request) if, as a result of providing such consent, the Senior Retained Loan and the Securitised Senior Loan will not at all times be treated equally for the purpose of the Senior Finance Documents and will not at all times have the same terms and conditions (unless each Loan Seller and the Issuer agree otherwise).

**Governing Law**

The Securitised Senior Loan Sale Agreement will be governed by English law.



## DESCRIPTION OF THE COMMON TERMS AGREEMENT

### Overview

The Common Terms Agreement is governed by English law. An overview of the principal terms of the Common Terms Agreement is set out below. To the extent that any reference is made to the Issuer giving consent, making calculations or exercising any other discretion under the Common Terms Agreement, that consent or other discretion will be exercised by the Servicer (or Special Servicer as the case may be) in accordance with the terms of the Servicing Agreement.

The Senior Loan comprises the Securitised Senior Loan and the Senior Retained Loan. The Issuer, pursuant to the terms of the Securitised Senior Loan Sale Documents, will purchase the Securitised Senior Loan from the Loan Sellers. Consequently, as and from the Closing Date, the Issuer will be a Senior Lender under the Common Terms Agreement and the French Facility Agreement (and will accede as such to the Intercreditor Agreement). On the Closing Date, the Original Senior Lenders will hold an equal share of the Senior Retained Loan. The Original Senior Lenders are not restricted in any way from disposing of the Senior Retained Loan or from entering into sub-participation or similar arrangements in relation to the Senior Retained Loan. Subject to the EU Risk Retention Requirements, the Original Senior Lenders are free to deal with the Senior Retained Loan in their, respective, sole discretion.

For further details in relation to the Intercreditor Agreement, see "*Description of the Intercreditor Agreement*" and for further details in relation to the Mezzanine Loan, see "*Description of the Mezzanine Facility Agreement*".

### French Facility Agreement

The French Facility Agreement is governed by French law and is entered into by the French Senior Borrowers. The Original Senior Lenders and French Senior Borrowers entered into the French Facility Agreement in order for the Original Senior Lenders to be subrogated into the existing real estate security interests over the French Properties. This subrogation can only occur by way of a facility being granted pursuant to a French notarial deed and confirmation that the loan under that facility is being used to repay the existing loans the liabilities of which are secured by the existing real estate security interests.

While documented separately under French law, the terms of the French Facility Agreement are substantially the same as, and cross-refer to, the terms of the Common Terms Agreement. In addition, the French Senior Borrowers also entered into the Common Terms Agreement which would also regulate their liabilities and obligations.

### Common Terms Agreement

#### Purpose and application

On the Senior Utilisation Date, €308,150,278.96 was drawn pursuant to the Common Terms Agreement and, in respect of the French Senior Borrower, pursuant to the terms of the French Facility Agreement and used towards refinancing the indebtedness of the Group (including, without limitation, accrued interest, hedge termination costs, break costs, prepayment fees and any other fees, costs and expenses in relation thereto) and financing or refinancing the Financing Costs.

## **Loan amount and drawdown**

The maximum amount of borrowing under the Common Terms Agreement and the French Facility Agreement was €308,150,278.96. The loan was drawn in full and the Common Terms Agreement does not place an obligation on the Issuer to make any further advances to the Senior Borrowers.

## **Payment of interest**

Each Senior Borrower must pay accrued interest on each Senior Loan Payment Date. The rate of interest on the Senior Loan for each Senior Loan Interest Period is the percentage rate per annum which is the aggregate of the Senior Loan Margin and the applicable Senior Loan EURIBOR. If any rate used to calculate Senior Loan EURIBOR is below zero, Senior Loan EURIBOR will be deemed to be zero.

Default interest will apply on any Unpaid Sums which a Senior Obligor fails to pay from the due date up to the date of actual payment in accordance with the Common Terms Agreement at a rate of 1 per cent. per annum plus the rate of interest which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Senior Loan in the currency of the Unpaid Sum for successive Senior Loan Interest Periods, each of a duration selected by the Senior Loan Facility Agent (acting reasonably). Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Senior Loan Interest Period applicable to that Unpaid Sum but shall remain immediately due and payable, except for any default interest (if unpaid) on an Unpaid Sum due by a French Senior Obligor which will be compounded with the Unpaid Sum at the end of each Senior Loan Interest Period applicable to that Unpaid Sum only if, in accordance with article 1343-2 of the French Civil Code, that default interest has been due for a period of at least one year, but will remain immediately due and payable.

## **Repayment**

The Senior Borrowers must repay the outstanding principal amount of the Senior Loan on each Senior Loan Payment Date which falls in the period on or after the occurrence of a Permitted Senior Change of Control in instalments equal to 0.25 per cent. of the outstanding principal amount of the Senior Loan made to it on the Senior Utilisation Date.

The Senior Borrowers must repay the aggregate outstanding principal amount of the Senior Loan and all other Senior Secured Liabilities (if any) in full on the Senior Loan Final Repayment Date.

If the Senior Company has delivered a Senior Loan Extension Option Notice within the First Senior Loan Extension Option Period and each of the First Senior Loan Extension Option Conditions have been satisfied on or before the dates on which those First Senior Loan Extension Option Conditions are required to be satisfied (as set out in the definition of First Senior Loan Extension Option Conditions), the Senior Loan Final Repayment Date shall be extended to the First Senior Loan Extended Repayment Date. If the Senior Company has delivered a Senior Loan Extension Option Notice within the Second Senior Loan Extension Option Period and each of the Second Senior Loan Extension Option Conditions have been satisfied on or before the dates on which those Second Senior Loan Extension Option Conditions are required to be satisfied (as set out in the definition of Second Senior Loan Extension Option Conditions), the Senior Loan Final Repayment Date shall be extended to the Second Senior Loan Extended Repayment Date. If the Senior Company has delivered a Senior Loan Extension Option Notice within the Third Senior Loan Extension Option Period and each of the Third Senior Loan Extension Option Conditions have been satisfied on or before the dates on which those Third Senior Loan Extension Option Conditions are required to be satisfied (as set out in the definition of Third Senior Loan Extension Option Conditions), the Senior Loan Final Repayment Date shall be extended to the Third Senior Loan Extended Repayment Date.

## Prepayments

### *Mandatory prepayment – Illegality*

- (a) If, at any time, a Senior Lender becomes an Illegal Senior Lender, that Illegal Senior Lender shall promptly notify the Senior Loan Facility Agent upon becoming aware of that event and the Senior Loan Facility Agent shall notify the Senior Company on the date specified in the notification given by the Illegal Senior Lender, the commitment of that Illegal Senior Lender shall be cancelled and reduced to the extent required by the relevant law. To the extent that the Senior Lender's participation has not been assigned and assumed pursuant to the provisions of the Common Terms Agreement, the Senior Borrowers shall repay that Illegal Senior Lender's participation in the Senior Loan together with accrued interest thereon and all other amounts owing to that Illegal Senior Lender under the Senior Finance Documents, in each case to the extent required by the relevant law. This is subject to the caveat that the Senior Borrowers have the right to replace an Illegal Senior Lender with another lender who is willing to purchase the Illegal Senior Lender's Senior Commitments, such lender selected by the Senior Borrowers and approved by the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders, acting reasonably).
- (b) With regard to any illegality resulting from the application of Sanctions, in relation to each Senior Lender that notifies the Senior Loan Facility Agent to this effect, paragraph (a) above shall only apply for the benefit of that Senior Lender to the extent that the application of paragraph (a) above for the benefit of that Senior Lender would not result in any violation of, conflict with or liability under the Council Regulation (EC) 2271/96, as amended, and/or sec. 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*, AWP) (in conjunction with section 4 of the German Foreign Trade Act (*Außenwirtschaftsgesetz*, AWG)) or any other similar anti-boycott statute or regulation. In connection with any amendment, waiver, determination or direction relating to any part of paragraph (a) above of which that Senior Lender does not have the benefit, the Senior Commitment of that Senior Lender will be excluded for the purpose of determining whether the consent of the Senior Lenders has been obtained or whether the determination or direction by the Senior Lenders has been made.

### *Mandatory prepayment – Senior Change of Control*

The Senior Company shall promptly notify the Senior Loan Facility Agent if it becomes aware of any Senior Change of Control or the Initial Investors ceasing to control any Pledgeco and/or a Qualifying Transferee obtaining control of any Pledgeco. Following a Senior Change of Control, if the Senior Majority Lenders so require, the Senior Loan Facility Agent shall, if requested by the Senior Majority Lenders, by notice to the Senior Company cancel all Senior Commitments and declare the outstanding Senior Loan, together with accrued interest and all other accrued unpaid amounts under the Senior Finance Documents, to be immediately due and payable.

### *Mandatory prepayment – receipt of other amounts*

Following receipt by a Senior Obligor of any Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Permitted Property Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds, the Senior Obligors shall prepay the Senior Loan on the earlier of:

- (a) the Senior Loan Payment Date; or
- (b) such earlier date as the Senior Company elects by not less than five Business Days' prior notice in writing to the Senior Loan Facility Agent in an amount equal to those Senior

Permitted Land Plot Disposal Prepayment Proceeds, Senior Permitted Property Disposal Prepayment Proceeds (other than amounts falling within paragraph (b) of that definition), Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds.

If the Senior Obligors receive any Senior Excluded Insurance Proceeds or Senior Excluded Recovery Proceeds, these are not required to be applied in mandatory prepayment, unless such proceeds are not applied within the period set out in the definition of Senior Excluded Insurance Proceeds or Senior Excluded Recovery Proceeds (as applicable) (each, a **Senior Excluded Proceeds Expiry Period**), then such amount shall be transferred by way of Subordinated Loans (in the case of transfers from a Senior Borrower that is a Subsidiary of an OPCI to that OPCI and transfers from a French Non-OPCI Borrower to Aberdonia France Two S.à r.l., under the relevant Senior Obligor cash management agreement) into the Senior Prepayment Account at the end of the relevant Senior Excluded Proceeds Expiry Period, in which case they are required to be prepaid on the earlier of (a) the Senior Loan Payment Date falling immediately after the date on which such amount is paid into the Senior Prepayment Account or (b) the date as the Senior Company elects by not less than five Business Days' prior notice in writing to the Senior Loan Facility Agent.

#### *Voluntary prepayment*

A Senior Borrower may prepay the whole or any part of the Senior Loan, provided that such prepayment is in a minimum amount of €1,000,000 and in integral multiples of €250,000 (or, in each case, if less, the outstanding amount of the Senior Loan) by giving, or the Senior Company on its behalf giving the Senior Loan Facility Agent not less than five Business Days' (or such shorter period as the Senior Loan Facility Agent may agree) prior written notice.

#### *Voluntary prepayment in relation to Compromised Senior Lenders*

If any Senior Lender becomes and continues to be a Compromised Senior Lender, the Senior Company may, by giving five Business Days' prior written notice to the Senior Loan Facility Agent and such Senior Lender, prepay all of the Compromised Senior Lender's participations in the outstanding Senior Loan.

#### *Accrued interest, hedge payments, Break Costs and Senior Loan Prepayment Fee*

Any repayment or prepayment under the Common Terms Agreement shall be made together with accrued but unpaid interest (including Senior Loan Margin) on the amount repaid or prepaid, any Break Costs and payment of any other Senior Secured Liabilities which become due and payable as a result of the prepayment or repayment (including any applicable Senior Loan Prepayment Fee), but shall otherwise be made without premium or penalty.

#### *Effect of prepayments on Senior Facility*

No Senior Borrower may re-borrow any part of the Senior Facility which has been repaid or prepaid and no amount of the Senior Total Commitments cancelled under the Common Terms Agreement may be subsequently reinstated.

If all or any part of any Senior Lender's participation in a Senior Loan is repaid or prepaid, an amount of that Senior Lender's Senior Commitments (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of such repayment or prepayment.

Any prepayment of a Senior Loan (other than a prepayment to a single Senior Lender for reasons of illegality or to replace a Senior Lender or made by a Senior Borrower out of Senior Permitted Property Disposal Prepayment Proceeds, Senior Permitted Land Plot Disposal Prepayment Proceeds,

Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds) shall be applied *pro rata* to each Senior Lender's participation in that Senior Loan.

*Prepayment – order of application*

Where a prepayment is being made by a Senior Borrower out of Senior Permitted Property Disposal Prepayment Proceeds, Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds, in each case in respect of a particular Property, which will be applied in the following order, to the extent of the available proceeds in each case:

- (a) *first*, in an amount up to 100 per cent. of the Senior Allocated Loan Amount (or the relevant Senior Loan amount, if less) against the Senior Loan made to the Senior Borrower that owns that Property;
- (b) *secondly*, except for the surplus of any French Senior Borrower, any surplus to be applied *pro rata* by Senior Allocated Loan Amount against the Senior Allocated Loan Amount of any Property or Properties that on the date of that prepayment has or have the highest Senior Property LTV Ratio(s) until the Senior Property LTV Ratio(s) for that Property or those Properties is or are equal to the second highest Senior Property LTV Ratio on that date;
- (c) *thirdly*, except for the surplus of any French Senior Borrower, repeat the application set out in paragraph (b) above using the Senior Property LTV Ratios as reduced by the application made in accordance with paragraph (b) above until each Property has the same Senior Property LTV Ratio; and
- (d) *fourthly*, except for the surplus of any French Senior Borrower, any surplus to be applied *pro rata* against the Senior Loan.

At any time that a French Senior Borrower makes a prepayment out of Senior Permitted Property Disposal Prepayment Proceeds, Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds or Senior Recovery Prepayment Proceeds and a French Mandatory Prepayment Shortfall Amount arises, the Senior Company must procure (including that the Senior Obligors (other than the French Senior Obligors) must ensure) that an amount equal to the French Mandatory Prepayment Shortfall Amount is paid by the Senior Obligor(s) (other than the French Senior Obligor(s)) to the Senior Loan Facility Agent to be applied:

- (a) *first, pro rata* by Senior Allocated Loan Amount against the Senior Allocated Loan Amount of any Property or Properties that on the date of that prepayment has or have the highest Senior Property LTV Ratio(s) until the Senior Property LTV Ratio(s) for that Property or those Properties is or are equal to the second highest Senior Property LTV Ratio on that date before any such application was made in accordance with this paragraph (a);
- (b) *secondly*, repeat the application set out in paragraph (a) above using the Senior Property LTV Ratios as reduced by the application made in accordance with paragraph (a) above until each Property has the same Senior Property LTV Ratio; and
- (c) *thirdly*, any surplus to be applied *pro rata* against the Senior Loan.

If it is not legally possible for a French Senior Borrower to comply with the order of application of prepayments set out above, if that French Senior Borrower (or the Senior Company on its behalf) elects to make a voluntary prepayment of the Senior Loan in accordance with the terms of the

Common Terms Agreement, that prepayment shall be applied *pro rata* against the Senior Loan made to that French Senior Borrower and each other French Senior Borrower that is owned (indirectly) by the same OPCI.

## **Hedging**

### *Hedging requirements*

The Common Terms Agreement requires the Senior Company to enter into the hedging arrangements on or prior to the date falling 10 Business Days of the date that a securitisation notice has been delivered or deemed to be delivered to the Senior Company, and sets out the requirements that these hedging arrangements must meet. The hedging arrangements must:

- (a) comply with the Required Hedging Conditions (as defined below);
- (b) have an aggregate notional amount equal to the outstanding principal amount of the Securitised Senior Loan; and
- (c) have a term expiring on or after the Senior Initial Repayment Date.

If the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the First Senior Loan Extension Option Period, on or prior to the Senior Initial Repayment Date, the Senior Obligors shall ensure hedging transactions (which are or will be evidenced by Hedge Documents) are in place which:

- (a) comply with the Required Hedging Conditions (as defined below);
- (b) have an aggregate notional amount equal to the outstanding principal amount of the Securitised Senior Loan; and
- (c) have a term expiring on or after the First Senior Loan Extended Repayment Date.

If the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the Second Senior Loan Extension Option Period, on or prior to the First Senior Loan Extended Repayment Date, the Senior Obligors shall ensure hedging transactions (which are or will be evidenced by Hedge Documents) are in place which:

- (a) comply with the Required Hedging Conditions (as defined below);
- (b) have an aggregate notional amount equal to the outstanding principal amount of the Securitised Senior Loan; and
- (c) have a term expiring on or after the Second Senior Loan Extended Repayment Date.

If the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the Third Senior Loan Extension Option Period, on or prior to the Second Senior Loan Extended Repayment Date, the Senior Obligors shall ensure hedging transactions (which are or will be evidenced by Hedge Documents) are in place which:

- (a) comply with the Required Hedging Conditions (as defined below);
- (b) have an aggregate notional amount equal to the outstanding principal amount of the Securitised Senior Loan; and
- (c) have a term expiring on or after the Third Senior Loan Extended Repayment Date.

**Required Hedging Conditions** means the hedging arrangements must:

- (a) provide for interest rate cap(s) with a weighted average strike rate on any day of no more than the higher of (A) 2.00 per cent. per annum and (B) the strike rate that ensures that, as at the date on which the relevant hedging transaction is contracted, the Hedged ICR is not less than 2.00:1;
- (b) provide for payment of the premium in full within 10 Business Days of entry into such Hedge Document;
- (c) be with a person or persons that have a Required Rating for a Hedge Counterparty at the time such hedging transaction is put in place;
- (d) be governed by English law and be based substantially on the form of an ISDA Master Agreement or a long-form confirmation, based on an ISDA Master Agreement;
- (e) if the Senior Loan is subject to a Securitisation, comply with the Selected Rating Agency Requirements;
- (f) permit the relevant Senior Obligor to comply with the hedging provisions under the Common Terms Agreement;
- (g) not contain any restrictions on granting any Security over the relevant Senior Obligor's rights under such Hedging Agreements in favour of the Senior Finance Parties;
- (h) provide for "EURIBOR" and "Business Days" to be determined on the same basis as in the Common Terms Agreement; and
- (i) provide for payments to the relevant Senior Obligor under such Hedging Agreements to occur on the same dates as the Senior Loan Payment Dates.

#### *Termination of hedging*

No Senior Obligor may terminate or close out any hedging arrangements entered into pursuant to any Hedge Document except: (a) to comply with the requirements of the Common Terms Agreement in respect of a Hedge Downgrade Event, provided that the relevant Senior Obligor must procure that either (i) each Hedge Document entered into with such Hedge Counterparty is terminated or closed-out and new Hedge Documents are entered into which comply with, among other things, the Required Hedging Conditions and the relevant terms of the Common Terms Agreement or (ii) the Hedge Counterparty to such Hedge Documents complies with its obligations in respect of the Selected Rating Agency Requirements under that Hedge Document, in each case, as soon as practicable and in any event (in the case of (i) within 15 Business Days of and, in the case of (ii), within 15 days of, notification by the Senior Loan Facility Agent of the occurrence of such Hedge Downgrade Event); (b) if it becomes illegal for that Senior Obligor to continue to comply with its obligations under that Hedge Document or those hedging arrangements; (c) if following such termination or close out the Senior Obligors will be in compliance with the relevant terms of the Common Terms Agreement; (d) if the Senior Secured Liabilities have unconditionally and irrevocably been paid and discharged in full; or (e) with the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders).

#### *Amendments to hedging*

Subject to the above or other than if following any such amendment, supplement or waiver the Senior Obligors will be in compliance with the relevant provisions of the Common Terms Agreement, no

Hedge Document may be amended, supplemented or waived without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders). On or prior to any date on which a Securitisation of the Senior Loan, or part thereof, occurs, the relevant Senior Obligor shall promptly after request of a Senior Lender enter into any amendments requested by such Senior Lender to any Hedge Documents in order to comply with the applicable Selected Rating Agency Requirements (and any consequential amendments to the Senior Finance Documents needed to reflect such changes to the Hedge Documents) provided that:

- (a) such amendments are solely for the purpose of: (i) ensuring the provisions of the Hedge Documents comply with the Selected Rating Agency Requirements; or (ii) updating the provisions of the Hedge Documents to reflect any replacement to, or update of, the applicable Selected Rating Agency Requirements since the date the Hedge Documents were entered into;
- (b) any costs or expenses of the relevant Senior Obligor relating to such amendments are paid by the relevant Senior Lender which has made that request other than where the relevant Senior Obligor has entered into Hedge Documents before the date falling 90 days after the Senior Utilisation Date in which case any costs or expenses shall be borne by the Senior Obligors; and
- (c) any such consequential amendments to the Senior Finance Documents shall not cause: (i) the Senior Obligor's obligations under the Senior Finance Documents to increase or become more onerous; and/or (ii) any of the rights or benefits of the Senior Obligor under the Senior Finance Documents to be lost or reduced.

### **Break Costs**

Each Senior Borrower must, on demand by a Senior Finance Party, pay to that Senior Finance Party its Break Costs attributable to all or any part of a Senior Loan or Unpaid Sum being repaid or paid by that Senior Borrower on a day other than the last day of a Senior Loan Interest Period for that Senior Loan or Unpaid Sum. In respect of any prepayment which is made in the period beginning on the day after a Senior Loan Payment Date and the last day of the then current Senior Loan Interest Period, promptly following the Senior Loan Interest Period Date, the Senior Loan Facility Agent will calculate the Break Costs in respect of the prepayment and will notify the Senior Borrower and the relevant Senior Finance Parties of the amount. Each Senior Finance Party must, as soon as reasonably practicable after a demand, provide to the Senior Loan Facility Agent a certificate confirming the amount of its Break Costs.

### **Fees and prepayment fee**

#### *Arrangement fee*

The Senior Company must pay (or procure is paid) to the Senior Loan Arrangers (for their own account) an arrangement fee in the amount and in the manner agreed with the Senior Loan Arrangers.

#### *Senior Loan Facility Agent's fee*

The Senior Company must pay (or procure is paid) to the Senior Loan Facility Agent (for its own account) an agency fee in the amount and in the manner agreed with the Senior Loan Facility Agent.



### *Common Security Agent's fee*

The Senior Company must pay (or procure is paid) to the Common Security Agent (for its own account) a security agency fee in the amount and in the manner agreed with the Common Security Agent.

### *Prepayment fee*

On the date of any prepayment of all or any part of any Senior Loan made: (a) by way of a voluntary prepayment (other than any Excluded Prepayment); (b) due to a Senior Change of Control in accordance with the terms of the Common Terms Agreement; or (c) from Senior Permitted Land Plot Disposal Prepayment Proceeds, Senior Permitted Property Disposal Prepayment Proceeds, Senior Expropriation Prepayment Proceeds, Senior Insurance Prepayment Proceeds and Senior Recovery Prepayment Proceeds as a result of a Senior Permitted Property Disposal (provided that there shall be no Senior Loan Prepayment Fee payable in respect of any prepayments from Senior Permitted Property Disposal Prepayment Proceeds unless and until the aggregate amount of Senior Loan prepaid as a result of Senior Permitted Property Disposals, when aggregated with all other Senior Permitted Property Disposal Prepayment Proceeds, exceeds 15 per cent. of the Senior Total Commitments as at the Senior Utilisation Date), the Senior Company shall pay to the Senior Loan Facility Agent (or procure is paid to the Senior Loan Facility Agent) a prepayment fee in an amount equal to 100 per cent. of the amount of the interest (excluding EURIBOR and any other amount of the Senior Loan Margin included in the calculation of any Break Costs payable in connection with the relevant prepayment) which would, had no prepayment taken place, have accrued on the amount of the Senior Loan so prepaid from the date of such prepayment until the date which is the earlier of:

- (a) the date falling 12 months after the date of the first Securitisation (if any) of all or part of a Senior Loan; and
- (b) the date falling 15 months after the Senior Utilisation Date.

**Excluded Prepayment** means any prepayment: (a) of a Senior Equity Cure Amount; (b) made by application of amounts standing to the credit of the Senior Cash Trap Account; (c) made as a result of a Senior Lender becoming a Compromised Senior Lender; (d) in connection with any Expropriation; or (e) in connection with any Major Damage.

### **Tax gross up and indemnities**

Subject to certain conditions as set out in the Common Terms Agreement, if a Tax Deduction is required by law to be made by a Senior Obligor, the amount of the payment due from that Senior Obligor shall be increased to an amount which ensures that, after the making of that Tax Deduction, each relevant party entitled to such payment receives on the due date and retains (free from any liability in respect of such Tax Deduction) an amount equal to the payment which it would have received and so retained if no such Tax Deduction had been required.

Subject to certain conditions as set out in the Common Terms Agreement, the Senior Company must (within five Business Days of demand by the Senior Loan Facility Agent (acting on the instructions of the relevant Senior Finance Party)) pay (or procure payment) to a Senior Finance Party an amount equal to the loss, liability or cost which that Senior Finance Party determines (acting reasonably and in good faith) will be or has been (directly or indirectly) suffered for or on account of Tax by that Senior Finance Party in respect of a Senior Finance Document.

Subject to compliance with certain notification requirements, any Senior Lender which enters into a Sub-Participation which results in that sub-participant being or being treated as the beneficial owner of the interest on the portion of the Senior Loan so sub-participated, is entitled to receive payments

under the tax gross up and tax indemnity provisions of the Common Terms Agreement in respect of such interest in an amount equal to (and no more than) the payment which the sub-participant would have been entitled to receive had it become a Senior Lender that is beneficially entitled to such interest on the date of the Sub-Participation provided that, for this purpose, a Change of Tax Law will not occur in respect of that sub-participant if such Change of Tax Law was known (according to an official publication) to be coming into force on the date of the Sub-Participation.

Each party to the Common Terms Agreement may make any FATCA Deduction it is required to make by FATCA and any payment required in connection with that FATCA Deduction and no party will be required to increase any payment in respect of which it makes such FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

## **Guarantee**

Each Senior Guarantor (other than each French Senior Guarantor) has irrevocably and unconditionally, jointly and severally guaranteed to each Senior Finance Party punctual performance by each Senior Obligor of all that Senior Obligor's obligations under the Senior Finance Documents and further undertaken that, if any Senior Obligor does not pay any amount when due in connection with a Senior Finance Document, it will immediately on demand pay that amount as if it were the principal obligor of that amount.

Each French Senior Guarantor irrevocably and unconditionally jointly and severally (a) guarantees as *caution solidaire* to each Senior Finance Party, the payment and repayment by each Senior Borrower (other than itself) of any and all sums of principal, interest, fees, expenses, costs and ancillary charges which are or may become due by that Senior Borrower under or in connection with the Senior Finance Documents and (b) undertakes with each Senior Finance Party that whenever a Senior Borrower does not pay any amount when due under or in connection with any Senior Finance Document to which it is a party, that Senior Guarantor as *caution solidaire* shall immediately on demand by the Senior Loan Facility Agent pay that amount as if it was the principal obligor.

The enforcement of any upstream guarantee granted by a Senior Obligor incorporated in Luxembourg is limited to a maximum of 95 per cent. of that Senior Guarantor's own funds plus the value of any Subordinated Loans owed by such Senior Guarantor.

The guarantees granted by each French Senior Obligors are unenforceable to the extent that they constitute financial assistance within the meaning of article L. 225-216 of the French Commercial Code. The enforcement of any upstream or cross-stream guarantee granted by a French Senior Guarantor shall be limited at any time to an amount not exceeding 60 per cent. of the amount resulting from the difference between (x) the total value of the Propert(y)(ies) such French Senior Guarantor holds evaluated pursuant to the most recent Valuation and (y) the outstanding amount under any Senior Loan owed by such French Senior Guarantor as Senior Borrower. No Subsidiary of an OPCI (the **Relevant OPCI**) shall have any liability under the Senior Finance Documents (including by way of guarantee) for the obligations of any Senior Obligor which is not directly or indirectly controlled by the Relevant OPCI. No French Non-OPCI Borrower shall have any obligations under the Senior Finance Documents (including by way of guarantee) for the obligations under the Senior Finance Documents of any Senior Obligor which is not a French Non-OPCI Borrower. The obligations and liabilities of each French Senior Guarantor for the obligations under the Senior Finance Documents of any other Senior Obligor which is its Subsidiary shall not be limited and shall therefore cover all amounts due by such Senior Obligor as Senior Borrower and/or Senior Guarantor under the Senior Finance Documents.

## **Bank accounts**

### *Designation of Senior Obligor Accounts*

The following Senior Obligor Accounts are required to be opened and maintained:

- (a) the Senior Company and Aberdonia France Two S.à r.l. has opened and is required to maintain interest-bearing accounts in its name designated the Senior Cash Trap Account, Senior Equity Cure Account, Senior Prepayment Account and Senior Debt Service Account, located in Luxembourg;
- (b) each Luxembourg Senior Obligor has opened and may maintain an interest-bearing account in its name designated a Senior General Account, located in Luxembourg;
- (c) each OPCI and each French Senior Borrower has opened and may maintain an account in its name designated a Senior General Account, located in France;
- (d) each Luxembourg Senior Borrower (save for the Lux Dutch Propco) has opened and may maintain an account in its name designated a Senior General Account, located in Germany;
- (e) each Dutch Senior Obligor and the Lux Dutch Propco has opened and may maintain an account in its name designated a Senior General Account, located in the Netherlands;
- (f) subject to certain conditions, any Senior Obligor may open and maintain a Senior Hedge Collateral Account and a Senior Service Charge Account;
- (g) each Propco must (a) open and maintain in its name an interest-bearing Senior Rent Collection Account or (b) procure that a Senior Rent Collection Account is opened and maintained by a Senior Permitted Property Manager, with a bank or financial institution with a Required Rating designated in the name of the Senior Permitted Property Manager as a "Rent Collection Account" in accordance with the relevant Senior Property Manager Duty of Care Agreement;
- (h) on or prior to the date falling 10 Business Days prior to the first Senior Loan Payment Date, the Senior Company and Aberdonia France Two S.à r.l. is obliged to open and maintain an interest-bearing account in its name designated a Senior Cash Trap Account, located in Luxembourg;
- (i) on or prior to the date falling 10 Business Days prior to the first Senior Loan Payment Date, each OPCI is obliged to open and maintain interest-bearing accounts in its name designated (a) a Senior Cash Trap Account, (b) a Senior Debt Service Account and (c) a Senior Prepayment Account, located in France;
- (j) on or prior to the date falling 10 Business Days prior to the first Senior Loan Payment Date, each French Senior Borrower, is obliged to open and maintain an interest-bearing account in its name designated the Senior Rental Income Account, located in France;
- (k) on or prior to the date falling 10 Business Days prior to the first Senior Loan Payment Date, each Luxembourg Senior Borrower (save for the Lux Dutch Propco) is obliged to open and maintain an interest-bearing account in its name designated the Senior Rental Income Account, located in Germany;
- (l) on or prior to the date falling 10 Business Days prior to the first Senior Loan Payment Date, each Dutch Senior Borrower and the Lux Dutch Propco is obliged to open and maintain an

interest-bearing account in its name designated the Senior Rental Income Account, located in the Netherlands; and

- (m) on or prior to a Permitted Senior Change of Control, each OPCI is obliged to open and maintain an interest-bearing account in its name designated the Senior Equity Cure Account, located in France.

No Senior Obligor may, without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders), maintain any bank account other than any Senior Control Account, any Senior Permitted Special Purpose Account or a Senior Existing Account, provided that:

- (a) no Senior Existing Account may become overdrawn; and
- (b) unless designated as a Senior Control Account, the balance of each Senior Existing Account is transferred to the relevant Senior Service Charge Account, Senior General Account or Senior Rental Income Account (as applicable) in each case on or prior to the earlier of (i) the date such Senior Existing Account is closed and (ii) the date falling five Business Days after the date such account has been opened.

Notwithstanding any other term of the Senior Finance Documents, during the Pre-Account Opening Period the Senior Company shall procure that all Rental Income is retained in accounts subject to Common Transaction Security (together, the **Interim Holding Accounts**) and the Senior Obligors shall have sole signing rights over the Interim Holding Accounts. During the Pre-Account Opening Period, the Senior Company may withdraw from the Interim Holding Accounts an amount equal to the aggregate amount of:

- (a) Service Charge Expenses, VAT chargeable in respect of Rental Income and Irrecoverable Service Charge Expenses that have become due and payable; and
- (b) subject to certain conditions, Corporate Expenses and management fees (other than management fees which are recoverable from Service Charge Proceeds), leasing commissions, letting costs, Senior Permitted Capex Projects, tenant improvements and incentives that become due and payable.

At the end of the Pre-Account Opening Period, the Senior Company shall promptly notify the Senior Loan Facility Agent and procure that all Net Rental Income standing to the credit of the Interim Holding Accounts is withdrawn and promptly transferred to the Senior Rental Income Account.

Each Senior Obligor will ensure that:

- (a) any Senior Permitted Distribution to be made to an OPCI to fund an OPCI Required Distribution (an **OPCI Funding Distribution**) is paid into the OPCI's Senior General Account;
- (b) any Senior Permitted Distribution to be made by an OPCI that is an OPCI Required Distribution is paid into the Senior General Account of the immediate Holding Company of that OPCI promptly after, and in any event within five Business Days of, receipt of proceeds of the corresponding OPCI Funding Distribution; and
- (c) if a Cash Trap Event occurred on the Senior Loan Payment Date prior to the OPCI Required Distribution, an OPCI Required Distribution is made (subject to certain carve-outs), promptly, and in any event within five Business Days of receipt of proceeds of the corresponding OPCI Required Distribution, the relevant Senior Obligor shall procure an amount equal to that

OPCI Required Distribution is paid to the Senior Rental Income Account of the relevant OPCI Subsidiary Propco.

Each Senior Obligor will ensure that:

- (a) any Senior Permitted Distribution to be made to fund a SIIC Required Distribution (a **SIIC Funding Distribution**) is paid by each Subsidiary which elected the SIIC tax regime into the Senior General Account of MPITS 3 SARL or MPITS 23 SARL or S.L.P. 1 SARL or the relevant OPCI, as applicable;
- (b) any Senior Permitted Distribution to be made by an entity that is a SIIC Required Distribution is paid into the Senior General Account of the immediate Holding Company of that entity promptly after, and in any event within five Business Days of, receipt of proceeds of the corresponding SIIC Funding Distribution; and
- (c) if a Cash Trap Event occurred on the Senior Loan Payment Date prior to the SIIC Required Distribution, a SIIC Required Distribution is made (subject to certain carve-outs), promptly, and in any event within five Business Days of receipt of proceeds of the corresponding SIIC Required Distribution, the relevant Senior Obligor shall procure an amount equal to that SIIC Required Distribution is paid to the Senior Rental Income Account of the relevant SIIC Subsidiary Propco.

Notwithstanding any other provision in the Common Terms Agreement, no proceeds paid to a French Senior Obligor may be credited on an account other than (a) such French Senior Obligor's own Senior Control Account, (b) a Senior Control Account of an OPCI which is such French Senior Obligor's Holding Company or (c) in the case of proceeds paid to a French Non-OPCI Borrower, a Senior Control Account of Aberdonia France Two S.à r.l.

#### *Senior Obligor Account Bank*

Each Senior Obligor Account shall initially be opened with a Senior Initial Account Bank operating out of its branch in the jurisdiction specified under "*Designation of Senior Obligor Accounts*" above.

Each account bank with which a Senior Obligor Account is held must hold a Required Rating at the time the Senior Obligor Account is opened with such account bank. If any bank or financial institution with which a Senior Obligor Account is held ceases to have the Required Rating, the Senior Loan Facility Agent may request in writing that any Senior Obligor Account held with such Senior Obligor Account Bank is transferred to a new account bank that holds a Required Rating (or, if it is not possible to find a replacement Senior Obligor Account Bank which holds a Required Rating, any other bank or financial institution agreed between the Senior Loan Facility Agent and the Senior Company (each acting reasonably)).

A Senior Obligor Account and any amounts or shares standing to the credit of a Senior Obligor Account may only be transferred to a new Senior Obligor Account Bank if the relevant Senior Obligor has created and perfected first ranking Security over the new account and provided such other documentation in connection with such transfer as the Senior Loan Facility Agent may reasonably request.

#### *Payments into Senior Obligor Accounts*

Each Pledgeco shall procure that all Rental Income is paid directly into the relevant Senior Rent Collection Account and, if such Senior Rent Collection Account is in the name of a Senior Permitted Property Manager, in accordance with the provisions of the relevant Property Management Agreement and the Senior Property Manager Duty of Care Agreement.

Each Pledgeco will ensure that all Net Rental Income (save for dilapidations under any Lease which may be paid directly to the relevant Senior General Account when no Cash Trap Event is outstanding and which must be paid into the Senior Cash Trap Account when a Cash Trap Event is outstanding) is transferred into the relevant Senior Rental Income Account promptly after such Rental Income is paid into the relevant Senior Rent Collection Account and in any case not less frequently than once per Month.

Each Senior Obligor will ensure that the following are promptly paid directly into the relevant Senior Rental Income Account:

- (a) all proceeds of any Insurance Policy in respect of operating losses or loss of rent;
- (b) all amounts payable to it (not otherwise paid directly to the Senior Loan Facility Agent or the Common Security Agent) under any Hedge Document (except for any collateral posted by a Hedge Counterparty under a Hedge Document which is required to be paid to a Senior Hedge Collateral Account under the terms of that Hedge Document);
- (c) payments made from a Senior Hedge Collateral Account in accordance with the terms of the Common Terms Agreement; and
- (d) any Disposal Proceeds (other than: (i) any Senior Permitted Land Plot Disposal Prepayment Proceeds and any Mezzanine Permitted Land Plot Disposal Prepayment Proceeds; (ii) any Senior Permitted Property Disposal Prepayment Proceeds and any Mezzanine Permitted Property Disposal Prepayment Proceeds; (iii) any Senior Excluded Permitted Property Disposal Proceeds; (iv) Disposal Proceeds falling under paragraph (n) of the definition of Senior Permitted Disposal (which shall be applied immediately upon receipt in prepayment of the Senior Loan and the discharge of all other Senior Secured Liabilities); (v) any Senior Expropriation Prepayment Proceeds; and (vi) any amount standing to the credit of any Senior Rent Collection Account which it is entitled to withdraw for its own account to the extent such amount constitutes Net Rental Income (other than any such amounts which are paid directly into the Senior Rent Collection Account)).

Each Senior Obligor will ensure that each of the following are promptly paid into the Senior Prepayment Account: (a) any Senior Permitted Land Plot Disposal Prepayment Proceeds received by it; (b) any Mezzanine Permitted Land Plot Disposal Prepayment Proceeds received by it; (c) any Senior Permitted Property Disposal Prepayment Proceeds received by it; (d) any Mezzanine Permitted Property Disposal Prepayment Proceeds; (e) any Senior Insurance Prepayment Proceeds (other than in respect of operating losses, loss of rent or such proceeds paid directly to the Senior Loan Facility Agent or the Common Security Agent) received by it; (f) any Senior Recovery Prepayment Proceeds received by it; and (g) any Senior Expropriation Prepayment Proceeds received by it.

Each Senior Obligor will ensure that the following are promptly paid into its Senior General Account: (a) any Senior Excluded Permitted Property Disposal Proceeds received by it; (b) any Senior Excluded Expropriation Proceeds received by it; (c) any Senior Excluded Insurance Proceeds received by it (other than any proceeds of any Insurance Policy in respect of operating losses or loss of rent) received by it; and (d) any Senior Excluded Recovery Proceeds received by it; and any Senior Excluded Expropriation Proceeds received by it.

Any collateral posted by a Hedge Counterparty under a Hedge Document shall be paid into the Senior Hedge Collateral Account.

### *Signing rights*

The Senior Loan Facility Agent has sole signing rights in relation to each Senior Rental Income Account, each Senior Debt Service Account, each Senior Prepayment Account, the Senior Equity Cure Account and each Senior Cash Trap Account.

Each Senior Obligor shall have sole signing rights to its Senior General Account(s), until the occurrence of a Senior Loan Event of Default that is continuing.

Each Senior Obligor, or Senior Permitted Property Manager (as applicable), shall have signing rights to its Senior Service Charge Account(s), until the occurrence of a Senior Loan Event of Default that is continuing.

The relevant Senior Obligor shall have sole signing rights to the Senior Hedge Collateral Account, until the occurrence of a Senior Loan Event of Default that is continuing.

### *Senior Rent Collection Account*

Subject to certain carve-outs, a Senior Obligor or Senior Permitted Property Manager (as applicable), may make withdrawals from its Senior Rent Collection Account at any time:

- (a) for payment of Service Charge Expenses and all Irrecoverable Service Charge Expenses or transfer of such amounts to a Senior Service Charge Account;
- (b) for payment of VAT chargeable in respect of Rental Income or transfer of such amount to a Senior General Account or a Senior Service Charge Account; and
- (c) to transfer Net Rental Income to its Senior Rental Income Account.

If a Senior Loan Event of Default is continuing, the Senior Loan Facility Agent may, by notice in writing to any tenant under an Occupational Lease direct that tenant to pay all Rental Income directly into the relevant Senior Rental Income Account notwithstanding any previous instructions given to that tenant to the contrary provided that if the Senior Loan Event of Default ceases to be continuing (and no other Senior Loan Event of Default is continuing), the Senior Loan Facility Agent shall promptly after the cessation of that Senior Loan Event of Default notify in writing any tenants who it has instructed to pay Rental Income directly into the relevant Senior Rental Income Account to pay all Rental Income falling due after such notification directly into the relevant Senior Rent Collection Account.

### *Senior Rental Income Accounts*

On the last Business Day of each Month, the Senior Loan Facility Agent shall (and is irrevocably authorised or regarding Senior Rental Income Accounts opened in France, instructed by each Senior Obligor to) withdraw from each Senior Obligor's Senior Rental Income Account and:

- (a) *first*, transfer to the Senior Debt Service Account, an amount equal to the lower of: (i) all amounts standing to the credit of the Senior Rental Income Accounts; and (ii) an amount equal to: (A) the aggregate amount required to be paid by the relevant Senior Obligor to the Senior Finance Parties and the Mezzanine Finance Parties by way of debt service on the next Senior Loan Payment Date; minus (B) any amounts transferred by the relevant Senior Obligor to the Senior Debt Service Account since the last Senior Loan Payment Date; and
- (b) *secondly*: (i) if no Cash Trap Event occurred on the previous Senior Loan Payment Date, transfer any surplus into the relevant Propco's Senior General Account; or (ii) if a Cash Trap

Event occurred on the previous Senior Loan Payment Date, transfer any surplus into the Senior Cash Trap Account.

#### *Senior Debt Service Account*

On each Senior Loan Payment Date, the Senior Loan Facility Agent shall (and is irrevocably authorised or, in respect of each Senior Debt Service Account opened in France, instructed by each Senior Obligor to) withdraw from the Senior Debt Service Accounts such amount as is necessary for application towards:

- (a) *first*, payment *pro rata* of any unpaid costs, fees and expenses then due and payable to the Common Security Agent (including any due to any Receiver or Senior Delegate), the Senior Loan Facility Agent and the Senior Loan Arrangers under the Senior Finance Documents;
- (b) *secondly*, payment *pro rata* of any unpaid costs, fees and expenses then due and payable to the Senior Finance Parties (other than the Common Security Agent, any Receiver or any Senior Delegate, the Senior Loan Facility Agent and the Senior Loan Arrangers) under the Senior Finance Documents;
- (c) *thirdly*, payment *pro rata* of all accrued interest then due and payable to the Senior Lenders under the Senior Finance Documents;
- (d) *fourthly*, payment *pro rata* to the Senior Lenders of any principal then due but unpaid and payable under the Common Terms Agreement;
- (e) *fifthly*, if no Mezzanine Payment Stop Event is continuing, in payment of interest costs and any agency costs, fees and expenses that will become due and payable to the Mezzanine Finance Parties under the Mezzanine Facility Agreement on the next Mezzanine Loan Payment Date (in each case, as notified to the Senior Loan Facility Agent by the Mezzanine Loan Facility Agent in accordance with the terms of the Intercreditor Agreement) into the Mezzanine Finance Account(s) subject to, if a Cash Trap Event has occurred on that Senior Loan Payment Date, the relevant terms of the Intercreditor Agreement;
- (f) *sixthly*, if a Cash Trap Event occurred on the previous Senior Loan Payment Date, any surplus shall be paid into the Senior Cash Trap Account; and
- (g) *seventhly*, any surplus shall be paid into the Senior General Account as or specified in the Compliance Certificate for that purpose.

If, on any Senior Loan Payment Date, any amount (a **Mezzanine Debt Service Blocked Amount**) that would otherwise be paid out of the Senior Debt Service Accounts on that Senior Loan Payment Date is not paid out of the Senior Debt Service Accounts as a result of a Mezzanine Payment Stop Event which is continuing on that Senior Loan Payment Date, that Mezzanine Debt Service Blocked Amount will be retained in the Senior Debt Service Accounts and not be used for any purpose until the earlier of: (a) the first date on which no Mezzanine Payment Stop Event is continuing and on such date the Senior Loan Facility Agent will (and is irrevocably instructed to) pay that Mezzanine Debt Service Blocked Amount to the Mezzanine Finance Account; and (b) the Common Security Agent applying that Mezzanine Debt Service Blocked Amount in or towards payment of the Senior Secured Liabilities to the extent then due and payable.

#### *Senior Prepayment Account*

Provided that no Senior Loan Event of Default is continuing, and subject to certain exceptions set out in the Common Terms Agreement, on each Senior Loan Payment Date and on each other date in



accordance with "*Prepayments – Mandatory prepayment – receipt of other amounts*" above the Senior Loan Facility Agent shall withdraw from each Senior Prepayment Account all amounts standing to the credit of that Senior Prepayment Account for application in the following order:

- (a) *first*, payment *pro rata* of any unpaid costs, fees and expenses due to the Common Security Agent (including any due to any Receiver or Senior Delegate), the Senior Loan Facility Agent and the Senior Loan Arrangers under the Senior Finance Documents;
- (b) *secondly*, payment *pro rata* of any unpaid costs, fees and expenses due to the Senior Finance Parties (other than the Common Security Agent, any Receiver or Senior Delegate, the Senior Loan Facility Agent and the Senior Loan Arrangers) under the Senior Finance Documents;
- (c) *thirdly*, in prepayment of the Senior Loan in accordance with "*Prepayments – Mandatory prepayment – receipt of other amounts*" above;
- (d) *fourthly*, unless a Mezzanine Payment Stop Event is continuing, in payment of the Mezzanine Prepayment Amount for that Senior Loan Payment Date (or, if such payment is not being made on a Senior Loan Payment Date, the Mezzanine Prepayment Amount for the Senior Loan Payment Date following the date of such payment) into the Mezzanine Prepayment Account;
- (e) *fifthly*, in payment of any other Senior Secured Liabilities then due and payable; and
- (f) *sixthly*, in payment of any surplus to the Senior General Account as specified in the Compliance Certificate (or, as applicable, the notice provided to the Senior Loan Facility Agent pursuant the terms of the Common Terms Agreement) for that purpose.

If, on any Senior Loan Payment Date, any amount (a **Mezzanine Prepayment Blocked Amount**) that would otherwise be paid out of the Senior Prepayment Accounts in accordance with paragraph (d) above is not paid out of the Senior Prepayment Accounts as a result of a Mezzanine Payment Stop Event which is continuing on that Senior Loan Payment Date, that Mezzanine Prepayment Blocked Amount will be retained in the Senior Prepayment Accounts and not be used for any purpose until the earlier of: (a) the first date on which no Mezzanine Payment Stop Event is continuing and on such date the Senior Loan Facility Agent will (and is irrevocably instructed to) pay that Mezzanine Prepayment Blocked Amount to the Mezzanine Prepayment Account; and (b) the Common Security Agent applying that Mezzanine Prepayment Blocked Amount in or towards payment of the Senior Secured Liabilities to the extent then due and payable.

#### *Senior Equity Cure Account*

No amounts may be deposited in a Senior Equity Cure Account before a Permitted Senior Change of Control.

Provided that no Senior Loan Event of Default is continuing, if on a Senior Loan Payment Date the Senior Obligor is in compliance with the LTV Covenant and the Debt Yield Covenant, the Senior Loan Facility Agent shall (and is irrevocably instructed by each Senior Obligor to) withdraw all amounts standing to the credit of the Senior Equity Cure Account and transfer such amounts to the Senior General Account specified in the Compliance Certificate for that purpose.

If on a Senior Loan Payment Date the Senior Obligor is not in compliance with the LTV Covenant and the Debt Yield Covenant, the Senior Loan Facility Agent shall (and is irrevocably instructed by each Senior Obligor to) withdraw all amounts standing to the credit of the Senior Equity Cure Account and apply such amounts:

- (a) *first*, an amount equal to the lower of: (i) the amount standing to the credit of the Senior Equity Cure Accounts; and (ii) an amount sufficient (but not more than the amount required) to ensure that had such amount been applied in prepayment of the Senior Loan on that Senior Loan Payment Date no breach of LTV Covenant and the Debt Yield Covenant would have occurred, shall be applied in prepayment of the Senior Loan; and
- (b) *secondly*, any surplus shall be transferred to the Senior General Account specified in the Compliance Certificate for that purpose.

The Senior Company may at any time elect that all or part of any amounts standing to the credit of the Senior Equity Cure Account are applied in prepayment of the Senior Loan together with the payment of all amounts payable in connection with such prepayment in accordance with the terms of the Common Terms Agreement.

#### *Senior Cash Trap Accounts*

Provided that no Senior Loan Event of Default is continuing, if on any two consecutive Senior Loan Payment Dates no Cash Trap Event occurs (provided that when determining if a Cash Trap Event has occurred the balance of the Senior Equity Cure Account shall be deemed to be zero and the balance of the Senior Cash Trap Accounts shall be deemed to be zero), the Senior Loan Facility Agent shall (and is irrevocably instructed by each Senior Obligor to) withdraw all amounts standing to the credit of the Senior Cash Trap Accounts and transfer such amount to the Senior General Account specified in the Compliance Certificate for that purpose.

The Senior Loan Facility Agent shall (and is irrevocably instructed by each Senior Obligor to) withdraw from the Senior Cash Trap Accounts and transfer:

- (a) on a Senior Loan Payment Date: (i) to the Senior Debt Service Account, an amount equal to any shortfall in amounts due and payable pursuant paragraphs (a) to (d) (inclusive) of "*Bank accounts – Senior Debt Service Account*" above; or (ii) if no Mezzanine Payment Stop Event is continuing, to the Mezzanine Finance Account, an amount equal to any shortfall in amounts due and payable to the Mezzanine Finance Parties pursuant to paragraph (e) of "*Bank accounts – Senior Debt Service Account*" above; and
- (b) promptly and no more than five Business Days after a request from the Senior Company (provided that only two such requests may be made per calendar month), to the Senior General Account, the amount then due (provided that such amounts became due no more than three Months prior to the proposed date of that withdrawal) or anticipated by the Senior Obligor (acting reasonably) as being likely to be due and payable during the next Month provided that no Senior Loan Event of Default is continuing or would occur as a result of the transfer: (i) Corporate Expenses and management fees provided that the amount withdrawn under this paragraph (i) and paragraph (a)(i) below in aggregate in any Financial Year does not exceed €5,300,000 in aggregate in any Financial Year; (ii) leasing commissions, letting costs, capital expenditure in respect of any Senior Permitted Capex Project, tenant improvements and incentives, in each case, in respect of the Properties; and (iii) Irrecoverable Service Charge Expenses and Taxes other than Excluded Entity/Property Taxes and Excluded French Taxes, in each case, in respect of the Properties.

If, following a Permitted Senior Change of Control, a Cash Trap Event occurs on any two consecutive Senior Loan Payment Dates (provided that when determining if a Cash Trap Event has occurred the balance of the Senior Equity Cure Account shall be deemed to be zero and the balance of the Senior Cash Trap Accounts shall be deemed to exclude the amount standing to the credit of the Senior Cash Trap Accounts that, had it been applied in prepayment on or before that second consecutive Senior Loan Payment Date (the **Second IPD**) would have resulted in no Cash Trap Event occurring on that

Second IPD) the Senior Loan Facility Agent shall (and is irrevocably instructed by each Senior Obligor to) on the second of such consecutive Senior Loan Payment Dates withdraw and/or retain (as applicable) all amounts standing to the credit of the Senior Cash Trap Accounts as follows:

- (a) *first*, the amount then due (provided that such amounts became due no more than three Months prior to the proposed date of that withdrawal) or anticipated by the Senior Obligor (acting reasonably) as being likely to be due and payable during the next three Months of: (i) Corporate Expenses and management fees provided that the amount withdrawn under this subparagraph (i) and subparagraph (b)(i) above in aggregate in any Financial Year does not exceed €5,300,000 in aggregate in any Financial Year; (ii) leasing commissions, letting costs, capital expenditure in respect of any Senior Permitted Capex Project that (A) commenced before the Permitted Senior Change of Control or otherwise (B) which commenced following a Permitted Senior Change of Control and does not exceed €1,000,000 in aggregate in any Financial Year, tenant improvements and incentives, in each case, in respect of the Properties; and (iii) Irrecoverable Service Charge Expenses and Taxes other than Excluded Entity/Property Taxes and Excluded French Taxes, in each case, in respect of the Properties, shall be retained in the Senior Cash Trap Accounts and withdrawn in accordance with subparagraphs (a) and (b) of the second paragraph of this section "*Senior Cash Trap Accounts*";
- (b) *secondly*, an amount required to ensure that, if applied in prepayment of the Senior Loan, no Cash Trap Event would have occurred on the second consecutive Senior Loan Payment Date in voluntary prepayment of the Senior Loan together with the payment of all amounts payable in connection with such prepayment; and
- (c) *thirdly*, any surplus shall be transferred to the Senior General Account specified in the Compliance Certificate for that purpose.

The Senior Company may at any time elect that all or any part of any amounts standing to the credit of a Senior Cash Trap Account are applied in prepayment of the Senior Loan together with the payment of all amounts payable in connection with such prepayment in accordance with the terms of the Common Terms Agreement.

#### *Senior General Accounts*

A Senior Obligor may make withdrawals from its Senior General Account at any time, provided that no Senior Loan Event of Default is outstanding and provided that the Common Security Agent has not suspended the rights of the relevant Senior Obligor to operate its Senior General Account in accordance with the terms of the Common Terms Agreement.

#### *Senior Service Charge Accounts*

A Senior Obligor or Senior Permitted Property Manager (as applicable) may: (a) make such withdrawals as are required from time to time from its Senior Service Charge Account to be applied in or towards the payment or discharge of Service Charge Expenses, Irrecoverable Service Charge Expenses and/or VAT payable in respect of Rental Income; (b) withdraw from its Senior Service Charge Account any amount in respect of VAT on Rental Income and transfer such amount to a Senior General Account; and (c) within 60 days of the last day of each Financial Year, withdraw and transfer: (a) if no Cash Trap Event was continuing on the immediately preceding Senior Loan Payment Date, the relevant Senior Obligor's Senior General Account; or (b) if a Cash Trap Event was continuing on the immediately preceding Senior Loan Payment Date, the relevant Senior Cash Trap Account, an amount equal to or less than the amount that was standing to the credit of its Senior Service Charge Account on the last day of that Financial Year.

### *Miscellaneous Accounts provisions*

Any amount received or recovered by a Senior Obligor otherwise than by credit to a Senior Control Account or a Senior Permitted Special Purpose Account must be held subject to the security created by the Senior Finance Documents and immediately be paid to the relevant Senior Control Account or Senior Rent Collection Account (as applicable) in the same funds as received or recovered.

If any payment is made into a Senior Control Account (other than a Senior Control Account of any OPCI or any Subsidiary of an OPCI) in relation to which the Senior Loan Facility Agent has sole signing rights which should have been paid into another Senior Control Account, then, unless a Senior Loan Event of Default is continuing, the Senior Loan Facility Agent shall, promptly after (and in any event within five Business Days of) request of the Senior Company or the relevant Senior Obligor and on receipt of evidence satisfactory to the Senior Loan Facility Agent that the payment should have been made to that other Senior Control Account, pay that amount to that other Senior Control Account.

The Senior Company shall, within five Business Days of any request by the Senior Loan Facility Agent, supply the Senior Loan Facility Agent with the following information in relation to any payment received in a Senior Control Account: the balance standing to the credit of that Senior Control Account, the date of payment or receipt, the payer and the purpose of the payment or receipt.

No later than the date falling seven Business Days prior to each Senior Loan Payment Date (or any other later date that may be agreed between the Senior Company and the Senior Loan Facility Agent in respect of any such Senior Loan Payment Date) the Senior Loan Facility Agent shall provide to the Senior Company confirmation of the amounts that will become due and payable on the next Senior Loan Payment Date.

No later than the date falling five Business Days prior to each Senior Loan Payment Date (or any other later date that may be agreed between the Senior Company and the Senior Loan Facility Agent in respect of any such Senior Loan Payment Date) the Senior Company shall provide (in excel format and which may be contained in the Compliance Certificate for that Senior Loan Payment Date) the Senior Loan Facility Agent the amounts to be withdrawn from each Senior Debt Service Account (and/or which Senior General Account(s), if applicable, any surplus should be transferred to) to make each of the payments referred to in "*Bank accounts – Senior Debt Service Account*".

To the extent there are insufficient funds in a Senior Debt Service Account to make the Senior Loan IPD Payment Amount, the Senior Company shall either: (a) ensure that sufficient amounts are transferred to that Senior Debt Service Account from any Senior General Account (other than any Senior General Account of an OPCI or a Subsidiary of an OPCI, unless that Senior Debt Service Account is the Senior Debt Service Account opened in the name of that OPCI) prior to that Senior Loan Payment Date; and/or (b) request in writing that the Senior Loan Facility Agent (and provided it has sufficient notice, the Senior Loan Facility Agent shall comply with such request on or before that Senior Loan Payment Date) transfers sufficient amounts (as specified in such request by the Senior Company) to that Senior Debt Service Account (on or before the relevant Senior Loan Payment Date) from another Senior Debt Service Account which has a surplus after giving effect to the Senior Loan IPD Payment Amount to be made from that Senior Rental Income Account on that Senior Loan Payment Date.

### **Representations and warranties**

Unless otherwise stated to be made on a specific date, each Senior Obligor made the representations and warranties set out below to each Senior Finance Party on the date of the Common Terms Agreement, on the date of the Senior Utilisation Request and on the Senior Utilisation Date, and makes the Repeating Representations again on each Senior Loan Payment Date by reference to the

facts and circumstances then existing, except that representations relating to future information or future financial statements under "*No misleading information*" and "*Financial statements*" below are instead made at the date of delivery of such items.

#### *Status*

It is duly incorporated or created under the law of its jurisdiction of incorporation or formation. It is validly existing under the law of its jurisdiction of incorporation or formation. It has the power to own its assets and carry on its business as it is being conducted.

#### *Binding obligations*

Subject to the Legal Reservations and Perfection Requirements: (a) the obligations expressed to be assumed by it in each Senior Loan Transaction Document to which it is a party are legal, valid, binding and enforceable obligations; (b) each Common Transaction Security Document to which it is a party creates the security interests which that Common Transaction Security Document purports to create and those security interests are valid and effective; and (c) the Common Transaction Security has or will have first ranking priority (or subsequent ranking priority insofar as the prior ranking priority Security is conferred under another Common Transaction Security Document) and is not subject to any prior ranking or *pari passu* ranking Security (other than under another Common Transaction Security Document) other than Senior Permitted Security.

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

The entry into, delivery by it of, the exercise of its rights under and the performance of its obligations under the Senior Loan Transaction Documents and the transactions contemplated thereby, and the grant of the Common Transaction Security do not and will not conflict in any material respect with any law or regulation applicable to it, conflict with its constitutional documents or conflict with any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group's assets or constitute a default or termination event (however described) under any such agreement or instrument in each case to an extent which would have a Material Adverse Effect.

#### *Power and authority*

It has the power, capacity and authority to enter into, deliver, exercise its rights and perform its obligations under the Senior Loan Transaction Documents to which it is or will be a party and the transactions contemplated by those Senior Loan Transaction Documents. It has taken all necessary action under its constitutional documents to duly authorise its entry into, the delivery by it of, the exercise of its rights under and the performance of its obligations under the Senior Loan Transaction Documents to which it is or will be a party and the transactions contemplated by those Senior Loan Transaction Documents.

#### *Validity and admissibility in evidence*

Subject to the Legal Reservations, all Authorisations required in its Relevant Jurisdiction: (a) to enable it lawfully to enter into, deliver, exercise its rights and perform its obligations in each of the Senior Loan Transaction Documents to which it is or will be a party and the transactions contemplated thereby; and (b) at the time that evidence is required to be submitted to make the Senior Loan Transaction Documents to which it is or will be a party admissible in evidence in its Relevant Jurisdiction and in the courts of any relevant jurisdiction to which the parties to such Senior Loan Transaction Document have submitted, have been obtained or effected and are in full force and effect, in each case, other than any Perfection Requirement.

All Authorisations necessary for the conduct of the business, trade and ordinary activities of all members of the Group have been obtained or effected and are in full force and effect other than to the extent failure to obtain or effect those Authorisations would not have a Material Adverse Effect.

No Senior Obligor is in breach of any law or regulation in a manner or to an extent which would have a Material Adverse Effect.

#### *Governing law and enforcement*

The choice of the applicable law as the governing law of each Senior Loan Transaction Document to which it is a party (as set out in each Senior Loan Transaction Document) will, subject to the Legal Reservations and Perfection Requirements, be recognised and enforced in its Relevant Jurisdiction. Any judgment obtained in relation to any Senior Loan Transaction Document to which it is a party in the jurisdiction of the governing law of that Senior Loan Transaction Document will, subject to the Legal Reservations and Perfection Requirements, be recognised and enforced in its Relevant Jurisdiction.

#### *Deduction of Tax*

It is not required to make any Tax Deduction from any payment it may make under any Senior Finance Document to a Senior Lender which is a Qualifying Lender.

#### *No filing or stamp taxes*

Under the laws of its Relevant Jurisdiction(s), it is not necessary for the validity, enforceability and admissibility into evidence of the Senior Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to the Senior Finance Documents or the transactions contemplated by the Senior Finance Documents other than in connection with any Perfection Requirement (which shall include, without limitation, the registration of the mortgage over the Properties created under the French Facility Agreement).

#### *No default*

On the date of the Common Terms Agreement, no Senior Loan Default is continuing. No event or circumstance is outstanding which constitutes a breach of or default (howsoever described) under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which would have a Material Adverse Effect.

#### *No misleading information*

All written material factual information supplied by it or on its behalf to any Senior Finance Party in connection with the Senior Loan Transaction Documents, the Valuer for the purposes of the most recent Valuation; and/or any report provider in connection with the preparation of any Report, was, so far as it is aware (having made due enquiry appropriate and consistent for entities of a similar nature to the Senior Obligors acting on transactions similar to those contemplated by the Senior Loan Transaction Documents), true, complete and accurate in all material respects and was not misleading in any material respect, in each case, as at its date or (if appropriate) as at the date (if any) at which it is stated to be given.

Any financial projections contained in the information referred to in the paragraph above have been prepared as at their date, on the basis of recent historical information and assumptions believed by it to be fair and reasonable at such time (having made due consideration appropriate and consistent for entities of a similar nature to the Senior Obligors acting on transactions similar to those contemplated

by the Senior Loan Transaction Documents) provided that each Senior Finance Party acknowledges that such financial projections are based on assumptions and subject to significant uncertainties and contingencies and no assurance can be given that such projections will be realised.

It has not omitted to supply information which, if disclosed, would make any of the information referred to above untrue or misleading in any material respect.

Nothing has occurred since the date of the provision of the information referred to above which renders that information untrue or misleading in any material respect.

All written material factual information supplied by it or on its behalf to any Senior Finance Party in connection with the most recent Quarterly Management Report was, so far as it is aware, true, complete and accurate in all material respects and is not misleading in any material respect, in each case, as at its date or (if appropriate) as at the date (if any) at which it is stated to be given.

#### *Financial statements*

The financial statements most recently delivered to the Senior Loan Facility Agent under the terms of the Common Terms Agreement have been prepared in accordance with the Accounting Principles, and give a true and fair view of (if audited) or fairly present (if unaudited and subject to customary year-end adjustments and to the extent reasonably expected of financial statements not subject to audit procedures) the financial condition of the Group or, as applicable, the relevant Senior Obligor as at the end of, and consolidated results of operations for, the period to which they relate.

#### *No proceedings pending or threatened*

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency are current or, to the best of its knowledge (having made due enquiry appropriate and consistent for entities of a similar nature to the Senior Obligors acting on transactions similar to those contemplated by the Senior Loan Transaction Documents), pending against it or any of its Subsidiaries which if adversely determined would have a Material Adverse Effect.

#### *Environmental laws*

It is in compliance with the environmental undertakings referred to under "*General undertakings – Environmental compliance*" below and, to the best of its knowledge (having made due and careful enquiry), no circumstances have occurred which would prevent that performance or observation where failure to do so would have a Material Adverse Effect. No Environmental Claim is current or, to the best of its knowledge (having made due and careful enquiry), pending or threatened against it which if adversely determined would have a Material Adverse Effect.

#### *Taxation*

Except as disclosed in a Report since the date of the Senior Obligor Acquisition, it has paid and discharged all material Taxes imposed on it or its assets within the time period allowed without incurring interest or penalties (save to the extent that (a) payment is being contested in good faith and the enforcement procedure is suspended according to the applicable laws, (b) it has maintained adequate reserves for the payment of such Taxes and (c) payment can be lawfully withheld).

There are no claims which are current or, to the best of its knowledge (having made due enquiry appropriate and consistent for entities of a similar nature to the Senior Obligors acting on transactions similar to those contemplated by the Senior Loan Transaction Documents), pending against it with respect to Taxes which if adversely determined would have a Material Adverse Effect.

Except as disclosed in a Report, it is not materially overdue in the filing of any Tax returns.

It is solely resident for Tax purposes in the jurisdiction of its incorporation.

Since the date of the Senior Obligor Acquisition, no Senior Obligor is treated as a member of a VAT Group other than a VAT Group consisting solely of Senior Obligors and Bel Top S.à r.l.

Each OPCI validly benefits from the SPPICAV status as governed by articles L214-33 *et seq.* of the Financial Code, and from the French corporation tax exemption provided for by article 208,3° nonies of the French Tax Code.

Except as disclosed in any Report, Digem SARL, Chapelyon S.a r.l., Abervest SARL, Industrial Securities Onnaing SAS, S.L.P.1. SARL, Paned SARL, SARL Innovalisses, MPITS 3 SARL and MPITS 23 SARL have validly elected for the application of the SIIC regime in accordance with article 208 C of the French Tax Code.

Except as disclosed in any Report, no French Senior Borrower (other than Digem SARL, Chapelyon S.a r.l., Abervest SARL, Industrial Securities Onnaing SAS, S.L.P.1. SARL, Paned SARL, SARL Innovalisses, MPITS 3 SARL and MPITS 23 SARL) has elected to be subject to corporate income tax or is carrying on any activity that might call into question its nature as a civil entity.

Except as disclosed in any Report, each French Senior Borrower and each of its direct and indirect shareholders is validly exempt from the annual 3 per cent. tax on property (*taxe annuelle de 3 per cent. sur les immeubles*) provided for by articles 990 D *et seq.* of the French Tax Code (the **3 per cent. Property Tax**) in relation to the Properties and since the date of the Senior Obligor Acquisition has taken all necessary actions in order to comply with the appropriate requirements and criteria in order to be exempt from such Tax (to the extent applicable), whether as principal taxpayer or under a joint and several liability.

Except as disclosed in any Report, each French Senior Borrower has validly elected for VAT on Rental Income in accordance with article 260, 2° of the French Tax Code and is entitled to recover VAT in this respect.

#### *Financial Indebtedness*

No Senior Obligor has any Financial Indebtedness outstanding other than as permitted by the Common Terms Agreement.

#### *Good title to Property*

Except as disclosed in any Report, on and from the Senior Utilisation Date:

- (a) each Propco is the sole legal and beneficial owner of each relevant Property and has good and marketable title to such Properties, in each case free from any Security (other than any Senior Permitted Security);
- (b) each Senior Obligor is the legal and beneficial owner of, and has good, valid and marketable title to each of its assets (other than the Properties) which are expressed to be the subject of the Common Transaction Security, in each case free from any Security (other than any Senior Permitted Security);
- (c) (other than any such licence, consent or authorisation solely required under applicable law in respect of the use of the Properties by a tenant or licensee) in respect of the Properties, the relevant Propco has the benefit of all licences, consents and authorisations, in each case



required under all applicable law in connection with that Propco's ownership and use of the Properties and they are in full force and effect and no breach of any law, regulation or covenant is outstanding which, in each case, would have a material adverse effect on the value, saleability or use of the Properties;

- (d) there is no covenant, easement, agreement, reservation, restriction, condition or other matter which adversely affects the Properties;
- (e) the Properties are not subject to any overriding interest or an unregistered interest which overrides first registration or registered dispositions;
- (f) no facility necessary for the enjoyment and use of the Properties are enjoyed by the Properties on terms entitling any person to terminate or curtail its use or which conflict with or restrict its use of the relevant Property, in each case, in a manner which would have a material adverse effect on the value of the Properties;
- (g) the Properties are free and clear of material damage and structural defects which would have a material adverse effect on the value of the Properties;
- (h) the Properties are not subject to or at risk of flooding or subsidence which would have a material adverse effect on the value of the Properties;
- (i) each Senior Obligor has complied in all material respects with Planning Laws to which it or the Properties is subject and with any condition, agreement or undertaking to applicable planning permissions or otherwise relating to or affecting the Properties, other than such matters which are the sole obligation of any tenant under any Occupational Lease and which do not bind any Senior Obligor in any capacity;
- (j) the Properties are held by the relevant Propco free from any Lease (other than any Lease that has been entered into prior to the date of the Common Terms Agreement or otherwise in accordance with the terms of the Common Terms Agreement); and
- (k) no Senior Obligor has received any notice of any adverse claim by any person in respect of the ownership of the Properties or any interest in it which if adversely determined would have a Material Adverse Effect nor has any acknowledgement been given to any such person in respect of the Properties.

#### *Pari passu ranking*

Its payment obligations under the Senior Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors other than those creditors whose claims are preferred by any bankruptcy, insolvency, liquidation or other similar laws of general application.

#### *Centre of Main Interests*

Its Centre of Main Interests is its jurisdiction of incorporation or formation. It has no Establishment in any jurisdiction other than in its jurisdiction of incorporation or formation.

#### *No other business*

No Senior Obligor (excluding any Target) has traded or carried on any business since the date of its incorporation or establishment except for: (a) entering into the Senior Loan Transaction Documents to which it is a party and effecting the transactions contemplated thereby and the acquisition, ownership,

management, financing, development and leasing of its interests in the Properties and any activities directly related thereto; and (b) in the case of a Senior Holdco, effecting transactions in the administration and business of being a Holding Company and the ownership of subsidiaries.

#### *Pensions and employees*

Other than in respect of Permitted Employees, no Senior Obligor has any employees, has any actual or contingent liabilities in respect of persons that were previously employed by it or other than as disclosed in a Report, is an employer under any pension scheme. It is not an employer under any defined benefit pension scheme.

#### *Ownership of Senior Obligors*

The group structure chart provided as a condition precedent is true, complete and accurate in all material respects and shows the structure of the Group and the Excluded Entities following completion of the Senior Transaction as at the Senior Utilisation Date.

#### *Security*

No Security exists over all or any of the present or future assets of the Senior Obligors expressed to be the subject of the Common Transaction Security except Senior Permitted Security.

All of the shares in any Senior Obligor which are expressed to be subject to the Common Transaction Security have been duly issued, are fully paid and are not subject to any option to purchase or similar rights and constitute all of the issued shares in that Senior Obligor.

The constitutional documents of any Senior Obligor the shares in which are expressed to be subject to Common Transaction Security do not restrict or inhibit any transfer of those shares on creation or would not restrict or inhibit any transfer of those shares on enforcement of the Common Transaction Security and do not restrict or inhibit the voting rights attached to any such shares on or after the occurrence of a Senior Loan Event of Default which is continuing.

Subject to any rights of a Senior Obligor Account Bank except to the extent waived pursuant to the relevant acknowledgement of Common Transaction Security, there is no restriction or prohibition applicable to any of its Senior Control Accounts or any part thereof which may restrict or prohibit, and there is no consent required for, any pledge, transfer or assignment by way of security or otherwise of any of its Senior Control Account or any part thereof (including, without limitation, under or pursuant to the Common Transaction Security Documents) and without prejudice to the foregoing there is no resolution, mandate, agreement or arrangement which could restrict or prohibit any pledge, transfer or assignment by way of security or otherwise of its Senior Control Account or any part thereof (including, without limitation, under or pursuant to the Common Transaction Security Documents).

#### *Acquisition Agreements*

The Acquisition Agreements contain all the material terms of the Senior Obligor Acquisition. There is no disclosure made to the Acquisition Agreements which has or may have a material adverse effect on any of the information, opinions, intentions, forecasts and projections contained or referred to in the information provided to any Senior Finance Party in connection with the Senior Finance Documents. To the best of its knowledge, no representation or warranty (as qualified by any disclosure made in accordance with the terms of the Acquisition Agreements) given by a Vendor and set out in an Acquisition Agreement (insofar as such representation is attributable to the acquisition of the Properties and/or the Group) is untrue or misleading in any material respect. No claims have been

made by a Vendor or a Senior Obligor in respect of or pursuant to the terms of an Acquisition Agreement.

#### *Excluded Entities*

The share capital held by a Senior Obligor in each Excluded Entity is fully paid up. Other than disclosed in a Report, to the best of its knowledge: (a) no Senior Obligor has any actual or contingent payment obligations under any loan made to an Excluded Entity or any guarantee granted to or in respect of the obligations of an Excluded Entity (other than to the extent such obligation is funded from committed Equity Contributions, Senior Investor Debt and/or the aggregate amount standing to the credit of the Senior General Accounts that are not allocated for any purpose expressly specified in the Common Terms Agreement); and (b) no Excluded Entity is a party to any material agreement which would result in a material liability for any Senior Obligor on (or on completion of and the change of ownership that results from) the enforcement of the Common Transaction Security over the shares in any Senior Obligor.

#### **Information undertakings**

The Senior Obligors have undertaken various obligations relating to the provision of information, which remain in force so long as any amount is outstanding under the Senior Finance Documents or any Senior Commitment is in force.

#### *Financial statements*

The Senior Company shall deliver to the Senior Loan Facility Agent as soon as they are available, but in any event within 180 days of the end of each Financial Year ending after the Senior Utilisation Date, a copy of each Mezzanine Holdco's unaudited combined financial statements for that Financial Year.

#### *Compliance Certificate*

The Senior Company must deliver a Compliance Certificate to the Senior Loan Facility Agent on each day falling five Business Days before each Senior Loan Payment Date and must be signed by an authorised signatory of the Senior Company.

#### *Requirements as to financial statements*

Each set of financial statements delivered pursuant to the information undertaking related to financial statements of the Common Terms Agreement set out under "*Financial statements*" above: (a) shall, if unaudited, be certified by a director, manager or other equivalent officer of the relevant Senior Obligor as fairly representing its financial condition as at the date as at which those unaudited financial statements were drawn up; (b) shall give a true and fair view (in the case of audited financial statements) or fairly represent (in other cases and subject to customary year-end adjustments and to the extent reasonably expected of financial statements not subject to audit procedures) its financial condition and operations as at the date as at which those financial statements were drawn up; (c) shall be prepared using the Accounting Principles unless, in relation to any set of financial statements, the Senior Company notifies the Senior Loan Facility Agent that there has been a change in the Accounting Principles since the previous financial statements delivered and delivers to the Senior Loan Facility Agent: (i) a set of financial statements which reflect such change in the Accounting Principles; (ii) the financial statements for the financial reference period immediately preceding the change in Accounting Principles, amended to reflect how such financial statements would have appeared if the change in Accounting Principles had been effected prior to such immediately preceding financial reference period; (iii) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the financial

statements of the relevant Senior Obligor were prepared prior to such change in Accounting Principles; and (iv) sufficient information, in form and substance as may be reasonably required by the Senior Loan Facility Agent, to enable the Senior Lenders to make an accurate comparison between the financial position indicated in those financial statements and the financial statements of the Senior Obligors prior to such change in Accounting Principles; and (d) shall, in the case of any combined financial statements, be prepared using reasonable and fair assumptions and estimated allocations or revenue and expense applicable to the Senior Obligors where necessary to do so as a result of not being able to consolidate.

If the Senior Company notifies the Senior Loan Facility Agent of a change in the Accounting Principles, then the Senior Company and the Senior Loan Facility Agent shall enter into negotiations in good faith with a view to agreeing whether or not the change might result in any material alteration in the commercial effect of any of the terms of the Common Terms Agreement and the French Facility Agreement and if so, any amendments to the Common Terms Agreement and/or the French Facility Agreement which may be necessary to ensure that the change does not result in any material alteration in the commercial effect of those terms, and if any amendments are agreed they shall take effect and be binding on each of the Parties in accordance with their terms.

#### *Property information*

The Senior Company shall deliver to the Senior Loan Facility Agent on the date of delivery of each Compliance Certificate (other than the Compliance Certificate delivered five Business Days before the first Senior Loan Payment Date) a Quarterly Management Report.

#### *Know your customer checks*

If the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of the Common Terms Agreement, any law, regulation, applicable market guidance or internal policy of the relevant Senior Loan Facility Agent or Senior Lender in relation to any relevant person the periodic review and/or updating of customer information, any change in the status of a Senior Obligor or the composition of the shareholders of a Senior Obligor after the date of the Common Terms Agreement or a proposed transfer by a Senior Lender of any of its rights and obligations under the Common Terms Agreement and the French Facility Agreement to a party that is not a Senior Lender prior to such transfer, obliges the Senior Loan Facility Agent or any Senior Lender (or any prospective new Senior Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Senior Obligor shall promptly upon the request of the Senior Loan Facility Agent or any Senior Lender deliver to, or procure the delivery of, such documentation and other evidence as is reasonably requested by the Senior Loan Facility Agent (for itself or on behalf of any Senior Lender) or any Senior Lender (for itself or on behalf of any prospective new Senior Lender) in order for the Senior Loan Facility Agent, such Senior Lender or any prospective new Senior Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to any relevant person pursuant to the transactions contemplated in the Senior Finance Documents.

#### *Information: miscellaneous*

Each Senior Obligor shall deliver to the Senior Loan Facility Agent: (a) at the same time as they are dispatched all non-administrative documents dispatched by any member of the Group to its shareholders (or any class of them) in their capacity as shareholders or dispatched by any member of the Group to its creditors generally; (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against any member of the Group (or against its directors or officers) and which, if adversely determined, would have a Material Adverse Effect; (c) promptly upon becoming aware of them, the details of any

Environmental Claim which is current, threatened or pending against any Senior Obligor which, if adversely determined, would have a Material Adverse Effect; (d) promptly upon becoming aware of them, any facts or circumstances which shall or are reasonably likely to result in an Environmental Claim being commenced or threatened against any Senior Obligor which, if adversely determined, would have a Material Adverse Effect; (e) promptly upon becoming aware of them, the details of any claim which is current, threatened or pending against any Vendor or any other person in respect of any Acquisition Agreement in an amount in excess of €250,000 (or its currency equivalent); (f) within three Business Days of entering into any Hedge Document, a copy of that Hedge Document; (g) on the date any notice to a counterparty to any hedging transactions referred to in the Common Terms Agreement is delivered to that counterparty, a copy of that notice (substantially in the form required by the relevant Common Transaction Security Document); (h) promptly after request by the Senior Loan Facility Agent, a copy of each Occupational Lease, each amendment to an Occupational Lease and each document recording any rent review or dilapidations settlement in respect of an Occupational Lease; (i) promptly after request by the Senior Loan Facility Agent, a copy of each document setting out the terms of any Senior Investor Debt (if any) and/or Subordinated Loans (if any) in place at the time of such request; (j) promptly and in any event within five Business Days of entering into any asset management agreement, with a copy of that asset management agreement; and (k) promptly, such further information regarding the financial condition, business and operations of any Senior Obligor as any Senior Finance Party (through the Senior Loan Facility Agent) may reasonably request.

#### *Notification and determination of Senior Loan Default*

Each Senior Obligor shall notify the Senior Loan Facility Agent of any Senior Loan Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Senior Obligor is aware that a notification has already been provided by another Senior Obligor). The Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) shall make a determination as to whether or not a Senior Loan Default is continuing for the purposes of any Senior Finance Document as soon as reasonably practicable after being asked by the Senior Company to make such a determination. Promptly upon a request by the Senior Loan Facility Agent if it believes (acting in good faith) that a Senior Loan Default may have occurred and is continuing, the Senior Company shall supply to the Senior Loan Facility Agent a certificate signed by an authorised signatory on its behalf certifying that so far as the Senior Company is aware no Senior Loan Default is continuing (or if a Senior Loan Default is continuing, specifying the Senior Loan Default and the steps, if any, being taken to remedy it). In determining whether a Senior Loan Default is continuing, the Senior Loan Facility Agent may, without any further investigation or enquiry, rely on a certificate issued by the Senior Company as determinative, in the absence of express knowledge to the contrary, of the absence of any Senior Loan Default.

#### **Financial covenants**

On each Senior Loan Payment Date falling on or after the date of a Permitted Senior Change of Control, each Senior Obligor shall: (a) ensure that the Senior LTV Ratio is not greater than the proportion expressed as a percentage which Net Senior Debt on the CoC Date bears to an amount equal to 85 per cent. of the Market Valuation set out in the most recent Valuation delivered on or before the CoC Date (the **LTV Covenant**); and (b) ensure that the Debt Yield is not less than the proportion expressed as a percentage which an amount equal to 82.5 per cent. of the Net Rental Income received by the Senior Obligors for the Relevant Period ending on the Financial Quarter Date immediately preceding the CoC Date bears to Net Senior Debt on the CoC Date (the **Debt Yield Covenant**).

If the requirement in respect of the Senior LTV Ratio (as set out above) is not satisfied on a Senior Loan Payment Date, the Senior Company may within 20 Business Days of that Senior Loan Payment Date, procure the prepayment of the Senior Loan or the deposit of an amount into the Senior Equity

Cure Account sufficient (but not more than the amount required) to ensure that when taking into account such prepayment, or deposit in the calculation of the Senior LTV Ratio the requirement in respect of the Senior LTV Ratio (as set out above) would be met.

If the requirement in respect of Debt Yield (as set out above) is not satisfied on a Senior Loan Payment Date, the Senior Company may within 20 Business Days of that Senior Loan Payment Date, procure the prepayment of the Senior Loan or the deposit of an amount into the Senior Equity Cure Account sufficient (but not more than the amount required) to ensure that when taking into account such prepayment, or deposit in the calculation of the Debt Yield the requirements in respect of Debt Yield (as set out above) would be met.

Upon prepayment of the Senior Loan or the deposit of a Senior Equity Cure Amount into the Senior Equity Cure Account, the financial covenant shall (without prejudice to any subsequent breach) be deemed to have been satisfied as at the relevant date for all purposes under the Senior Finance Documents.

The cure rights in respect of each of the Senior LTV Ratio and the Debt Yield may not be exercised in respect of more than two consecutive Senior Loan Payment Dates. The Senior LTV Ratio and the Debt Yield cure rights, taken together, may only be exercised a maximum of four times in aggregate during the life of the Senior Facility.

The Mezzanine Lenders have additional cure rights in respect of the LTV Covenant as set out further in the section entitled "*Bank accounts – Senior Equity Cure Account*" above.

### **General undertakings**

The Senior Obligors have undertaken various general obligations as set out below, which remain in force so long as any amount is outstanding under the Senior Finance Documents or any Senior Commitment is in force.

#### *Authorisations*

Each Senior Obligor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect; and if requested by the Senior Loan Facility Agent, supply to the Senior Loan Facility Agent copies of any Authorisations required under any law or regulation of a Relevant Jurisdiction to enable it to: (a) perform its obligations under the Senior Loan Transaction Documents to which it is a party; (b) subject to the Legal Reservations, ensure the legality, validity, enforceability or admissibility in evidence in each Relevant Jurisdiction of any Senior Loan Transaction Document; and (c) own its assets and carry on its business, trade and ordinary activities as currently conducted where failure to obtain or comply with those Authorisations would have a Material Adverse Effect.

#### *Compliance with laws*

Each Senior Obligor shall comply in all respects with all laws to which it or any Properties owned by it or any other asset which is the subject of the security created pursuant to the Common Transaction Security Documents may be subject where failure to do so would have a Material Adverse Effect.

#### *Environmental compliance*

Each Senior Obligor shall: (a) comply with all Environmental Law applicable to each Property owned by it and each Excluded Property; (b) obtain, maintain and ensure compliance with all requisite Environmental Permits as required for the business currently carried on at each Property owned by it, each Excluded Property or to which that Senior Obligor may otherwise be subject and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same;

(c) comply with all other covenants, undertakings, conditions, restrictions or agreements directly or indirectly relating to any contamination, pollution or waste or the release or discharge of any toxic or Hazardous Substance in connection with each Property owned by it; and (d) implement where legally required the procedures required under any Environmental Law applicable to the business carried on at each Property owned by it and each Excluded Property, in each case where failure to do so would have a Material Adverse Effect.

### *Merger*

No Senior Obligor shall enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Senior Permitted Reorganisation; or with the consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders).

### *Conduct of business*

Each Pledgeco shall procure that no substantial change is made to the general nature of the business of the Group taken as a whole from that carried on by the Group taken as a whole as at the Senior Utilisation Date.

Each Senior Holdco shall not trade, carry on any business, own any assets or incur any liabilities other than in the ordinary course of business in relation to the ownership of shares in its subsidiaries, intra Group debit balances and credit balances, other incidental assets and the incurrence of liabilities and consummation of other transactions in compliance with the Senior Loan Transaction Documents.

Each Propco shall only conduct the business of acquiring, owning, managing, financing, refinancing, developing and letting the Properties and any activities directly related thereto in any manner which is in compliance with the Senior Finance Documents.

Each Senior Obligor shall conduct its business in a reasonable and prudent manner and in accordance with its constitutional documents and in a manner which is in compliance with the Senior Finance Documents. Each Senior Obligor shall (in each case, to the extent that Senior Obligor considers it is in accordance with its interests to do so or is directed by the Senior Loan Facility Agent to do so) take all reasonable and practical steps to preserve and enforce its rights and pursue any claims and remedies, including those arising in respect of any Report. Subject to the terms of the Common Terms Agreement, each Senior Obligor will: (a) maintain its accounts, books and records separately from any other person; (b) not co-mingle its assets with those of any other person; (c) discharge all obligations and liabilities due and owing by it from its own funds; and (d) hold itself out as a separate entity.

### *Pensions and employees*

Each Senior Obligor shall ensure that neither it nor any of its Subsidiaries become an employer of a defined pension scheme. Each Senior Obligor shall ensure that it has no employees at any time after the date of the Common Terms Agreement other than Permitted Employees.

### *Material contracts*

No Senior Obligor shall enter into any material agreement without the prior written consent of the Senior Loan Facility Agent (acting on the instruction of the Senior Majority Lenders (not to be unreasonably withheld, delayed or conditioned)) other than any Senior Loan Transaction Document; any other agreement permitted under any term of any Senior Finance Document; and any agreement consistent with the business which it is permitted to conduct under the terms of the Common Terms Agreement.

### *Acquisitions*

Other than in respect of a permitted Senior Obligor Acquisition or a Senior Permitted Reorganisation, no Senior Obligor shall: (a) acquire a company, any shares, business, undertaking or real estate assets (or in each case any interest in them) from any person; (b) incorporate a company, partnership, firm or any other form of corporation or organisation (howsoever described); or (c) acquire or allow to be transferred to it any assets other than those which are necessary for the performance of its obligations under the Senior Finance Documents or otherwise pursuant to its business permitted under the Senior Finance Documents.

### *Pari passu ranking*

Each Senior Obligor shall ensure that its payment obligations under the Senior Finance Documents at all times rank at least *pari passu* with the claims against it of all its other unsecured and unsubordinated creditors except for obligations mandatorily preferred by law applying to companies generally.

### *Centre of main interests*

No Senior Obligor shall permit its Centre of Main Interests to be in any jurisdiction other than its jurisdiction of incorporation or formation. No Senior Obligor shall permit to exist an Establishment in any jurisdiction other than in its jurisdiction of incorporation or formation.

### *Negative pledge*

No Senior Obligor shall create or permit to subsist any Security over the whole or any part of its assets or sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by it, sell, transfer or otherwise dispose of any of its receivables on recourse terms, enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts or enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset, except for Senior Permitted Security, provided that, while a Senior Loan Event of Default is continuing, no additional Security (except for any Security arising by operation of law and any Security the creation of which cannot be prohibited under section 1136 of the German Civil Code) may be granted which would constitute Senior Permitted Security without the prior written consent of the Senior Majority Lenders.

### *Disposals*

Except for a Senior Permitted Disposal or a Senior Permitted Reorganisation, no Senior Obligor may enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary, to dispose of the whole or any part of its assets.

### *Arm's length basis*

No Senior Obligor shall enter into any transaction with any person except on arm's length terms (including, for the avoidance of doubt, any contract or agreement in relation to letting agent fees and leasing commissions, any asset management agreement or any Property Management Agreement), except for any transaction entered into on terms more favourable to the relevant Senior Obligor than arm's length terms, any Subordinated Loan, any Senior Investor Debt, any transactions between Senior Obligors, any Equity Contribution or any transaction or arrangement under or contemplated in the Senior Finance Documents.



### *No Guarantees or indemnities*

No Senior Obligor may incur or allow to remain outstanding any guarantee or indemnity in respect of Financial Indebtedness, except for a Senior Permitted Guarantee, provided that while a Senior Loan Event of Default is continuing, no additional Senior Permitted Guarantee may be granted which would constitute a Senior Permitted Guarantee without the prior written consent of the Senior Majority Lenders.

### *Dividends, distributions and share redemption*

No Senior Obligor may (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee, distributions or expenses) in the nature of or intended to act as a distribution to any of its shareholders or make any payments in respect of Financial Indebtedness owed to any of its shareholders (in that capacity) (whether in cash or in kind), (b) make any payment of any kind in respect of any Senior Investor Debt provided that the roll-up or capitalisation of any amount due in respect of such Financial Indebtedness shall be permitted, (c) repay or distribute any dividend or share premium reserve or (d) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so, unless such action constitutes a Senior Permitted Distribution.

Each Senior Obligor must promptly pay all calls or other payments which may be or become due in respect of any shares held by it and shall not appoint any third party nominee to exercise any members' rights or information rights in relation to any shares held by it.

### *Financial Indebtedness*

No Senior Obligor may incur or have outstanding any Financial Indebtedness to any person, except for Senior Permitted Financial Indebtedness.

### *Loans or credit*

No Senior Obligor shall be a creditor in respect of any Financial Indebtedness, except Financial Indebtedness which is a Senior Permitted Loan.

### *Share capital and status*

No Senior Obligor may issue any stock, share, debenture or other securities to any person or subscribe for or otherwise acquire any stock or share which is only partly paid up or in respect of which the company which issued that stock or share has any call or lien, except in respect of any Senior Permitted Reorganisation and any shares issued by a Senior Obligor to its immediate shareholder(s) where, if the existing shares issued by such Senior Obligor are the subject of the Common Transaction Security, the newly issued shares also become subject to the Common Transaction Security on the same terms and promptly following the issue of such shares all associated Perfection Requirements (if any) are met.

No Senior Obligor may alter any rights relating to its issued shares other than an alteration which does not adversely affect the enforceability of the Common Transaction Security Documents or the rights of the Senior Finance Parties under the Common Transaction Security Documents adversely affect the saleability or transferability of such issued shares or operate to decrease the value of such issued shares (taken as a whole).

On and from the date falling 90 days after the Senior Utilisation Date, the Senior Obligors must ensure that at all times each French Senior Obligor's net equity is not less than half of its share capital.

### *Acquisition Agreements*

No Senior Obligor shall amend, vary, novate, forego or waive (or give its consent to any of the foregoing in respect of) any material provision, right or condition or other matter arising pursuant to, in or under any Acquisition Agreement or agree to do or give its consent to any of those things (each a change) except: (a) insofar as such change is attributable only to the acquisition of an Excluded Entity; (b) made with the prior consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders); (c) which would not be adverse to the interests of the Senior Finance Parties under the Senior Finance Documents; (d) to the extent that the relevant change relates to the amendment or correction of a manifest or typographical error or is of an administrative nature; or (e) required by law.

Each Senior Obligor shall exercise and enforce its rights (in each case to the extent that Senior Obligor considers that it is in accordance with its interests to do so or is directed by the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) to do so) and comply with its material obligations under each Acquisition Agreement to the fullest extent possible including (without limitation) diligently settling any payment due from a Senior Obligor to a Vendor under an Acquisition Agreement as and when it falls due.

### *Property Management Agreement*

No Senior Obligor shall appoint any person as a property manager or managing agent of any Properties unless such person is a Senior Permitted Property Manager and such appointment is made under a Property Management Agreement. At the same time as the entry into each Property Management Agreement entered into after the date of the Common Terms Agreement, each Senior Obligor shall ensure that the relevant Senior Permitted Property Manager enters into a Senior Property Manager Duty of Care Agreement.

Each Senior Obligor shall comply in all material respects with its obligations under each Property Management Agreement to which it is a party and shall take all reasonably commercial and prudent steps (in each case, to the extent that Senior Obligor considers it is in accordance with its interests to do so or is directed by the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) to do so) to enforce the material terms of each Property Management Agreement against any other party thereto.

No Senior Obligor shall terminate the appointment of a Senior Permitted Property Manager without the prior written consent of the Senior Loan Facility Agent (not to be unreasonably withheld, delayed or conditioned) unless: (a) the Senior Loan Facility Agent is first notified in writing (with at least five Business Days' notice) of the Senior Obligor's intention to terminate the relevant appointment; (b) a new Senior Permitted Property Manager is promptly appointed under a New Property Management Agreement; and (c) such termination does not lead to any Senior Obligor becoming the employer of any employees, other than Permitted Employees.

If a Senior Permitted Property Manager breaches a Property Management Agreement or a Senior Property Manager Duty of Care Agreement in any material respect, the relevant Senior Obligor shall promptly upon becoming aware of such breach notify the Senior Loan Facility Agent and if any such breach is not remedied within 28 days following notice to that Senior Permitted Property Manager from the Senior Obligor concerned or the Senior Loan Facility Agent, then the Senior Loan Facility Agent may require the relevant Senior Obligor to appoint a new Senior Permitted Property Manager in relation to the relevant Property under a New Property Management Agreement.

No Senior Obligor shall amend, vary, novate, forego or waive any provision, right of condition, arising in or under any Property Management Agreement without the prior consent of the Senior Majority Lenders (acting reasonably) except for where such action does not conflict with the

provisions of the relevant Senior Property Manager Duty of Care Agreement and does not adversely affect the interests of the Senior Finance Parties under the Senior Finance Documents or the validity or enforceability of the Common Transaction Security in respect of that Property Management Agreement.

#### *Asset management agreements*

Each Senior Obligor shall ensure that the terms of each asset management agreement shall provide that: (a) if the Common Transaction Security over the shares in any Senior Obligor is the subject of enforcement action by the Common Security Agent in accordance with the terms of the relevant Common Transaction Security Document the Senior Loan Facility Agent may immediately terminate that asset management agreement by notice to the relevant asset manager without prejudice to any amounts due and payable to that asset manager under the relevant asset management agreement before the date of termination but without triggering any termination fees or penalties in excess of those payable on any other "without cause" termination by the relevant Senior Obligor; and (b) the rights of the Senior Loan Facility Agent to terminate the relevant asset management agreement in accordance with the terms of the relevant asset management agreement (as further described in paragraph (a) above) cannot be amended, varied or waived without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders).

#### *Treasury Transactions*

No Senior Obligor shall enter into any Treasury Transaction other than any Treasury Transaction which is a Permitted Hedging Transaction.

#### *Taxes*

Each Senior Obligor shall maintain its tax residence solely in the jurisdiction of its incorporation or formation and not carry on a trade or business for Tax purposes in any jurisdiction other than its jurisdiction of incorporation or formation other than (A) a property rental business in Germany, in respect of a Luxembourg Senior Borrower that owns a German Property and (B) a property rental business in the Netherlands, in respect of the Lux Dutch Propco that owns a Dutch Property.

No Senior Obligor may have a branch, agency, business establishment or other permanent or fixed establishment in any jurisdiction other than in its jurisdiction of incorporation or formation and in respect of any Luxembourg Senior Borrower that owns a German Property a property rental business in Germany.

Each Senior Obligor shall: (a) ensure that all material Taxes payable by, or assessed upon, it are paid not later than the date on which such Taxes are required to be paid in order to avoid any liability to interest and penalties save to the extent such Taxes are being contested in good faith by it and the enforcement procedure is suspended in accordance with applicable law, adequate reserves for the payment of such Taxes are being maintained by it and payment of such Taxes can be lawfully withheld; (b) comply in all material respects with all Tax laws of the Relevant Jurisdiction; (c) ensure that no tax losses belonging to it are surrendered, waived or otherwise disposed of for consideration which is less than the amount by which a liability to tax is able to be reduced by means of the utilisation of the relevant losses; and (d) comply with all requirements to make, deliver or amend returns (including company tax returns) required to be made by it to any Tax Authority and shall use reasonable endeavours to file each such return no later than the date on which that return is required to be filed with the relevant Tax Authority to avoid any material liability to a penalty.

The French Senior Obligors will comply with all applicable requirements to which they may be subject in respect of the 3 per cent. Property Tax and take all necessary actions in order to comply

with the appropriate requirements and criteria in order to be exempt from such Tax (to the extent applicable) as principal taxpayer.

The Senior Company undertakes to promptly indemnify the French Senior Borrowers with respect to any 3 per cent. Property Tax liability (including interest, penalties and related costs) suffered by the French Senior Obligors in the event they are held jointly liable with any direct or indirect shareholders. The claim owed by the French Senior Obligors against any direct or indirect shareholder as a result of this joint liability will be assigned to the relevant shareholder upon the indemnification payment.

To the extent it is within the control of the Senior Obligors and to the extent it is not to the detriment of the Senior Obligors, as solely determined by the Senior Obligors, each relevant French Senior Borrower and French Senior Holdco (other than Digem SARL, Chapelyon S.a r.l., Abervest SARL, Industrial Securities Onnaing SAS, S.L.P.1. SARL, Paned SARL, SARL Innovalisses, MPITS 3 SARL and MPITS 23 SARL) shall remain a tax transparent company within the meaning of article 8 of the French Tax Code and shall not elect to be subject to corporation tax.

To the extent it is within the control of the Senior Obligors and to the extent it is not to the detriment of the Senior Obligors, as solely determined by the Senior Obligors, each OPCI will maintain its SPPICAV status as governed by articles L214-33 *et seq.* of the Financial Code and the benefit from the French corporation tax exemption provided for by article 208, 3° nonies of the French Tax Code (or successor provisions).

To the extent it is within the control of the Senior Obligors and to the extent it is not to the detriment of the Senior Obligors, as solely determined by the Senior Obligors, Digem SARL, Chapelyon S.a r.l., Abervest SARL, Industrial Securities Onnaing SAS, S.L.P.1. SARL, Paned SARL, SARL Innovalisses, MPITS 3 SARL and MPITS 23 SARL will maintain their SIIC status and the benefit from the French corporation tax exemption provided for by article 208 C of the French Tax Code.

#### VAT

Each French Senior Borrower shall remain registered to charge VAT on Rental Income in accordance with the election provided under article 260, 2° of the French Tax Code. To the extent required, each Dutch Senior Obligor shall (once registered) remain registered for Dutch VAT. To the extent required, each Luxembourg Senior Obligor shall (once registered) remain registered for Luxembourg VAT and, with respect to each Luxembourg Senior Borrower that owns a German Property, also for German VAT.

No Senior Obligor shall, without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders), become or be otherwise treated as a member of a VAT Group other than any VAT Group consisting only of Senior Obligors and, until the date that Bel Top S.à r.l. is removed from the Senior Obligor VAT Group in accordance with the terms of the Common Terms Agreement, Bel Top S.à r.l.

Until the date that Bel Top S.à r.l. is removed from the Senior Obligor VAT Group, the Senior Obligors shall procure that Bel Top S.à r.l. accounts in full for any material VAT liabilities that are attributable to its activities; and does not make any supplies that would materially reduce the rate of recoverability of input VAT for the Senior Obligor VAT Group as a whole.

Other than a transfer between Senior Obligors, no Senior Obligor shall, without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders), transfer or otherwise dispose of (whether pursuant to the exercise of any option, election, discretion or otherwise) any part of any right to credit or repayment in respect of any VAT from any relevant Tax Authority.

### *Excluded Entities*

No Senior Obligor will make a payment or contribute additional funding to an Excluded Entity or take or omit to take any action which will result in an obligation on a Senior Obligor to make a payment or contribute additional funding to an Excluded Entity, in each case, other than to the extent such obligation is funded from committed Equity Contributions, Senior Investor Debt and/or the aggregate amount standing to the credit of the Senior General Accounts (excluding any amounts standing to the Senior General Accounts which are allocated for any other purpose expressly specified in the Common Terms Agreement).

Each Senior Obligor will exercise its voting and other rights as a shareholder and (to the extent applicable) as a board member in each Excluded Entity in a manner which seeks to procure that that Excluded Entity does not become party to any material agreement which would result in a material liability for any Senior Obligor on (or on completion of and the change of ownership that results from) the enforcement of the Common Transaction Security over the shares in any Senior Obligor.

### *Subordinated Loans*

No Senior Obligor may be a debtor or creditor in respect of a Subordinated Loan that is governed by any law other than Dutch law, French law or Luxembourg law.

### *Sauvegarde*

No French Senior Obligor may initiate any *sauvegarde* proceedings (including any *sauvegarde accélérée* or any *sauvegarde financière accélérée*) under articles L. 620-1 to L. 628-10 of the French Commercial Code.

### **Property undertakings**

The Senior Obligors have undertaken various property-related obligations as set out below, which remain in force so long as any amount is outstanding under the Senior Finance Documents or any Senior Commitment is in force.

### *Planning*

Each Senior Obligor shall comply in all material respects with any conditions attached to any planning permissions and comply in all material respects with any agreement or undertaking binding on a Senior Obligor under any Planning Laws relating to or affecting any Property, in each case, relating to or affecting the Properties other than any condition, agreement or undertaking (as applicable) relating to the occupation of the Properties or any condition which are the obligation of any tenant under any Occupational Lease or which do not bind any Senior Obligor in any capacity.

No Senior Obligor shall carry out any material development on or of any Property or make any material change in use of any Property save for any development permitted pursuant to any applicable Planning Law and permitted in accordance with "*Capital expenditure and alterations*" below or change in use permitted pursuant to any applicable Planning Law and permitted in accordance with "*Occupational Leases*" below.

### *Title*

Each Senior Obligor shall: (a) in all material respects observe and perform all restrictive and other covenants, stipulations and obligations (including but not limited to building rights, leasehold, easements, qualitative obligations and perpetual clauses) now or at any time affecting the Properties owned by it insofar as the same are subsisting and are capable of being enforced; (b) duly and

diligently enforce and not waive, release or vary (or agree to do so) the obligations of any other party to all restrictive or other covenants, stipulations and obligations (including but not limited to building rights, leasehold, easements, qualitative obligations and perpetual clauses) benefitting the Properties owned by it, in each case, to the extent in accordance with the principles of good estate management; (c) promptly take all such steps (including, without limitation, the execution, completion and delivery of documentation, returns, forms and certificates, the answering of any questions or correspondence from any relevant Tax Authority or any land registry, the payment of any fees, stamp duty land tax, penalties and interest and the delivery of any stamp duty land tax certificates received from any Tax Authority to the Senior Loan Facility Agent as soon as received by it) as may be necessary to enable the Security expressed to be created by the Senior Finance Documents to be validly registered at any land registry; and (d) observe and perform in all material respects all the covenants on the part of the landlord in the Occupational Leases now or at any time affecting the Properties owned by it.

### *Occupational Leases*

No Senior Obligor shall, without the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders), carry out a Letting Activity other than Senior Permitted Letting Activities.

Each relevant Senior Obligor shall or shall procure that the relevant Senior Permitted Property Manager on its behalf shall: (a) diligently collect all Rental Income payable under each Occupational Lease; (b) use reasonable endeavours to enforce the tenant's obligations under each Occupational Lease (including the enforcement of any related guarantee) to the extent in accordance with good estate management; (c) duly and diligently implement the provisions of any Occupational Lease (including any provision for the review of the rents thereby reserved and the enforcement of any related guarantee) to the extent in accordance with good estate management; and (d) use its reasonable endeavours to find tenants for any vacant lettable space in the Properties owned by it with a view to granting an Agreement for Lease or Occupational Lease of that space.

### *Compulsory Purchase*

The Senior Company shall notify the Senior Loan Facility Agent promptly if the whole or any material part of any Property is compulsorily purchased or the applicable governmental agency or authority serves an order for the compulsory purchase of the same on any Senior Obligor. On receipt of such notice from the Senior Company, the Senior Loan Facility Agent shall be entitled to request a revised Valuation of the Properties (and the cost of any such Valuation shall be borne by the Senior Company) ignoring that Property or part of the relevant Property being compulsorily purchased.

### *Repair*

Each Senior Obligor shall (or shall procure that the relevant Senior Permitted Property Manager shall) repair and keep in good and substantial repair and condition the Properties owned by it, in each case, as required in accordance with good estate management (other than any repairs that are required to be carried out by a tenant under the terms of an Occupational Lease).

### *Capital expenditure and alterations*

No Senior Obligor shall effect, carry out or permit any Senior Capex Project, unless such action is a Senior Permitted Capex Project.

The Senior Loan Facility Agent shall not make a demand under an Eligible Letter of Credit (Capex) other than: (a) if an Approved Person or Approved Persons have acquired control of a Pledgco in accordance with the terms of the Intercreditor Agreement, promptly after request of the Mezzanine Loan Facility Agent the Senior Loan Facility Agent must make a demand in full under any Eligible

Letter of Credit (Capex) provided that the proceeds received by the Senior Loan Facility Agent in connection with such demand must be transferred to a Senior General Account and applied to meet the cost of a Senior Permitted Capex Project; (b) at any time while a Senior Loan Event of Default is continuing if the costs in respect of the Senior Capex Project to which such Eligible Letter of Credit (Capex) relates are due and payable provided that the proceeds received by the Senior Loan Facility Agent in connection with such demand are applied to discharge amounts in respect of the Senior Capex Project to which the demand under such Eligible Letter of Credit (Capex) relates; or (c) if the Senior Obligors have failed to renew the relevant Eligible Letter of Credit (Capex) (unless, in lieu of such renewal, the Senior Obligors have procured that cash in an aggregate amount not less than the undrawn amount of that Eligible Letter of Credit (Capex) has been credited to a Senior General Account) by the date falling three Months prior to its expiry date provided that the proceeds received by the Senior Loan Facility Agent in connection with such demand are transferred to a Senior General Account and applied to meet the cost of a Senior Permitted Capex Project.

#### *Notices*

A Senior Obligor shall promptly upon receipt of the same provide reasonable details (and if requested a copy of any written particulars received by that Senior Obligor) to the Senior Loan Facility Agent of any notice, order, directive, designation, resolution or proposal having application to any Properties or to the area in which it is situated and requiring action by that Senior Obligor from any planning authority or other public body or authority under or by virtue of the applicable Planning Laws or any other statutory power or powers conferred by any other law. To the extent a Senior Obligor does not comply with its material obligations under a such a notice, upon reasonable prior notice to the Senior Company the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders (acting reasonably)) may at the cost of that Senior Obligor take all reasonable or expedient steps (in the name of the Senior Obligor or otherwise) to remedy such non-compliance and/or make objections or representations against or in respect of any planning notice.

#### *Pay rents charges and Taxes*

Each Senior Obligor shall punctually pay or cause to be paid and indemnify the Senior Loan Facility Agent on demand against all existing and future rents, Taxes, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever whether imposed by deed or by statute or otherwise and whether in the nature of capital or revenue or otherwise and even though of a wholly novel character which now or at any time during the continuance of the security constituted by or pursuant to the Senior Finance Documents are payable in respect of any Property or any part thereof.

#### *Entry and power to inspect and remedy breaches*

If, at any time, any Senior Obligor fails, or is considered by the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders (acting reasonably)) to have failed to have performed, any obligation under the Common Terms Agreement or a Senior Loan Event of Default is otherwise continuing, it shall be lawful for the Senior Loan Facility Agent (subject to the terms of any applicable Lease) (without any obligation to do so) by giving three Business Days' prior notice to the Senior Company (except in case of emergency where no prior notice shall be required) to enter upon any Properties with or without agents appointed by it, architects, contractors, workmen and others as it may reasonably determine and inspect any Properties or any part thereof and/or execute such works and take such steps as may, in the reasonable opinion of the Senior Loan Facility Agent, be required to remedy or rectify any such failure and do or take any action on or in relation to any Properties as may in the reasonable opinion of the Senior Loan Facility Agent be required to remedy or rectify such failure provided that in exercising any right under this paragraph the Senior Loan Facility Agent shall comply with the terms of any applicable Lease.

The fees, costs and expenses incurred by the Senior Loan Facility Agent (acting reasonably) for such works and taking such steps shall, if a Senior Obligor had failed to have performed any obligation under the Common Terms Agreement or a Senior Loan Event of Default was continuing when such works and steps were undertaken, be reimbursed by the Senior Obligors to the Senior Loan Facility Agent, promptly on demand.

The exercise by the Senior Loan Facility Agent of the powers outlined above shall not render the Senior Loan Facility Agent liable to account as mortgagee in possession.

### *Insurance*

Each Senior Obligor shall effect and maintain or ensure that there is effected and maintained at all times with Approved Insurer(s): (a) insurance in respect of the Properties owned by it and other Fixtures and fixed plant and machinery forming part of the Properties owned by it and which are owned by a Senior Obligor against loss or damage by fire, storm, tempest, flood, earthquake, subsidence, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks and contingencies as are insured in accordance with sound commercial practice to the full reinstatement value thereof including without limitation, the costs of demolition and site clearance, shoring and propping up, any professional fees and VAT where applicable relating thereto (together with provision for forward inflation) provided that, (A) flood insurance in respect of the Dutch Properties, and (B) storm surge (Sturmflut) insurance in respect of the German Properties shall, in each case, only be required to be effected if available at reasonable cost in the market (and the reinstatement value may be reduced below full reinstatement value to enable such insurance to be effected at reasonable cost) taking into account the risks being insured; (b) insurance against the loss of Rental Income or prospective Rental Income under Occupational Leases existing at such time for a period of not less than three years including provision for any increases in rent during the period of insurance; (c) to the extent available in the market, insurance in respect of acts of terrorism in respect of the Properties including any third party liability arising from such acts; (d) insurance against public liability risks with an aggregate sum insured of not less than €10,000,000; and (e) such other risks as a prudent property company carrying on the same or substantially similar business as that Senior Obligor would effect.

Each Senior Obligor shall at all times ensure that each Insurance Policy (except any Insurance Policy in respect of insurance against public liability risks with an aggregate sum insured of not less than €10,000,000 or relating to third party liability): (a) is in the names of the relevant Senior Obligor(s); (b) (except any Vendor Insurance Policy) names the Common Security Agent (on behalf of the Senior Finance Parties) as co-insured and loss payee (other than in respect of any proceeds of insurance claims of up to €50,000 per annum) but without liability on the part of the Common Security Agent or any other Senior Finance Party for any premium in relation to those Insurance Policies; and (c) (except any Vendor Insurance Policy) contains a provision under which Senior Insurance Prepayment Proceeds in respect of that Insurance Policy are payable directly to the Common Security Agent.

Each Senior Obligor shall ensure that at all times all Insurance Policies contain (except any Insurance Policy in respect of insurance against public liability risks with an aggregate sum insured of not less than €10,000,000 or relating to third party liability and except any Vendor Insurance Policy): (a) a mortgagee clause whereby such Insurance Policy shall not be vitiated or avoided as against a mortgagee or security holder in the event of or as a result of any misrepresentation, act, neglect or failure to make disclosure on the part of a Senior Obligor or any tenant or other insured party (other than the Senior Finance Parties) or any circumstances beyond the control of any insured party; (b) a waiver of all rights of subrogation of the insurer under the relevant Insurance Policy as against each insured party, the Common Security Agent on behalf of each Senior Finance Party and each tenant other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of any Property or any Insurance Policy or any such rights as against a



tenant arising in connection with the obligation of that tenant to contribute to insurance premia or to pay for any damages to a Property caused by any wilful misconduct of that tenant; and (c) terms providing that it shall not be invalidated so far as the Common Security Agent is concerned for failure to pay any premium due without the insurer first giving to the Common Security Agent not less than 30 days' written notice.

Each Senior Obligor shall: (a) promptly on request of the Senior Loan Facility Agent, provide such information (and copies of) in connection with the Insurance Policies as the Senior Loan Facility Agent may at any time require; (b) notify the Senior Loan Facility Agent of renewals made and material variations or cancellations of Insurance Policies made or, to the knowledge of any Senior Obligor, threatened or pending; (c) not do or permit anything to be done which may make void or voidable any Insurance Policy; and (d) duly and punctually pay all premiums and other monies payable under all Insurance Policies and promptly, upon request by the Senior Loan Facility Agent, produce to the Senior Loan Facility Agent a copy or sufficient extract of every Insurance Policy together with the premium receipts or other evidence of the payment thereof.

If any Senior Obligor does not comply with its obligations in respect of any Insurance Policy, the Senior Loan Facility Agent or the Common Security Agent may (without any obligation to do so) effect or renew any such Insurance Policy on behalf of the Common Security Agent (and not in any way for the benefit of the relevant Senior Obligor) and the monies expended by the Senior Loan Facility Agent or the Common Security Agent on so effecting or renewing any such Insurance Policy shall be reimbursed by the Senior Obligors to the Senior Loan Facility Agent or the Common Security Agent on demand.

If at any time any Required Rating for any insurer or underwriter with which any Insurance Policy has been effected is not met, the relevant Senior Obligor shall as soon as practicable following request from the Senior Loan Facility Agent (but in any event within 30 days of that request from the Senior Loan Facility Agent) unless the paragraph below applies, effect a new Insurance Policy with a new insurer or underwriter that meets a Required Rating (and shall provide details of such insurer or underwriter and the new Insurance Policy as may be reasonably required by the Senior Loan Facility Agent).

If following a request from the Senior Loan Facility Agent to replace an insurer or underwriter with an insurer or underwriter that meets a Required Rating in accordance with the paragraph above, it is not possible to find a replacement insurer or underwriter which meets that Required Rating, the Senior Loan Facility Agent and the Senior Company will consult with each other (for a period of no more than five Business Days and both acting reasonably) with a view to agreeing a substitute insurer or underwriter. At the end of that period of consultation the Senior Loan Facility Agent shall specify which alternative insurer or underwriter may be used to effect any Insurance Policy.

#### *Valuations*

The Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) may instruct a Valuer to prepare and issue a Valuation once in every 12-Month period falling during the period commencing on the date which is 12 Months after the Senior Utilisation Date, or at any time when a Senior Loan Event of Default is continuing provided that the Senior Loan Facility Agent may not request more than one Valuation while that Senior Loan Event of Default is continuing, or in connection with the compulsory purchase of all or part of a Property in accordance with "*Senior Loan Events of Default – Compulsory purchase*" below.

Any Valuation referred to above will be at the cost of the Senior Borrowers. Any other valuation of a Property will be at the cost of the Senior Lenders and will not constitute a "Valuation" for the purposes of the Common Terms Agreement.

The Senior Loan Facility Agent shall: (a) as soon as reasonably practicable after instructing a Valuer to prepare a Valuation, notify the Senior Company of such instruction (and shall, in such notification, confirm the identity of the Valuer and the expected issue date of that Valuation); and (b) provide the Senior Company with a copy of each Valuation (including, if provided to the Senior Loan Facility Agent, any draft net rental income figures that the Valuer intends to use for the purposes of the discounted cashflows in respect of that Valuation) promptly after receipt of the same from the Valuer.

### **Senior Loan Events of Default**

The Common Terms Agreement contains the following Senior Loan Events of Default.

#### *Non-payment*

A Senior Transaction Obligor does not pay on the due date any amount payable by it pursuant to a Senior Finance Document to which it is a party at the place at and in the currency in which it is expressed to be payable unless its failure to pay is caused by (a) administrative or technical error in the transmission of funds and such failure to pay is remedied within three Business Days of its due date or (b) the Senior Loan Facility Agent failing to make a payment or transfer out of any Senior Control Account (in respect of which the Senior Loan Facility Agent has signing rights) in accordance with the terms of the Senior Finance Documents in circumstances where that Senior Control Account contained sufficient funds (after taking into account any transfers required to be made to that Senior Control Account on that date in accordance with the terms of the Common Terms Agreement) to make all of the payments due and payable under the Senior Finance Documents from that Senior Control Account on such date.

#### *Financial covenants*

The financial covenants in respect of the Senior LTV Ratio or Debt Yield are not complied with, subject to the Senior Obligor's cure rights.

#### *Breach of certain other obligations*

A Senior Transaction Obligor does not comply with its obligations in relation to (a) delivery of certain conditions subsequent, (b) hedging, (c) compliance certificates, (d) mergers, (e) negative pledge, (f) disposals, (g) financial indebtedness, (h) the Acquisition Agreements, (i) treasury transactions, (j) key insurance requirements, (k) valuations, (l) any term of any Sauvegarde Guarantee (unless an amount equal to the undrawn amount of the Sauvegarde Guarantee is deposited into an account designated by the Senior Loan Facility Agent) or (m) any term of any Insurance Guarantee (unless an amount equal to the undrawn amount of the Insurance Guarantee is deposited into an account designated by the Senior Loan Facility Agent).

#### *Other obligations*

A Senior Transaction Obligor does not comply with any other provision of the Senior Finance Documents or any Hedge Document other than those set out immediately above, subject to a remedy period of 21 days from the earlier of the Senior Loan Facility Agent giving notice to the Senior Company of such failure and any Senior Transaction Obligor becoming aware of the failure to comply.

#### *Misrepresentation*

Any representation or statement made or deemed to be made by a Senior Transaction Obligor in the Senior Finance Documents, any Hedge Document or in any other document delivered by or on behalf of any Senior Transaction Obligor under or in connection with any Senior Finance Document or

Hedge Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made by reference to the facts and circumstances then existing, subject to a remedy period of 21 days from the earlier of the Senior Loan Facility Agent giving notice to the Senior Company of such failure and any Senior Transaction Obligor becoming aware of the failure to comply.

#### *Cross default*

Any Financial Indebtedness of any Senior Obligor is not paid when due after the expiry of any originally applicable grace period. Any Financial Indebtedness of any Senior Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described). Any commitment for any Financial Indebtedness of any Senior Obligor is cancelled or suspended by a creditor of any Senior Obligor as a result of an event of default (however described). Any creditor of any Senior Obligor becomes entitled to declare any Financial Indebtedness of any Senior Obligor due and payable prior to its specified maturity as a result of an event of default (however described).

The above Senior Loan Events of Default will not occur if: (a) the aggregate amount of the Financial Indebtedness as set out above is less than €100,000 (or its equivalent in another currency or currencies); or (b) to the extent the relevant Senior Loan Event of Default that would otherwise occur would occur solely due to the occurrence of a Mezzanine Loan Event of Default (under and as defined in the Mezzanine Facility Agreement).

#### *Insolvency*

Any Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor is or is deemed unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable to pay its debts or insolvent under applicable law, ceases or suspends making payments on any of its debts or announces any intention to do so (or is so deemed for the purposes of any law applicable to it) or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (other than any Senior Finance Party) with a view to rescheduling any of its indebtedness.

Any Senior Obligor's or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor's or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor's indebtedness is subject to a moratorium.

#### *Insolvency proceedings*

Any corporate action, legal proceedings or other procedure or step is taken in relation to: (a) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration (including without limitation a *procédure de sauvegarde*, *sauvegarde accélérée*, *sauvegarde financière accélérée redressement judiciaire*, *cession totale de l'entreprise* or *liquidation judiciaire* under articles L. 620-1 to L. 644-6 of the French Commercial Code) or insolvent reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor; (b) a composition, compromise, assignment or arrangement with any creditor (other than any Senior Finance Party) of any Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor (including without limitation an *administrateur judiciaire*, *mandataire ad hoc*, *conciliateur*, *mandataire liquidateur* or other) any person appointed as a result of any proceedings described in this paragraph for reasons of that Senior Obligor's or Sauvegarde Guarantor's financial difficulty); (c) the appointment of a

provisional liquidator, a liquidator, receiver, administrative receiver, administrator, compulsory or interim manager (including, without limitation, *a procédure de conciliation* or *mandat ad hoc* under articles L. 611-3 to L. 611-15 of the French Commercial Code) or other similar officer in respect of any Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor or any of their respective assets; or (d) enforcement of any Security over any assets of any Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor.

Any analogous procedure or step to those referred to in the paragraph above in respect of a Senior Obligor or, for as long as the Sauvegarde Guarantee is outstanding, any Sauvegarde Guarantor or, for as long as the Insurance Guarantee is outstanding, any insurance guarantor is taken in any jurisdiction.

Any Senior Loan Event of Default set out in the two paragraphs above shall not apply to any proceedings or actions which are frivolous or vexatious and contested in good faith and discharged, stayed, recalled or dismissed within 21 days of commencement.

#### *Creditors' process*

Any expropriation, conservatory or executory seizure or attachment, sequestration, distress or execution (including by way of executory attachment or interlocutory attachment or any analogous process in any jurisdiction) (other than as set out in the paragraph below) affects any asset or assets of a Senior Obligor and such Creditors' Process has an aggregate value (when aggregated with the value of each other Creditors' Process outstanding at that time) in excess of €100,000 (or its equivalent in other currencies) and is not discharged, stayed or dismissed within 21 days of commencement.

A Dutch executory attachment (*executoriaal beslag*) (affects (as determined by a court of competent jurisdiction) any asset of a Dutch Senior Obligor and such Dutch Creditors' Process has an aggregate value in excess of €100,000 (or its equivalent in other currencies).

#### *Unlawfulness and invalidity*

It is or becomes unlawful for any party (other than any Senior Finance Party) to perform any of its obligations under the Senior Finance Documents or any Common Transaction Security created or expressed to be created or evidenced by the Common Transaction Security Documents to which it is a party ceases to be effective or is or becomes unlawful.

Any material obligation or material obligations of any party (other than any Senior Finance Party) under any Senior Finance Document to which it is a party is or are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Senior Finance Parties under the Senior Finance Documents.

Any Senior Finance Document ceases to be in full force and effect or any Common Transaction Security becomes unlawful or ineffective or is alleged by a party to it (other than any Senior Finance Party) to be ineffective or, subject to the Legal Reservations and the Perfection Requirements, ceases to be legal, valid, binding or enforceable.

#### *Repudiation*

Any Senior Transaction Obligor rescinds or repudiates a Senior Finance Document to which it is a party or any of the Common Transaction Security to which it is a party or evidences an intention to rescind or repudiate a Senior Finance Document or any Common Transaction Security to which it is a party.

### *Cessation of business*

Other than as a result of a Senior Permitted Property Disposal, any Senior Obligor ceases (or threatens to cease) to carry on all or a substantial part of its business.

### *Litigation*

Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes (including, without limitation any Environmental Claim any claim in relation to Taxes) are commenced or threatened against any Senior Obligor or its assets which is reasonably likely to be adversely determined against that Senior Obligor or its assets and if so adversely determined would have a Material Adverse Effect.

### *Compulsory purchase*

Any Expropriation occurs and such Expropriation would have a Material Adverse Effect (taking into account, for these purposes, the Insurance Policy relating to that Property and/or any prepayment of the Senior Loan made or in respect of which notice of prepayment has been provided to the Senior Loan Facility Agent (provided that such prepayment is made within 20 Business Days of the date of such notice) to be made in connection with such Expropriation).

### *Major damage*

Any part of any Property is destroyed or damaged (each a **Major Damage**) and such destruction or damage would have a Material Adverse Effect (taking into account, for these purposes, the Insurance Policy relating to that Property, any Senior Permitted Capex Project under paragraph (h) of that definition which has been contracted and/or any prepayment of the Senior Loan made or in respect of which notice of prepayment has been provided to the Senior Loan Facility Agent (provided that such prepayment is made within 20 Business Days of the date of such notice) to be made in connection with such Major Damage).

### *OPCI*

The approval (*agrément*) granted by the AMF (*autorité des marchés financiers*) (the **AMF**) to the Management Company is withdrawn, the Management Company is no longer authorised to manage the relevant OPCI, and such Management Company has not been replaced by an entity of similar reputation and duly approved (*agrée*) by the AMF (*autorité des marchés financiers*). The Management Company is not (or no longer) authorised as an alternative investment fund manager within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011.

No Senior Loan Event of Default will occur under the paragraph above if, within 60 Business Days of the relevant event occurring, the Management Company is replaced by another management company not subject to such event.

### *Disposal or encumbrance of a German Property*

A Senior Obligor: (a) created or allows to exist a Security over a German Property which is only permitted under the Common Terms Agreement pursuant to paragraph (f) of the definition of Senior Permitted Security; or (b) disposes of a German Property where such disposal is only permitted under the Common Terms Agreement pursuant to paragraph (l) of the definition of Senior Permitted Disposal.

## **Acceleration**

On and at any time after the occurrence of a Senior Loan Event of Default which is continuing, the Senior Loan Facility Agent may, and shall if so directed by the Senior Majority Lenders, by notice to the Senior Company: (a) cancel the Senior Total Commitments whereupon they shall immediately be cancelled and any fees payable under the Senior Finance Documents in connection with the Senior Commitments shall be immediately due and payable; (b) declare that all or part (on a *pro rata* basis) of the Senior Loan, together with accrued interest and all other amounts accrued or outstanding under the Senior Finance Documents be immediately due and payable, at which time they shall become immediately due and payable; (c) declare that all or part (on a *pro rata* basis) of the Senior Loan be payable on demand, whereupon they shall immediately become payable on demand by the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders); (d) make a demand under an Eligible Letter of Credit (Capex) in accordance with the terms of the Common Terms Agreement; (e) by notice to the Dutch Senior Obligor concerned, require any Dutch Senior Obligor to give a guarantee or Security in favour of the Senior Finance Parties and/or the Senior Loan Facility Agent and that Dutch Senior Obligor must comply with that request; (f) provide an estimate, made in good faith, of any amount which, in the reasonable opinion of the Senior Loan Facility Agent, is likely to become due and payable from any Senior Obligor pursuant to any guarantee or indemnity given under the Common Terms Agreement and declare that amount to be immediately due and payable or to be payable on demand, at which time such sum shall become immediately due and payable or, as the case may be, payable on demand; and (g) enforce or direct the Common Security Agent to enforce the Common Transaction Security or exercise any or all of its rights, remedies, powers or discretions under any of the Senior Finance Documents.

## **Partial payments**

If the Senior Loan Facility Agent receives a payment for application against amounts due in respect of any Senior Finance Documents that is insufficient to discharge all the amounts then due and payable by a Senior Obligor under those Senior Finance Documents, the Senior Loan Facility Agent shall apply that payment towards the obligations of that Senior Obligor under those Senior Finance Documents in the following order: (a) *first*, in or towards payment *pro rata* of any unpaid costs, fees and expenses and any other liability (including by way of indemnity) due to the Common Security Agent (including any due to any Receiver or Senior Delegate), the Senior Loan Facility Agent and the Senior Loan Arrangers under the Senior Finance Documents; (b) *secondly*, in or towards payment *pro rata* of any unpaid costs, fees and expenses and any other liability (including by way of indemnity) due to the Senior Finance Parties (other than the Common Security Agent, any Receiver or Senior Delegate, the Senior Loan Facility Agent and the Senior Loan Arrangers) under the Senior Finance Documents; (c) *thirdly*, in or towards payment *pro rata* of all accrued interest due and payable to the Senior Lenders under the Senior Finance Documents; (d) *fourthly*, in or towards payment *pro rata* of the Senior Loan to the extent due and payable to the Senior Lenders; (e) *fifthly*, all other Senior Secured Liabilities then due and payable; and (f) *sixthly*, to the relevant Senior Obligor. Such payment will override any appropriation made by a Senior Obligor.

## **Amendments and waivers**

Any term of the Senior Finance Documents may be amended or waived with the consent of the Senior Majority Lenders and the Senior Company, except that an amendment or waiver which relates to the rights or obligations of the Senior Loan Facility Agent, the Common Security Agent or the Senior Loan Arranger may not be effected without the consent of the Senior Loan Facility Agent, the Common Security Agent or the Senior Loan Arranger (each acting in those respective capacities and not on the instructions of the Senior Lenders), as the case may be, and except that an amendment or waiver which has the effect of changing or which relates to the following may not be made without the prior consent of all Senior Lenders:

- (a) the definition of "Senior Majority Lenders";
- (b) an extension to the date of payment of any amount under the Senior Finance Documents (other than the extension of the Senior Loan Final Repayment Date to the First Senior Loan Extended Repayment Date, Second Senior Loan Extended Repayment Date or the Third Senior Loan Extended Repayment Date, as the case may be, in accordance with the terms of the Common Terms Agreement in its original form);
- (c) any release of any Senior Obligor from any Common Transaction Security or any guarantee except as expressly contemplated by the Senior Finance Documents;
- (d) except as expressly permitted by the provisions of any Senior Finance Document, a change to the Senior Borrowers or Senior Guarantors;
- (e) a reduction in the Senior Loan Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
- (f) an increase in, or an extension of, any Senior Commitment or the Senior Total Commitments (other than the extension of the Senior Loan Final Repayment Date to the First Senior Loan Extended Repayment Date, Second Senior Loan Extended Repayment Date or the Third Senior Loan Extended Repayment Date, as the case may be, in accordance with the terms of the Common Terms Agreement in its original form);
- (g) any provision which expressly requires the consent of all the Senior Lenders;
- (h) the provisions of the Common Terms Agreement relating to the rights and obligations of the Senior Finance Parties;
- (i) the provision of the Common Terms Agreement containing additional restrictions on amendments and waivers;
- (j) the provision of the Common Terms Agreement relating to the governing law of the Common Terms Agreement;
- (k) (other than as expressly permitted by the provisions of any Senior Finance Document) the nature or scope of any guarantee and indemnity granted under the Common Terms Agreement, the Charged Property, or the manner in which the proceeds of enforcement of the Common Transaction Security are distributed;
- (l) (other than as expressly permitted by the provisions of any Senior Finance Document) the release of any guarantee and indemnity granted under the Common Terms Agreement or of any Common Transaction Security; or
- (m) any amendment to the order of priority or the order of distribution of proceeds in the event of enforcement of Security referred to under "*Partial payments*" above.

The Mezzanine Majority Lenders also have the right to consent to certain amendments, waivers and consents being provided with respect to the Senior Finance Documents in certain circumstances. Please refer to "*Description of the Intercreditor Agreement – Amendments and waivers*".

Please refer to "*Description of the Securitised Senior Loan Sale Agreement – Loan Sellers as Senior Lenders of the Senior Retained Loan*" for details in relation to the Loan Sellers' consent rights as Senior Lenders under the Senior Retained Loan.

If a Senior Lender does not accept or reject a request for any consent, amendment, release or waiver from the Senior Company (or the Senior Loan Facility Agent on behalf of the Senior Company) under the Senior Finance Documents by the later of:

- (a) 5pm London time on the date falling 10 Business Days from the date of such request being made (unless any other period of time is specified by the Senior Company with the prior agreement of the Senior Loan Facility Agent); and
- (b) the time for Senior Lenders to respond to as specified in that request,

that Senior Lender shall be deemed to have approved such consent, amendment, release or waiver when considering whether the relevant approval from the Senior Lenders has been obtained.

Any Senior Lender which is a Defaulting Senior Lender, unless otherwise agreed with the Senior Company, will also have its participations and Senior Commitments included when calculating whether the relevant approval from the Senior Lenders has been obtained and shall be deemed to have approved such consent, amendment, release or waiver when considering whether approval of the Senior Lenders has been obtained in respect of any request of the member of the Group (or the Senior Loan Facility Agent acting on behalf of any member of the Group or otherwise).



## **DESCRIPTION OF THE MEZZANINE FACILITY AGREEMENT**

The Mezzanine Facility Agreement is governed by English law. The principal terms (other than obligors, facility amounts, margin, bank account structure, financial covenants and fees) of the Mezzanine Facility Agreement are similar to the principal terms of the Common Terms Agreement. Certain principal terms of the Mezzanine Facility Agreement which differ from the principal terms of the Common Terms Agreement are summarised below.

### **Purpose and application**

Each Mezzanine Borrower undertook to apply all amounts borrowed (other than by way of Cure Loan) under the Mezzanine Facility Agreement in refinancing the indebtedness of the Group (including, without limitation, accrued interest, hedge termination costs, break costs, prepayment fees and any other fees, costs and expenses in relation thereto) financing or refinancing all fees, costs and expenses and stamp, transfer, registration, notarial and other Taxes incurred by a member of the Group and each Mezzanine Holdco directly or indirectly in connection with the Mezzanine Finance Documents and the Senior Finance Documents.

### **Mezzanine Loan amount and drawdown**

The maximum amount of borrowing under the Mezzanine Facility Agreement was €78,088,770 which was drawn in full on the Mezzanine Utilisation Date. The Mezzanine Facility Agreement does not place an obligation on the Mezzanine Lenders to make any further advances to the Mezzanine Borrowers.

### **Cure Loans**

One or more Mezzanine Lenders may (without requiring the consent of any Mezzanine Obligor) make a Cure Loan available to a Mezzanine Borrower to fund the payment of a Cure Payment to be provided to a Pledgeco by way of equity contribution or Mezzanine Borrower Liabilities to enable the Pledgeco to use (or procure the use of) the proceeds of that Cure Loan to cure the Curable Default for which that Cure Loan was provided. Any Cure Loan shall be treated as a Mezzanine Loan made by the relevant Mezzanine Lenders and shall be on the same terms as each other Mezzanine Loan made in accordance with the Mezzanine Facility Agreement and repayable on the same terms as each other Mezzanine Loan made in accordance with the Mezzanine Facility Agreement.

### **Payment of interest**

#### *Interest*

Under the Mezzanine Facility Agreement, the Mezzanine Borrowers are required to pay accrued interest on the Mezzanine Loan on each Mezzanine Loan Payment Date – if such interest is not paid on a Mezzanine Loan Payment Date, it is capitalised pursuant to "*Capitalisation*" below.

The rate of interest on each Mezzanine Loan for each interest period determined in accordance with the Mezzanine Facility Agreement is the aggregate of the applicable Mezzanine Loan Margin and Mezzanine Loan EURIBOR. If any rate used to calculate Mezzanine Loan EURIBOR is below zero, Mezzanine Loan EURIBOR will be deemed to be zero.

#### *Capitalisation*

If on any Mezzanine Loan Payment Date there are insufficient funds standing to the credit of the Mezzanine Finance Account to fund the payment in full of interest as a result of the occurrence of a

Cash Trap Event that is continuing and on that date the interest due on that Mezzanine Loan Payment Date exceeds the Quarterly Mezzanine Interest Capped Amount (the difference between the amount of interest due and the Quarterly Mezzanine Interest Capped Amount being the **Excess Interest**), an amount equal to the Excess Interest on that Mezzanine Loan Payment Date will be capitalised on that Mezzanine Loan Payment Date and will be consolidated with the outstanding principal amount of the Mezzanine Loans.

### **Repayment and extension**

Each Mezzanine Borrower must repay the outstanding principal amount of the Mezzanine Loan borrowed by it on each Mezzanine Loan Payment Date falling on or after the occurrence of a Permitted Mezzanine Change of Control, in instalments equal to 0.25 per cent. of the outstanding principal amount of the Mezzanine Loan made to it on the Mezzanine Utilisation Date.

The Mezzanine Borrowers must repay the aggregate outstanding principal amount of the Mezzanine Loan and all other Mezzanine Secured Liabilities (if any) in full on the Mezzanine Loan Final Repayment Date.

### **Prepayments**

#### *Change of control*

The Mezzanine Company shall promptly notify the Mezzanine Loan Facility Agent if it becomes aware of any Mezzanine Change of Control or the Initial Investors ceasing to control any Mezzanine Holdco, Mezzanine Borrower or Pledgeco and/or a Qualifying Transferee obtaining control of the Senior Borrowers or Pledgecos. Following a Mezzanine Change of Control, if the Mezzanine Majority Lenders so require, the Mezzanine Loan Facility Agent shall by notice to the Mezzanine Company cancel all Mezzanine Commitments and declare all outstanding Mezzanine Loans, together with accrued interest and all other accrued unpaid amounts under the Mezzanine Finance Documents, to be immediately due and payable.

#### *Mandatory prepayment – Receipt of other amounts*

Following receipt by the Mezzanine Company of any Mezzanine Permitted Land Plot Disposal Prepayment Proceeds, Mezzanine Permitted Property Disposal Prepayment Proceeds, Mezzanine Expropriation Prepayment Proceeds, Mezzanine Insurance Prepayment Proceeds and Mezzanine Recovery Prepayment Proceeds, the Mezzanine Obligors shall prepay the Mezzanine Loan on the Mezzanine Loan Payment Date or such earlier date as the Mezzanine Company elects by notice in writing to the Mezzanine Loan Facility Agent.

### **Guarantors**

All Senior Obligors, other than the French Senior Obligors, are Mezzanine Guarantors.

### **Mezzanine Bank accounts**

#### *Designation of Mezzanine Control Accounts*

The Mezzanine Company has opened and is required to maintain interest-bearing accounts in its name designated the Mezzanine Finance Account and the Mezzanine Prepayment Account.

Each Mezzanine Borrower has opened and may maintain an interest-bearing account in its name designated a Mezzanine General Account.

No Mezzanine Obligor may, without the prior written consent of the Mezzanine Loan Facility Agent, maintain any bank account other than a Mezzanine Control Account or a Mezzanine Hedge Collateral Account.

#### *Mezzanine Obligor Account Bank*

Each Mezzanine Control Account shall initially be opened with a Mezzanine Initial Account Bank operating out of its branch in Luxembourg.

Each Mezzanine Obligor Account Bank with which a Mezzanine Control Account is held must hold a Required Rating at the time the Mezzanine Control Account is opened with such Mezzanine Obligor Account Bank. If any bank or financial institution with which a Mezzanine Control Account is held ceases to have a Required Rating, the Mezzanine Loan Facility Agent may request in writing that any Mezzanine Control Account held with such Mezzanine Obligor Account Bank is transferred to a new account bank that holds a Required Rating (or, if it is not possible to find a replacement account bank which holds a Required Rating, any other bank or financial institution agreed between the Mezzanine Loan Facility Agent and the Mezzanine Company (each acting reasonably)).

A Mezzanine Control Account and any amounts or shares standing to the credit of a Mezzanine Control Account may only be transferred to a new Mezzanine Obligor Account Bank if the relevant Mezzanine Obligor has created and perfected first ranking Security over the new account and provided such other documentation in connection with such transfer as the Mezzanine Loan Facility Agent may reasonably request.

#### *Signing rights*

The Mezzanine Loan Facility Agent has sole signing rights in relation to the Mezzanine Finance Account and the Mezzanine Prepayment Account.

The Mezzanine Obligors will be able to independently exercise their signing rights in respect of the Mezzanine General Accounts, until the occurrence of a Mezzanine Loan Event of Default that is continuing.

#### *Mezzanine Finance Account*

On each Mezzanine Loan Payment Date, the Mezzanine Loan Facility Agent shall withdraw from the Mezzanine Finance Account such amount as is necessary for application in or towards:

- (a) *first*, payment *pro rata* of any unpaid costs, fees and expenses due to the Mezzanine Security Agent (including any due to any Receiver or Mezzanine Delegate), the Mezzanine Loan Facility Agent and the Mezzanine Loan Arranger under the Mezzanine Finance Documents;
- (b) *secondly*, payment *pro rata* of any unpaid costs, fees and expenses due to the Mezzanine Finance Parties (other than the Mezzanine Security Agent, any Receiver or any Mezzanine Delegate, the Mezzanine Loan Facility Agent and the Mezzanine Loan Arranger) under the Mezzanine Finance Documents;
- (c) *thirdly*, in or towards payment *pro rata* to the relevant Mezzanine Lenders of any accrued interest on any Cure Loans due but unpaid to the relevant Mezzanine Lenders under the Mezzanine Facility Agreement;
- (d) *fourthly*, in or towards payment *pro rata* to the relevant Mezzanine Lenders of any principal of any Cure Loan then due and payable to the relevant Mezzanine Lenders under the Mezzanine Facility Agreement;

- (e) *fifthly*, in or towards payment *pro rata* to the Mezzanine Lenders of all accrued interest then due and payable to the Mezzanine Lenders under the Mezzanine Finance Documents;
- (f) *sixthly*, in or towards payment *pro rata* to the Mezzanine Lenders of any principal then due and payable under the Mezzanine Facility Agreement; and
- (g) *seventhly*, any surplus shall be paid into the Mezzanine General Account of the Mezzanine Company, provided that if a Permitted Mezzanine Change of Control has occurred after the Senior Discharge Date, any such surplus shall be applied in or towards prepayment of the Mezzanine Loans and not otherwise.

#### *Mezzanine Prepayment Account*

On each Mezzanine Loan Payment Date (or, in the case of Mezzanine Permitted Land Plot Disposal Prepayment Proceeds, Mezzanine Permitted Property Disposal Prepayment Proceeds, Mezzanine Expropriation Prepayment Proceeds, Mezzanine Insurance Prepayment Proceeds and Mezzanine Recovery Prepayment Proceeds, any earlier date specified by the Mezzanine Company in accordance with "*Prepayments – Mandatory prepayment – Receipt of other amounts*" above), the Mezzanine Loan Facility Agent must apply all amounts standing to the credit of the Mezzanine Prepayment Account for application in the following order:

- (a) *first*, in or towards payment *pro rata* of any unpaid costs, fees and expenses due to the Mezzanine Security Agent (including any due to any Receiver or Mezzanine Delegate), the Mezzanine Loan Facility Agent and the Mezzanine Loan Arranger under the Mezzanine Finance Documents;
- (b) *secondly*, in or towards payment *pro rata* of any unpaid costs, fees and expenses due to the Mezzanine Finance Parties (other than the Mezzanine Security Agent, any Receiver or Mezzanine Delegate, the Mezzanine Loan Facility Agent and the Mezzanine Loan Arranger) under the Mezzanine Finance Documents;
- (c) *thirdly*, in or towards payment *pro rata* to the relevant Mezzanine Lenders of any accrued interest on any Cure Loans due but unpaid to the relevant Mezzanine Lenders under the Mezzanine Facility Agreement;
- (d) *fourthly*, in or towards payment *pro rata* to the relevant Mezzanine Lenders of any principal of any Cure Loans due but unpaid to the relevant Mezzanine Lenders under the Mezzanine Facility Agreement;
- (e) *fifthly*, in or towards prepayment of the Mezzanine Loans provided that all amounts payable in connection with such prepayment shall be payable from the amount withdrawn from the Mezzanine Prepayment Accounts under this paragraph and the principal amount prepaid shall be reduced accordingly;
- (f) *sixthly*, in payment of any other Mezzanine Secured Liabilities then due and payable; and
- (g) *seventhly*, any surplus shall be paid into the Mezzanine General Account of the Mezzanine Company, provided that if a Permitted Mezzanine Change of Control has occurred after the Senior Discharge Date, any such surplus shall be applied in or towards prepayment of the Mezzanine Loans and not otherwise.

### *Mezzanine General Accounts*

A Mezzanine Borrower may make withdrawals from its Mezzanine General Account at any time, provided that no Mezzanine Loan Event of Default is outstanding and provided that the Mezzanine Security Agent has not suspended the rights of the relevant Mezzanine Obligor to operate its Mezzanine General Account in accordance with the terms of the Mezzanine Facility Agreement.

### **Financial Covenants and Cash Traps**

There are no financial covenants or cash traps applicable to the Mezzanine Facility Agreement.

### **Mezzanine Loan Event of Default**

A Senior Loan Event of Default under the Common Terms Agreement triggers a cross-default to the Mezzanine Facility Agreement.

## DESCRIPTION OF THE INTERCREDITOR AGREEMENT

The Intercreditor Agreement was entered into between Spear Pledgeco S.à r.l., Spear German 2018 Pledgeco S.à r.l. and Spear Investment 2018 Pledgeco S.à r.l. (as the Senior Companies), Spear Mezzco S.à r.l. (as the Mezzanine Company), certain companies as providers of the transaction security (as the Dutch Security Providers), Situs Asset Management Limited (as Senior Loan Facility Agent), certain financial institutions (as the Original Senior Lenders), Elavon Financial Services DAC, UK Branch (as the Common Security Agent), certain financial institutions (as the Original Mezzanine Lenders) and CBRE Loan Services Limited (as Mezzanine Loan Facility Agent) on 19 September 2018.

Unless otherwise defined in this description, terms used in this description have the meaning given to them in the Intercreditor Agreement.

The Intercreditor Agreement governs the interrelationship between the Senior Lenders and the Mezzanine Lenders.

The Issuer will accede to the Intercreditor Agreement, as a Senior Lender, on the Closing Date.

### Ranking

Pursuant to the terms of the Intercreditor Agreement, the Liabilities owed by the Obligors to the Creditors shall rank in right and priority of payment in the following order and are postponed and subordinated to any prior ranking Liabilities as follows:

- (a) *first*, the Senior Facility Liabilities; and
- (b) *second*, the Mezzanine Facility Liabilities.

### Amendments and waivers

#### *Amendments and waivers: Senior Facility Creditors*

The Senior Facility Creditors may not amend, give a consent under or waive certain provisions of the Senior Finance Documents (subject to customary exceptions). Such provisions include:

- (a) an amendment, consent or waiver effecting an increase in the principal amount of the Senior Facility;
- (b) an amendment, consent or waiver constituting or providing for an increase in the Senior Loan Margin or the inclusion of an additional margin or rate (including in each case where the relevant amendment, consent or waiver provides for a conditional increase in the Senior Loan Margin or the inclusion of an additional margin to be applicable upon the occurrence of certain event(s)) relating to the Senior Facility Liabilities other than an increase, addition or change which is contemplated by the Senior Finance Documents in their original form or as amended from time to time in accordance with the Intercreditor Agreement;
- (c) an amendment to, or waiver of, the basis on which interest, fees or commission accrue, are calculated or are payable other than an amendment or waiver which:
  - (i) is contemplated by the Senior Finance Documents in their original form or as amended from time to time in accordance with the Intercreditor Agreement;

- (ii) is a minor or administrative change or correction which is, in each case, not prejudicial to the Mezzanine Facility Creditors;
  - (iii) does not increase the overall cost to the Senior Obligors of the Senior Facility Liabilities;
  - (iv) relates to fees or charges in respect of requests for amendments, waivers or consents under the Senior Finance Documents provided that those fees or charges are reasonable; or
  - (v) relates to an increase in fees or commission paid to the Senior Loan Facility Agent or the Common Security Agent in respect of its role as agent or security agent (as applicable) for the Senior Facility Creditors or the Common Secured Parties (as applicable), provided that any such increase is reasonable in the context of the fees or commission paid to agents or security agents generally in the loan market at the time;
- (d) an amendment, consent or waiver not contemplated by the Common Terms Agreement in its original form or as amended from time to time in accordance with the Intercreditor Agreement which increases the overall cost to the Senior Obligors of the Senior Facility Liabilities, other than an amendment, consent or waiver which:
- (i) relates to fees or charges in respect of requests for amendments, waivers or consents under the Senior Finance Documents provided that those fees or charges are reasonable; or
  - (ii) relates to an increase in fees or commission paid to the Senior Loan Facility Agent or the Common Security Agent in respect of its role as agent for the Senior Facility Creditors or the Common Secured Parties (as applicable), provided that any such increase is reasonable in the context of the fees or commission paid to agents or security agents generally in the loan market at the time;
- (e) an amendment, consent or waiver which is a change to the currency of any amount payable under the Senior Finance Documents;
- (f) an amendment, consent or waiver which makes any principal or interest under the Senior Finance Documents payable at an earlier date than that specified in the Senior Finance Documents in their original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (g) an amendment, consent or waiver which results in a shortening the term of the Senior Loan other than as contemplated in the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (h) an amendment, consent or waiver in respect of any financial covenant referred to in the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement) or the inclusion of any additional financial covenants or cash trap provisions which were not included in the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (i) an amendment, consent or waiver which results in an increase to the maximum strike rate, a reduction in the required notional amount, a reduction in the hedging term or any Hedge Document providing for interest rate swaps, in each case as specified in the section entitled

*"Description of the Common Terms Agreement – Hedging"* above in its original form (or as amended from time to time in accordance with the Intercreditor Agreement); and

- (j) an amendment, consent or waiver which has the effect of changing, granting a consent in relation to or waiving:
  - (i) the definition of Corporate Expenses, Default, Event of Default, Excluded Insurance Proceeds, Excluded Recovery Proceeds, Interest Payment Date, Interest Period, Majority Lenders, Mezzanine Interest Payment Date, Mezzanine Payment Stop Event, Mezzanine Prepayment Amount, Valuation or Valuer in the Common Terms Agreement;
  - (ii) matters referred to in *"Description of the Common Terms Agreement – Repayment"* above or the definitions of First Senior Loan Extension Option Conditions, Second Senior Loan Extension Option Conditions or Third Senior Loan Extension Option Conditions which would make those provisions more onerous (or otherwise more difficult to satisfy) for the Senior Obligors than contemplated by the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
  - (iii) matters referred to in *"Description of the Common Terms Agreement – Senior Cash Trap Accounts"* above, any other cash trap provision referred to in the Common Terms Agreement or the definition of Cash Trap Event in the Common Terms Agreement;
  - (iv) matters referred to in *"Description of the Common Terms Agreement – Disposals"* above or the definitions of Allocated Loan Amount, Disposal Proceeds, Excluded Permitted Property Disposal Proceeds, Permitted Property Disposal, Permitted Property Disposal Prepayment Proceeds and Release Price in the Common Terms Agreement;
  - (v) matters referred to in *"Description of the Common Terms Agreement – Valuations"* above;
  - (vi) certain matters relating to Debt Purchase Transactions under the Common Terms Agreement or the definition of Debt Purchase Transaction in the Common Terms Agreement;
  - (vii) any amendment, consent or waiver which has the effect of changing matters referred to in matters referred to in *"Description of the Common Terms Agreement – Mandatory prepayment – Senior Change of Control"* above in a manner which is prejudicial to the Mezzanine Facility Creditors under the Mezzanine Finance Documents;
  - (viii) an amendment, consent or waiver which would result in a breach of the negative pledge or financial indebtedness restrictions of the Mezzanine Facility Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
  - (ix) an amendment, consent or waiver which has the effect of prohibiting, or imposing new or more onerous restrictions on, the ability of a Senior Obligor to make or effect a distribution, including an amendment, consent or waiver which has the effect of changing, granting a consent in relation to or waiving the matters described in *"Description of the Common Terms Agreement – Dividends, distributions and share*



*redemption*" above of, or the definitions of "Permitted Distribution" or "Permitted Mezzanine Distribution" in, the Common Terms Agreement;

- (x) an amendment, consent or waiver which has the effect of releasing or amending the scope of the Common Transaction Security in a manner which is prejudicial to the Mezzanine Facility Creditors, other than (A) if expressly permitted under the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement); or (B) in accordance with certain provisions of the Intercreditor Agreement;
- (xi) an amendment, consent or waiver which relates to the matters described in "*Description of the Common Terms Agreement – Bank accounts*" above and is prejudicial to the Mezzanine Lenders, other than an amendment, consent or waiver which relates to the matters described in "*Description of the Common Terms Agreement – Bank accounts*" above and is contemplated by the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (xii) an amendment, consent or waiver which would result in a default under the Mezzanine Facility Agreement causing a default as described in the section entitled "*Description of the Common Terms Agreement – Cross default*" above;
- (xiii) an amendment, consent or waiver which has the effect of releasing, compromising or waiving any Mezzanine Borrower Liabilities other than if permitted under the Intercreditor Agreement;
- (xiv) an amendment to the governing law of the Common Terms Agreement; or
- (xv) a change of Senior Borrower, other than as contemplated by the Common Terms Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement),

in each case unless the prior consent of the Mezzanine Loan Facility Agent (acting on the instructions of the Mezzanine Majority Lenders) is obtained.

Notwithstanding the above, if, at any time: (a) the Senior LTV Ratio is higher than 95 per cent.; or (b) a Senior Acceleration Event has occurred or any Senior Facility Creditor has taken any Enforcement Action which is continuing and:

- (a) if: (A) the Senior Loan Facility Agent has notified the Mezzanine Loan Facility Agent that the Senior LTV Ratio is higher than 95 per cent. or of that Senior Acceleration Event or of that Enforcement Action (as applicable); and (B) no Purchasing Party has delivered a Senior Purchase Notice to the Senior Loan Facility Agent by the date falling 15 Business Days after the date of the notification referred to in paragraph (A); or
- (b) if: (A) a Purchasing Party has elected to purchase (or arrange for the purchase of) all of the Senior Lender Liabilities in accordance with the senior purchase offer; (B) the Senior Purchase Completion Date has passed; and (C) that Purchasing Party has failed to pay (or arrange for the payment of) the Senior Purchase Amount in full,

the prior consent of the Mezzanine Loan Facility Agent (acting on the instructions of the Mezzanine Majority Lenders) will not at that time be required to be obtained in respect of any amendment, waiver or consent referred to in paragraphs (f) to (j) above.

*Amendments and waivers: Mezzanine Facility Creditors*

The Mezzanine Facility Creditors may not agree to amend, give a consent under or waive certain provisions of the Mezzanine Finance Documents (subject to customary exceptions). Such provisions include:

- (a) an amendment, consent or waiver effecting an increase in the principal amount of the Mezzanine Facility other than a Mezzanine Principal Increase as contemplated in the Intercreditor Agreement and as described in further detail below;
- (b) an amendment, consent or waiver constituting or providing for an increase in the Mezzanine Loan Margin (or the inclusion of an additional margin or rate (including in each case where the relevant amendment, consent or waiver provides for a conditional increase in the Mezzanine Loan Margin or the inclusion of an additional margin or rate to be applicable upon the occurrence of certain event(s)), relating to the Mezzanine Facility Liabilities) other than an increase, addition or change which is contemplated by the Mezzanine Finance Documents in their original form (or as amended from time to time in accordance with the Intercreditor Agreement) or an amendment, consent or waiver which does not increase the overall cost to the Mezzanine Obligors of the Mezzanine Facility Liabilities;
- (c) an amendment to, or waiver of, the basis on which interest, fees or commission accrue, are calculated or are payable other than an amendment or waiver which:
  - (i) is contemplated by the Mezzanine Finance Documents in their original form (or as amended from time to time in accordance with the terms of the Intercreditor Agreement);
  - (ii) is a minor or administrative change or correction which is, in each case, not prejudicial to the Senior Lenders;
  - (iii) does not increase the overall cost to the Mezzanine Obligors of the Mezzanine Facility Liabilities;
  - (iv) relates to fees or charges in respect of requests for consents under the Mezzanine Finance Documents provided that those fees or charges are reasonable;
  - (v) relates to an increase in fees or commission paid to the Mezzanine Loan Facility Agent, the Mezzanine Security Agent in respect of its role as agent for the Mezzanine Facility Creditors or the Mezzanine Secured Parties (as applicable), provided that any such increase is reasonable in the context of the fees or commission paid to agents or security agents generally in the loan market at the time; or
  - (vi) relates to a change in the interest provisions from pay if you can to cash pay, from payment in kind (**PIK**) to cash pay, from PIK to pay if you can, or vice versa, provided that any interest payable by a Mezzanine Borrower on a Mezzanine Loan Payment Date (or any other date on which interest is payable under the Mezzanine Facility Agreement) on which a Cash Trap Event is continuing and which is in excess of the Quarterly Mezzanine Interest Capped Amount on that Mezzanine Loan Payment Date must be PIK;

- (d) an amendment, consent or waiver not contemplated by the Mezzanine Facility Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement) which increases the overall cost to the Mezzanine Obligors of the Mezzanine Facility Liabilities, other than an amendment, consent or waiver which:
  - (i) relates to an increase in fees or charges in respect of amendments, waivers or consents under the Mezzanine Finance Documents provided that those fees or charges are reasonable; or
  - (ii) relates to an increase in fees or commission paid to the Mezzanine Loan Facility Agent or the Mezzanine Security Agent in respect of its role as agent for the Mezzanine Facility Creditors or the Mezzanine Secured Parties (as applicable), provided that any such increase is reasonable in the context of the fees or commission paid to agents or security agents generally in the loan market at the time;
- (e) an amendment, consent or waiver which is a change to the currency of any amount payable under the Mezzanine Finance Documents;
- (f) an amendment, consent or waiver which results in a shortening of the term of the Mezzanine Loans or Mezzanine Facility;
- (g) an amendment, consent or waiver which has the effect of changing or granting a consent in relation to or waiving:
  - (i) the definition of Default, Event of Default, Interest Payment Date, Interest Period or Majority Lenders in the Mezzanine Facility Agreement;
  - (ii) the provisions of the Mezzanine Facility Agreement relating to disposals or the definition of Allocated Loan Amount, Disposal Proceeds, Excluded Permitted Property Disposal Proceeds, Permitted Disposal, Permitted Property Disposal, Permitted Property Disposal Prepayment Proceeds or Release Price in the Mezzanine Facility Agreement; or
  - (iii) the provisions of the Mezzanine Facility Agreement relating to debt purchase transactions not contemplated by the Mezzanine Finance Documents in their original form (or as amended from time to time in accordance with the Intercreditor Agreement) or the definition of Debt Purchase Transaction in the Mezzanine Facility Agreement;
- (h) an amendment, consent or waiver which has the effect of releasing or amending the scope of the Mezzanine Only Security in a manner which is prejudicial to the Senior Facility Creditors under the Senior Finance Documents, other than if expressly permitted under the Mezzanine Facility Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (i) an amendment to the governing law of the Mezzanine Facility Agreement;
- (j) a change of a Mezzanine Borrower, other than as contemplated by the Mezzanine Facility Agreement or the Intercreditor Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (k) an amendment, consent or waiver which allows the Mezzanine Lenders to be prepaid or repaid otherwise than on a *pro rata* basis provided that certain Mezzanine Loans made as a

Mezzanine Principal Increase (as described below) may rank ahead of any other Mezzanine Loans; or

- (l) an amendment, consent or waiver which has the effect of including any financial covenants which were not included in the Mezzanine Facility Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement),

in each case, unless the prior consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) is obtained.

The Mezzanine Lenders may from time to time effect a Mezzanine Principal Increase which consists of:

- (a) an increase or increases in the principal amount of the Mezzanine Loans made with the consent of the Mezzanine Companies provided that such increase or increases does not or do not cause the Total LTV Ratio to exceed 90 per cent.;
- (b) the capitalisation of interest as contemplated by the Mezzanine Facility Agreement in its original form (or as amended from time to time in accordance with the Intercreditor Agreement);
- (c) the funding of a Cure Payment in accordance with the Intercreditor Agreement; or
- (d) an application in or towards the payment or discharge of costs, fees or expenses incurred as a result of a Mezzanine Enforcement Action in relation to any Mezzanine Obligor or under the Mezzanine Finance Documents (including, without limitation, any costs or expenses incurred as a result of an administration of a Mezzanine Obligor).

*Snooze you lose*

If any Senior Lender or Mezzanine Lender fails to vote in respect of a request for a consent under the amendments and waiver provisions detailed above within 15 Business Days (unless the Senior Loan Facility Agent or Mezzanine Loan Facility Agent (on the instructions of the Mezzanine Majority Lenders or Senior Majority Lenders (as applicable)) agrees to a longer time period in relation to any request) of that request being made, and provided that the Senior Loan Facility Agent or Mezzanine Loan Facility Agent (as applicable) has provided the Mezzanine Loan Facility Agent or the Senior Loan Facility Agent (as applicable) with sufficiently detailed information to enable the Mezzanine Lenders or Senior Lenders (as applicable) to make a determination in respect of the relevant requested consent, that Senior Lender or Mezzanine Lender will be deemed to have consented to the relevant request.

## **Payment restrictions**

### **General**

Prior to the Senior Discharge Date, no Obligor may make any Payments of the Mezzanine Facility Liabilities unless that Payment is permitted under the terms of the Intercreditor Agreement.

### *Mezzanine Permitted Payments*

Prior to the Senior Discharge Date, the Mezzanine Borrowers may, pursuant to the terms of the Intercreditor Agreement, only make a payment to the Mezzanine Facility Creditors in respect of the Mezzanine Facility Liabilities then due if and to the extent that:

- (a) that Payment:
  - (i) subject to paragraph (b) below:
    - (A) (subject to paragraph (c) below) is a Permitted Mezzanine Distribution; or
    - (B) is a Senior Permitted Distribution; or
  - (ii) originates from an Investor Affiliate;
- (b) that Payment is a discharge of Mezzanine Facility Liabilities which occurs in connection with an Acquisition; or
- (c) that Payment is made following an Acquisition and constitutes a reduction or discharge of all or part of the Mezzanine Loans in exchange for shares or constitutes a release of all or part of the Mezzanine Facility Liabilities.

#### *Mezzanine Borrower Payment Stop Notice*

Following the occurrence of a Mezzanine Payment Stop Event which is continuing, the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) may issue a notice (a **Mezzanine Payment Stop Notice**) to the Mezzanine Loan Facility Agent (with a copy to the Mezzanine Companies and the Senior Companies) advising that a Mezzanine Payment Stop Event has occurred and is continuing, and suspending any payments of the Mezzanine Borrower Liabilities, which could otherwise be made in accordance with paragraph (a)(i) of "*Mezzanine Permitted Payments*" above only until the date on which that Mezzanine Payment Stop Event is no longer continuing.

No Mezzanine Payment Stop Notice may be served by the Senior Loan Facility Agent in reliance on a particular Mezzanine Payment Stop Event more than nine months after the Senior Loan Facility Agent receives notice under the Common Terms Agreement advising of the occurrence of that Mezzanine Payment Stop Event. No more than one Mezzanine Payment Stop Notice may be served with respect to the same event.

#### *Cash Trap Event*

If, on any Senior Loan Payment Date, a Cash Trap Event is continuing any interest costs which may be paid to the Mezzanine Finance Account on that Senior Loan Payment Date in accordance with the terms of the Intercreditor Agreement shall not exceed the Quarterly Mezzanine Interest Capped Amount applicable to that Senior Loan Payment Date.

For the purposes of any Payment from a Senior Obligor Account made in accordance with paragraph (a)(i) of "*Mezzanine Permitted Payments*" above, the Mezzanine Loan Facility Agent must, no later than the date falling seven Business Days prior to any Mezzanine Loan Payment Date (or any other later date that may be agreed between the Senior Companies, the Senior Loan Facility Agent and the Mezzanine Loan Facility Agent in respect of any such Mezzanine Loan Payment Date), provide to the Senior Loan Facility Agent and the Senior Companies details of the aggregate amount that will become due and payable under the Mezzanine Finance Documents on any such Mezzanine Loan Payment Date.

## Mezzanine Cure Payments

### *Cure Payments*

If a Curable Default has occurred and is continuing the Mezzanine Loan Facility Agent shall (if instructed by any Mezzanine Lender) during the Cure Election Period with respect to such Curable Default notify the Senior Companies and the Senior Loan Facility Agent (a **Mezzanine Cure Notification**) that one or more Mezzanine Lenders wish to make a Cure Payment with respect to that Curable Default.

### *Mezzanine Cure Notification*

If a Mezzanine Cure Notification is given, the relevant Mezzanine Lenders must procure that within the Grace Period for the relevant Curable Default: (a) in respect of a Curable Default other than a Senior Interim Repayment Default, an amount equal to the amount of the Cure Payment applicable to that Curable Default is paid into an account specified by the Senior Loan Facility Agent (or into a Senior Debt Service Account if no account is nominated); or (b) in respect of a Senior Interim Repayment Default, certain condition specified in the Intercreditor Agreement are fulfilled.

### *Number of Cure Payments*

A Cure Payment may only be made subject to the limits on the frequency with which, and the number of times when, cure rights can be exercised as set out under "*Description of the Common Terms Agreement – Financial covenants*" above provided that if, at any time:

- (a) a Curable Default has occurred and is continuing;
- (b) the Senior Obligors are, at that time, no longer entitled to exercise any cure rights due to certain of the limits set out under "*Description of the Common Terms Agreement – Financial covenants*" above; and
- (c) no Mezzanine Lender has at that time ever made any Cure Payment,

the Mezzanine Lenders (or any of them) may make one Cure Payment in respect of that Curable Default in accordance with the terms of the Intercreditor Agreement.

### *Miscellaneous*

Any Cure Payment will be treated as forming part of the Mezzanine Facility Liabilities and the total amount in aggregate owed by the Mezzanine Borrowers to the Mezzanine Lenders will be increased by an equivalent amount.

The payment of a Cure Payment shall not be treated as remedying any outstanding Mezzanine Loan Event of Default.

## Purchase Option

- (a) Any Purchasing Party may, following the occurrence of a Purchase Event which is continuing, elect (or arrange for another person or persons) to purchase all of the Senior Lender Liabilities by serving an irrevocable notice (a **Senior Purchase Notice**) in writing on the Senior Loan Facility Agent, on or before the date falling 15 Business Days after the date on which the Senior Loan Facility Agent notifies the Mezzanine Loan Facility Agent of the occurrence of the relevant Purchase Event. A Senior Purchase Notice shall identify any Purchasing Party which agrees to purchase the Senior Lender Liabilities.

- (b) Any Senior Purchase Notice will nominate a date (the **Senior Purchase Completion Date**) falling on a day not more than 20 Business Days after the date of the Senior Purchase Notice on which the Purchasing Party (or its nominee) will pay the Senior Purchase Amount and acquire all the Senior Lender Liabilities (but not some) in accordance with the Intercreditor Agreement.
- (c) After a Senior Purchase Notice is issued by one or more Purchasing Parties and prior to the Senior Purchase Completion Date designated in that Senior Purchase Notice, each Senior Lender shall deliver to the Senior Loan Facility Agent (to be held to the order of the relevant Senior Lender until delivered to the relevant Purchasing Parties in accordance with paragraph (a) of "*Effect of Purchase*" below) a Transfer Agreement duly executed by that Senior Lender in respect of its Senior Commitments and participations in the Senior Loan.

**A Purchase Event** means:

- (a) the occurrence of a Senior Payment Event of Default which is continuing;
- (b) the occurrence of a Senior Financial Covenant Event of Default which is continuing;
- (c) the occurrence of a Senior Insolvency Event of Default which is continuing;
- (d) the occurrence of a Senior Acceleration Event; or
- (e) the commencement of any Enforcement Action by any Senior Facility Creditor which has not ceased.

**Senior Purchase Amount** means, at the time of calculation, the aggregate of:

- (a) the principal amount of the Senior Loan then outstanding;
- (b) accrued interest due but unpaid under the Common Terms Agreement including workout or liquidation fees but, subject to paragraph (c) below, excluding any yield maintenance or make whole premiums, prepayment fees or other premiums, or exit fees;
- (c) any Break Costs due but unpaid;
- (d) if the Purchase Event in relation to that Senior Purchase Completion Date is a Senior Payment Event of Default, any default interest due but unpaid under the Common Terms Agreement on that Senior Purchase Completion Date; and
- (e) any properly incurred fees, costs and expenses incurred by the Senior Facility Creditors in connection with the Senior Lender Liabilities Transfer.

### **Effect of Purchase**

Upon the full and final payment of the Senior Purchase Amount to the Senior Loan Facility Agent by not later than the Senior Purchase Completion Date and provided that the Senior Loan Facility Agent has received Transfer Agreements as described in paragraph (a) below duly executed by each Senior Lender at such time:

- (a) the Senior Loan Facility Agent will deliver to the relevant Purchasing Parties the Transfer Agreements delivered to it under paragraph (c) of "*Purchase Option*" above by which the Senior Lenders transfer their respective Senior Commitments and their respective participations in the Senior Loan to each such Purchasing Party (or its nominee or nominees)

in the proportion specified in the Senior Purchase Notice in accordance with the Common Terms Agreement (and the relevant Purchasing Party or Purchasing Parties shall promptly execute (or arrange the execution by their nominee or nominees of) all relevant Transfer Agreements); and

- (b) (if required by the relevant Purchasing Parties) the Common Security Agent shall promptly execute such documents, effecting the transfer of the Common Transaction Security, as shall be reasonably required to achieve the transfer of the Common Transaction Security to the Purchasing Parties (or any of them or the Mezzanine Security Agent on their behalf).

## **Enforcement action – Common Transaction Security**

### *Enforcement of Common Transaction Security*

Subject to the Common Transaction Security having become enforceable in accordance with its terms, the Instructing Group (acting through its Agent) may, give or refrain from giving the Common Security Agent instructions (as it sees fit) with respect to enforcement of the Common Transaction Security.

The Common Security Agent may refrain from enforcing the Common Transaction Security until it receives such instructions.

Following any instructions from the Instructing Group to enforce the Common Transaction Security, the Common Security Agent shall serve a notice upon the Senior Companies, on behalf of the Senior Obligors, declaring its intention to take Enforcement Action (such notice, prior to the Senior Discharge Date shall constitute a **Senior Enforcement Notice**) unless the Instructing Group has instructed the Common Security Agent to take Protective Enforcement Action, in which case the notice to the Senior Companies will only be served after the Protective Enforcement Action has taken place. Prior to the Senior Discharge Date, the Common Security Agent shall, except in relation to Protective Enforcement Action or where a delay in enforcement would materially prejudice the Senior Facility Creditors, consult with the Mezzanine Loan Facility Agent for a period of between five to seven Business Days prior to taking any such Enforcement Action.

### *Manner of enforcement*

If a Senior Loan Event of Default has occurred and is continuing, the Common Security Agent will, pursuant to the terms of the Intercreditor Agreement, prior to issuing a Senior Enforcement Notice, unless it has been instructed to take Protective Enforcement Action where it shall be after the issuance of a Senior Enforcement Notice, serve a notice on the Mezzanine Loan Facility Agent requesting that the Mezzanine Lenders declare if they wish to take any of the actions as described in "*Mezzanine Cure Payments*", or "*Purchase Option*" above and/or to take any Mezzanine Enforcement Action (in each case, a **Mezzanine Intention Notice**).

The Common Security Agent shall enforce the Common Transaction Security as the Instructing Group shall instruct.

### *Restriction on Senior Facility Creditor Enforcement Action*

- (a) Subject to paragraph (b) below, no Senior Facility Creditor may take any Enforcement Action against any Obligor or against any asset of any Obligor in relation to the Senior Facility Liabilities or the Common Transaction Security:
  - (i) in respect of the occurrence of a Senior Loan Event of Default which is continuing and in relation to which the Common Security Agent has delivered a Mezzanine



Intention Notice to the Mezzanine Loan Facility Agent, subject to paragraphs (ii) to (v) below, until the date falling 10 Business Days after the date of that Mezzanine Intention Notice;

- (ii) in respect of the occurrence of any Senior Loan Event of Default which is continuing, if the Mezzanine Loan Facility Agent has delivered to the Senior Loan Facility Agent and the Common Security Agent a Mezzanine Enforcement Notice stating that the Mezzanine Lenders intend to take Mezzanine Enforcement Action and that that Mezzanine Enforcement Action is to be carried out by way of an Acquisition, until the date falling 30 days after the relevant Acquisition Completion Date;
- (iii) in respect of the occurrence of a Curable Default which is continuing, until the date falling immediately after the expiry of the Grace Period in respect of that Curable Default (or, if the Mezzanine Lenders do not serve a Mezzanine Cure Notification within the Cure Election Period in respect of that Curable Default, the expiry of that Cure Election Period);
- (iv) in respect of the occurrence of a Purchase Event which is continuing, until the date falling 15 Business Days after the date on which the Senior Loan Facility Agent notifies the Mezzanine Loan Facility Agent of the occurrence of that Purchase Event;
- (v) in respect of the occurrence of a Senior Loan Event of Default due to the Senior Loan not being repaid in full when required under the terms of the Common Terms Agreement which is continuing and has been caused by the fact that a Senior Company has not submitted a Senior Loan Extension Option Notice on or prior to the end of the First Senior Loan Extension Option Period, the Second Senior Loan Extension Option Period or the Third Senior Loan Extension Option Period (as applicable):
  - (A) by the date falling 10 Business Days prior to the Senior Initial Repayment Date, the First Senior Loan Extended Repayment Date or the Second Senior Loan Extended Repayment Date (as applicable, each a **Relevant Senior Interim Repayment Date**), if by that date the Mezzanine Loan Facility Agent has not delivered to the Senior Loan Facility Agent an irrevocable notice (a **Mezzanine Loan Extension Notice**):
    - (I) stating the intention of the Mezzanine Lenders or any of them to commence Mezzanine Enforcement Action and to procure the satisfaction of the applicable Senior Loan Extension Option Conditions; and
    - (II) identifying the Mezzanine Lenders which have agreed to satisfy the applicable Senior Loan Extension Option Conditions;
  - (B) by the date falling 30 days after the Relevant Senior Interim Repayment Date (the **Acquisition Date**), if:
    - (I) the Mezzanine Loan Facility Agent has delivered a Mezzanine Loan Extension Notice to the Senior Loan Facility Agent in accordance with paragraph (A) above; but
    - (II) the Mezzanine Security Agent has not commenced Mezzanine Enforcement Action by way of an Acquisition and has not completed the Acquisition by the Acquisition Date; or

- (C) by the date falling 30 days after completion of the Acquisition (the **Cure Date**), if:
  - (I) the Mezzanine Security Agent has completed an Acquisition in accordance with paragraph (B) above; but
  - (II) the Mezzanine Lenders referred to in paragraph (A)(II) above have not procured the cure, or waiver by the Senior Lenders, of any other Senior Loan Event of Default which is continuing or has occurred as a result of the satisfaction of the applicable Senior Loan Extension Option Conditions by the Cure Date.
- (b) The provisions contained in this section entitled "*Restriction on Senior Facility Creditor Enforcement Action*" shall not prejudice or restrict the right of the Senior Facility Creditors to:
  - (i) take Protective Enforcement Action; or
  - (ii) take Enforcement Action in respect of a Curable Default that occurred in any Senior Loan Interest Period, if another Curable Default occurred in the immediately preceding Senior Loan Interest Period and was not remedied in accordance with the Intercreditor Agreement provided that this paragraph (ii) will not apply in respect of a Curable Default in relation to which the Senior Lenders do not serve a Mezzanine Intention Notice.

### **Exercise of voting rights**

Each Creditor agrees with the Common Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group as instructed by the Common Security Agent provided that:

- (a) in respect of any pre-insolvency or rehabilitation proceedings which result in a restructuring of the Mezzanine Facility Liabilities, no Mezzanine Facility Creditor will be required to vote in respect of any matter which is otherwise regulated by the contractual provisions set out in the Intercreditor Agreement; and
- (b) in respect of any insolvency or similar proceedings, the obligations which the Mezzanine Facility Creditors would have had under "*Enforcement action – Common Transaction Security – Enforcement of Common Transaction Security*" above or "*Disposals and recoveries*" below in respect of an Enforcement Action in respect of the Common Transaction Security and any consequential release and/or disposal of the Common Transaction Security will be construed as applying to any requirement to vote in a particular manner in connection with those insolvency or similar proceedings.

The Common Security Agent shall give instructions for the purposes of the first paragraph of this section "*Exercise of voting rights*" as directed by an Instructing Group.

### **Common Insolvency Event**

After the occurrence of a Common Insolvency Event in relation to any member of the Group, any party entitled to receive a distribution out of the assets of that member of the Group in respect of Liabilities owed to that party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that member of the Group to make that distribution to the Common Security Agent (or to such other person as the Common Security Agent may direct) until the

Liabilities owing to the Common Secured Parties have been paid in full. The Common Security Agent shall apply distributions made to it as described in "*Application of Enforcement Proceeds*" below.

**Enforcement Action: Mezzanine Facility Creditors**

- (a) Subject to paragraphs (b) and (c) below, no Mezzanine Facility Creditor may, at any time prior to the Senior Discharge Date, take any Enforcement Action in respect of any member of the Group or instruct the Common Security Agent to enforce the Common Transaction Security.
- (b) The Mezzanine Facility Creditors may, at any time, take any Mezzanine Enforcement Action in relation to the Mezzanine Facility Liabilities (other than in relation to the Guarantee Liabilities of a Senior Obligor), including enforcing the Mezzanine Only Security, in each case in accordance with the Mezzanine Finance Documents.
- (c) If the Mezzanine Lenders intend to take any Mezzanine Enforcement Action, the Mezzanine Loan Facility Agent must deliver a Mezzanine Enforcement Notice to the Senior Loan Facility Agent and the Common Security Agent, including in it (if that Mezzanine Enforcement Action is to be carried out by way of an Acquisition) the identity of the proposed Approved Person or Approved Persons and a proposed Acquisition Completion Date falling no earlier than 10 Business Days after the date of that Mezzanine Enforcement Notice.
- (d) Following receipt of a Mezzanine Enforcement Notice, the Common Security Agent must, if requested by the Mezzanine Loan Facility Agent, promptly confirm to the Mezzanine Loan Facility Agent (in a form which can be disclosed to the Senior Companies) that the Senior Facility Creditors will not take any Enforcement Action until a date falling, subject to further restrictions, no earlier than 10 Business Days after the date of that Mezzanine Enforcement Notice.
- (e) Subject to the turnover provisions of the Intercreditor Agreement, at any time after the making by any Senior Facility Creditor of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group, the Mezzanine Facility Creditors may make a demand against that member of the Group in relation to any Guarantee Liabilities owed by that member of the Group to the Mezzanine Facility Creditors under the Mezzanine Finance Documents.
- (f) If a Mezzanine Facility Creditor takes any Mezzanine Enforcement Action, it will promptly provide details to the Common Security Agent of any material notices in respect of that Mezzanine Enforcement Action (but neither the Mezzanine Security Agent nor any Mezzanine Facility Creditor is required, under this paragraph (f), to provide to the Common Security Agent or any other Senior Facility Creditor any correspondence between the Mezzanine Facility Creditors in respect of the decision to take that Mezzanine Enforcement Action).
- (g) No Mezzanine Facility Creditor is or shall be liable to any other Party for any delay in or failure to take any Mezzanine Enforcement Action or maximise the proceeds of any Mezzanine Enforcement Action unless, in the case of the Mezzanine Security Agent failing to maximise the proceeds of any Mezzanine Enforcement Action, such failure is caused by its fraud or wilful misconduct.
- (h) Subject to the restrictions on enforcement in relation to Senior Facility Creditors and any other provisions of the Intercreditor Agreement, the Mezzanine Facility Creditors agree that

no Mezzanine Enforcement Action taken by a Mezzanine Facility Creditor shall prevent or inhibit the Senior Facility Creditors or any of them from enforcing the Common Transaction Security in such manner as they shall consider fit.

- (i) Any Mezzanine Enforcement Action by any Mezzanine Facility Creditor shall not at any time, save as expressly provided otherwise in the Intercreditor Agreement, prejudice the right of any Senior Facility Creditor to take Enforcement Action in relation to the Senior Facility Liabilities or the Common Transaction Security.
- (j) If the Mezzanine Loan Facility Agent or the Mezzanine Security Agent commence Mezzanine Enforcement Action in accordance with the Intercreditor Agreement, but subsequently decide, in accordance with the Mezzanine Finance Documents, to cease that Mezzanine Enforcement Action, the Mezzanine Loan Facility Agent or the Mezzanine Security Agent (as applicable) shall promptly give notice of that decision to the Senior Loan Facility Agent.

*Enforcement of Mezzanine Only Security: Acquisition*

Any Mezzanine Enforcement Action taken pursuant to the Mezzanine Only Security to effect an Acquisition will not trigger a prepayment as described under "*Description of the Common Terms Agreement – Mandatory prepayment – Senior Change of Control*" provided that:

- (a) subject to the section "*Acquisition: Senior actions*" below, on or before the Acquisition Completion Date, the Senior Loan Facility Agent confirms that the Approved Person or Approved Persons have provided all of the information requested in the KYC List of each Senior Facility Creditor;
- (b) on or before the Acquisition Completion Date, the Senior Loan Facility Agent confirms that any Curable Default which was continuing prior to that date has been remedied;
- (c) on or before the date falling 10 Business Days after the Acquisition Completion Date, the Senior Loan Facility Agent confirms that it has received:
  - (1) a guarantee, substantially in the same form as the Sauvegarde Guarantee, granted in favour of the Senior Loan Facility Agent by each Approved Replacement Sauvegarde Guarantor; and
  - (2) legal opinions in respect of: (A) the legality, validity, binding nature and enforceability of that Replacement Sauvegarde Guarantee; and (B) the capacity, power and authority of each Approved Replacement Sauvegarde Guarantor, in each case issued by the legal counsel of the Mezzanine Lender(s) effecting the Acquisition;
- (d) on or before the Acquisition Completion Date, the Mezzanine Lenders have provided cash collateral in respect of any real estate transfer tax which will become due and payable by any Senior Obligor that directly owns a German Property as a result of the Acquisition in an amount equal to the amount of that real estate transfer tax, provided that:
  - (1) the Mezzanine Lenders will be under an obligation to provide that cash collateral only to the extent that the liability to pay that real estate transfer tax has arisen as a result of a change in law which occurred after the date of the Intercreditor Agreement; and

- (2) the Mezzanine Lenders may apply that cash collateral in payment of that real estate transfer tax on behalf of the relevant Senior Obligor upon that real estate transfer tax becoming due and payable;
- (e) if any Senior Capex Project is being carried out at the time of the Acquisition and the Senior Loan Facility Agent does not have the right, on or immediately following the Acquisition Completion Date, to make a demand in full under an Eligible Letter of Credit (Capex) in respect of that Senior Capex Project, the Mezzanine Lenders may, within 30 days of the Acquisition Completion Date:
  - (1) provide a replacement letter of credit (equivalent in form and substance to the that Eligible Letter of Credit (Capex)) in favour of the Senior Facility Creditors in respect of that Senior Capex Project; or
  - (2) deposit into the Senior Cash Trap Account an amount equal to the maximum amount covered by that Eligible Letter of Credit (Capex);
- (f) immediately following the Acquisition Completion Date, an Approved Person controls, or a group of Approved Persons together control, more than 50 per cent. of the issued share capital in each Mezzanine Borrower or each Senior Company (as applicable);
- (g) any other Senior Loan Event of Default which is continuing on the Acquisition Completion Date or which arises as a result of the Acquisition is, if capable of being remedied, remedied on or before the date falling 30 days after the Acquisition Completion Date;
- (h) if the Acquisition is being effected to remedy a Senior Loan Event of Default caused by a failure by a Senior Borrower to comply with the provisions set out in "*Description of the Common Terms Agreement – Repayment*" above, as soon as reasonably practicable, and in any event no later than the first Interest Payment Date (as defined in the Common Terms Agreement) falling after the Relevant Senior Interim Repayment Date, the relevant Mezzanine Lenders have procured that Hedge Documents are entered into in respect of the period from the Relevant Senior Interim Repayment Date to the applicable Senior Loan Final Repayment Date which comply with the provisions described in "*Description of the Common Terms Agreement – Hedging*" above;
- (i) the Acquisition Completion Date occurs prior to the Acquisition Longstop Date; and
- (j) the Acquisition will not result in a breach of any law or regulations applicable to any Senior Facility Creditor.

If, at any time, any Mezzanine Lender, any of its Affiliates, or any nominee of a Mezzanine Lender or any of its Affiliates owns, controls, or owns and controls (directly or indirectly) any of the issued share capital in a Senior Obligor, that Mezzanine Lender will cease to have certain rights as a Mezzanine Lender under the Intercreditor Agreement, and for the purposes of certain provisions of the Intercreditor Agreement, that Mezzanine Lender will be deemed, from that time onwards, to have given any consent that may be required by a Senior Facility Creditor under the relevant clauses or paragraphs in order for that Senior Facility Creditor to be able to take any action under that clause or paragraph in accordance with the Intercreditor Agreement.

If any Senior Capex Project is being carried out at the time of the Acquisition, the Common Security Agent shall promptly, at the request of the Mezzanine Loan Facility Agent immediately following the Acquisition Completion Date, make a demand in full under any Eligible Letter of Credit (Capex) in respect of that Senior Capex Project, and the Senior Borrower and the Senior Facility Creditors will

be deemed to have waived any restriction in the Senior Finance Documents which would otherwise have applied to the making of that demand.

**Acquisition: Senior actions**

- (a) At any time following the occurrence of a Mezzanine Loan Event of Default which is continuing, the Mezzanine Loan Facility Agent may request that the Senior Loan Facility Agent deliver to the Mezzanine Loan Facility Agent the KYC List which would be required if the Mezzanine Lenders elected to effect an Acquisition as a result of that Mezzanine Loan Event of Default. The Mezzanine Loan Facility Agent must specify in its request to the Senior Loan Facility Agent the identity of the proposed persons who would effect the Acquisition in accordance with the terms of the Intercreditor Agreement. The Senior Loan Facility Agent must promptly distribute that request to the Senior Facility Creditors. Each Senior Facility Creditors must provide its KYC List to the Senior Loan Facility Agent promptly upon distribution by the Senior Loan Facility Agent to them of that request (and in any event within 10 Business Days of that distribution). The Senior Loan Facility Agent must pass on to the Mezzanine Loan Facility Agent any KYC List requested by the Mezzanine Loan Facility Agent promptly upon receipt.
- (b) If the Common Security Agent delivers a Mezzanine Intention Notice to the Mezzanine Loan Facility Agent, the Common Security Agent must at the same time deliver to the Mezzanine Loan Facility Agent the KYC List which would be required if the Mezzanine Lenders elect to effect an Acquisition as a result of that Mezzanine Intention Notice (provided that: (i) if a KYC List has been delivered to the Mezzanine Loan Facility Agent; and (ii) that KYC List remains up to date on the date of that Mezzanine Intention Notice, the Common Security Agent will not be required to deliver that KYC List again). Each Senior Facility Creditor must provide its KYC List to the Common Security Agent promptly upon its request, in order for the Common Security Agent to be able to deliver that KYC List to the Mezzanine Loan Facility Agent together with that Mezzanine Intention Notice as required by this paragraph (b).
- (c) No later than the date falling 10 Business Days before it serves a Mezzanine Enforcement Notice, the Mezzanine Loan Facility Agent must request that the Senior Loan Facility Agent deliver to the Mezzanine Loan Facility Agent the KYC List (or an update to its KYC List (if any)) which would be required if the Mezzanine Lenders elected to effect an Acquisition. The Senior Loan Facility Agent must promptly distribute that request to the Senior Facility Creditors. Each Senior Facility Creditor must provide its KYC List (or an update to its KYC List (if any)) to the Senior Loan Facility Agent promptly upon distribution by the Senior Loan Facility Agent to them of that request (and in any event within 10 Business Days of that distribution). The Senior Loan Facility Agent must pass on to the Mezzanine Loan Facility Agent any KYC List (or any update to it) requested by the Mezzanine Loan Facility Agent promptly on receipt.
- (d) If a Senior Facility Creditor fails to deliver (or procure the delivery of) its KYC List in accordance with paragraphs (a), (b) or (c) above, the relevant Mezzanine Lenders are obliged to comply with their obligations in relation to enforcement of Mezzanine Only Security in respect of that Senior Facility Creditor on or before the date falling 30 days after the Acquisition Completion Date provided that by that date they have received that KYC List and that Senior Facility Creditor has cooperated with them in a timely manner in respect of the completion of its know your customer requirements. If by that date the relevant Mezzanine Lenders have not received that KYC List or that Senior Facility Creditor has not cooperated with them in a timely manner in respect of the completion of its know your customer requirements, any failure by those Mezzanine Lenders to complete that Senior Facility

Creditor's know your customer requirements within that 30 day period will not result in a Senior Loan Event of Default.

## **Disposals and recoveries**

### *Non-Distressed Disposals*

With respect to a Non-Distressed Disposal which is permitted under the Senior Finance Documents (and the Senior Loan Facility Agent promptly notifies the Common Security Agent of that disposal) and the Mezzanine Finance Documents (and the Mezzanine Loan Facility Agent promptly notifies the Common Security Agent of that disposal) or a Property Title Split in accordance with the Property Title Split Conditions under the Senior Finance Documents, the Common Security Agent is irrevocably authorised to release the Common Transaction Security over that asset, and any other claim (relating to a Debt Document) over that asset, including a release of the security over the property of a member of the Group if the assets being released are the shares in such member. The net proceeds of such Non-Distressed Disposal shall be applied to prepay the Senior Facility Liabilities or the Mezzanine Facility Liabilities if so required by the Senior Finance Documents or the Mezzanine Finance Documents.

### *Distressed Disposals and Appropriations*

- (a) Subject to paragraphs (c) and (d) below if a Distressed Disposal or an Appropriation is being effected, the Common Security Agent is irrevocably authorised (at the cost of the relevant Obligor and without any consent, sanction, authority or further confirmation from any Creditor or any other Obligor):
  - (i) *release of Common Transaction Security*: to release the Common Transaction Security or any other claim over the asset subject to the Distressed Disposal or an Appropriation and execute and deliver or enter into any release of that Common Transaction Security or claim that may be considered necessary or desirable in the opinion of the Instructing Group;
  - (ii) *release of liabilities and Common Transaction Security on a share sale (Senior Obligor)*: if the asset which is subject to the Distressed Disposal or an Appropriation consists of the partnership interests in or shares in the capital of a Senior Obligor, to release:
    - (A) that Senior Obligor and any Subsidiary of that Senior Obligor from all or any part of:
      - i. its Borrowing Liabilities;
      - ii. its Guarantee Liabilities; and
      - iii. its other liabilities;
    - (B) any Common Transaction Security granted by that Senior Obligor or any Subsidiary of that Senior Obligor over any of its assets; and
    - (C) any other claim of any other Obligor over that Senior Obligor's assets or over the assets of any Subsidiary of that Senior Obligor,on behalf of the relevant Creditors and Obligors;

(iii) *release of liabilities and Common Transaction Security on a share sale (Mezzanine Obligor)*: if the asset which is subject to the Distressed Disposal or Appropriation consists of partnership interests in or shares in the capital of any Mezzanine Obligor, to release:

- (A) that Mezzanine Obligor and any Subsidiary of that Mezzanine Obligor from all or any part of:
  - i. its Borrowing Liabilities;
  - ii. its Guarantee Liabilities; and
  - iii. its other liabilities;
- (B) any Common Transaction Security granted by any Subsidiary of that Mezzanine Obligor over any of its assets; and
- (C) any other claim of any other Obligor over that Mezzanine Obligor's assets or over the assets of any Subsidiary of that Mezzanine Obligor,

on behalf of the relevant Creditors and Obligors;

(iv) *facilitation of disposal of liabilities on a share sale/Appropriation*: if the asset which is subject to the Distressed Disposal or Appropriation consists of partnership interests in or shares in the capital of an Obligor and the Common Security Agent, acting on the instructions of the Instructing Group (acting through its Agent), disposes of all or any part of the Liabilities owed by that Obligor or any Subsidiary of that Obligor:

- i. (if the Common Security Agent is instructed by the Instructing Group that any transferee of those Liabilities (the **Transferee**) will not be treated as a Creditor or a Common Secured Party for the purposes of the Intercreditor Agreement) to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities **provided that** notwithstanding any other provision of any Debt Document the Transferee shall not be treated as a Creditor or a Common Secured Party for the purposes of the Intercreditor Agreement; and
- ii. (if the Common Security Agent is instructed by the Instructing Group that any Transferee will be treated as a Creditor or a Common Secured Party for the purposes of the Intercreditor Agreement) to execute and deliver or enter into any agreement to dispose of:
  - 1. all (and not part only) of the Liabilities owed to the Creditors; and
  - 2. all or part of any Other Liabilities,

on behalf of, in each case, the relevant Creditors and Obligors;

(v) *transfer of obligations in respect of liabilities on a share sale/Appropriation*: if the asset which is subject to the Distressed Disposal or Appropriation consists of partnership interests in or shares in the capital of an Obligor (the **Disposed Entity**) and the Common Security Agent is instructed by the Instructing Group to transfer to another Obligor (the **Receiving Entity**) all or any part of the Disposed Entity's



obligations or any obligations of any Subsidiary of the Disposed Entity to enter into any agreement to:

(A) agree to the transfer of all or part of the obligations on behalf of the relevant Obligor to which those obligations are owed and on behalf of the Obligor which owe those obligations; and

(B) transfer all or part of those obligations on behalf of the Receiving Entity.

(b) The proceeds of each Distressed Disposal shall be paid or distributed to the Common Security Agent for application in accordance with "*Application of Enforcement Proceeds*" below and, to the extent that:

(i) any Liabilities Sale has occurred; or

(ii) an Appropriation has occurred,

as if that Liabilities Sale, or any reduction, release or discharge (howsoever described) in the Common Secured Obligations resulting from or relating to that Appropriation, had not occurred.

(c) In the case of a:

(i) Distressed Disposal; or

(ii) Liabilities Sale,

effected by, or at the request of, the Common Security Agent, the Common Security Agent shall take reasonable care to obtain a fair market price, having regard to the prevailing market conditions (though the Common Security Agent shall have no obligation to postpone (or request the postponement of) any Distressed Disposal or Liabilities Sale in order to achieve a higher price).

(d) This requirement in paragraph (c) above is deemed satisfied if (i) the Distressed Disposal or liabilities sale is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law, (ii) the Distressed Disposal or liabilities sale is made by, at the direction of or under the control of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of an Obligor or the assets of an Obligor, (iii) the Distressed Disposal or liabilities sale is made pursuant to the exercise of a power of sale under any Common Transaction Security Document, (iv) the Distressed Disposal or liabilities sale is made pursuant to a Competitive Sales Process, or (v) a Financial Adviser appointed by the Common Security Agent has delivered a fairness opinion confirming that the relevant disposal will take place at a fair market price having regard to the prevailing market conditions.

(e) A **Competitive Sales Process** means that:

(i) the Common Security Agent notifies and provides the Mezzanine Security Agent with the following information regarding any disposal or transfer promptly upon receipt, in the case of paragraphs (A) and (B) below, having first consulted with the Mezzanine Security Agent in accordance with paragraph (h) below:

- (A) the Asset or shares or partnership interests subject to or affected by that Distressed Disposal or Liabilities Sale (the **Interest**);
- (B) details of any sales agent or sales adviser, (which must: (I) be a third party not affiliated with any Investor or any Senior Lender; (II) be an experienced and reputable sales agent or sales adviser; and (III) be appointed on arm's length terms),

appointed to market the Interest (the **Sales Agent**) and the terms of its appointment;

- (A) any information memorandum in respect of that Distressed Disposal or Liabilities Sale; and
- (B) reasonable details of any offer made for the purchase of the Interest, including the identity of the offeror and the key terms of its offer provided that the Common Security Agent will not be required to disclose the identity of the offeror if to do so would breach any arm's length confidentiality requirements by which it is bound;

(ii) the Interest is:

- (A) marketed or sold through the Sales Agent (if any); or
- (B) sold in any other appropriate manner,

in each case, with a view to obtaining a fair market price having regard to the prevailing market conditions; and

(iii) the net disposal proceeds are applied in accordance with paragraph (f) below.

- (f) The net proceeds of each Distressed Disposal, and any proceeds from the sale of the liabilities, shall be applied in accordance with the priority of payments as described in "*Application of Enforcement Proceeds*" below.
- (g) A Mezzanine Lender may participate as a bidder in a Distressed Disposal or Liabilities Sale and shall be entitled to receive the same information as any other bidder, provided that the net disposal proceeds are applied in or towards satisfaction of the Liabilities in accordance with "*Application of Enforcement Proceeds*" below.
- (h) Save in respect of any Distressed Disposal or Liabilities Sale (as applicable) made in accordance with paragraph (d)(i), or (d)(ii) above, any release of any Mezzanine Facility Liabilities or any other claim owing to any Mezzanine Facility Creditor may only be undertaken to the extent that such Mezzanine Facility Liabilities or claim (as applicable) is or will not be recoverable from the proceeds of such Distressed Disposal, Liabilities Sale or Appropriation (as applicable) and would remain unpaid following the application of the proceeds of such Distressed Disposal, Liabilities Sale or Appropriation (as applicable) in accordance with this section "*Disposals and recoveries*".
- (i) Prior to commencing a Competitive Sales Process, the Common Security Agent shall consult with the Mezzanine Security Agent for a period of not shorter than five Business Days and not longer than seven Business Days regarding the proposed Interest and the identity of the proposed Sales Agent and, during such consultation period, the Senior Lenders shall (or shall procure that the Common Security Agent will) respond promptly to questions or requests for

information reasonably submitted by the Mezzanine Security Agent in connection with the proposed Interest or the identity of the proposed sales adviser.

### **Application of Enforcement Proceeds**

Subject to "*Prospective Liabilities*" below, all amounts from time to time received or recovered by the Common Security Agent pursuant to the terms of any Debt Document or in connection with the realisation or enforcement of all or any part of the Common Transaction Security (for the purposes of this section, the **Recoveries**) shall be held by the Common Security Agent on trust for (or, in respect of any amounts received or recovered in connection with any Common Transaction Security Document governed by French law, as agent (*mandataire*)) the Common Secured Parties and applied at any time as the Instructing Group (acting through its Agent) may direct, to the extent permitted by applicable law (and subject to the provisions of this section, in the following order of priority):

- (a) in or towards payment of all fees, costs and expenses incurred by the Common Security Agent, any Receiver or any Senior Delegate in connection with any realisation or enforcement of the Common Transaction Security in accordance with the terms of the Intercreditor Agreement;
- (b) in payment *pro rata* and *pari passu*:
  - (i) to the Senior Loan Facility Agent, for application in or towards the discharge of all costs and expenses incurred by any Senior Facility Creditors (other than the Common Security Agent) in connection with any realisation or enforcement of the Common Transaction Security in accordance with the terms of the Intercreditor Agreement; and
  - (ii) to the Mezzanine Loan Facility Agent, for application in or towards the discharge of all costs and expenses incurred by any Mezzanine Facility Creditors in connection with any realisation or enforcement of the Common Transaction Security in accordance with the terms of the Intercreditor Agreement,

provided that, if those amounts have been received or recovered in connection with all or any part of the Common Transaction Security granted by a French Senior Obligor, those amounts will be applied only in accordance with paragraph (i) above;

- (c) in payment to the Senior Loan Facility Agent, for application in accordance with the provisions of the Common Terms Agreement relating to partial payments (please refer to "*Partial payments*" above) in or towards the discharge of any other Senior Facility Liabilities;
- (d) if those amounts have been received or recovered in connection with all or any part of the Common Transaction Security granted by an Obligor other than a French Senior Obligor, in payment to the Mezzanine Security Agent, in or towards the discharge of any amounts owing to the Mezzanine Security Agent, any Mezzanine Receiver or any Mezzanine Delegate under the Mezzanine Finance Documents;
- (e) if those amounts have been received or recovered in connection with all or any part of the Common Transaction Security granted by an Obligor other than a French Senior Obligor, in payment to the Mezzanine Loan Facility Agent, for application in accordance with the provisions of the Mezzanine Facility Agreement relating to partial payments in or towards the discharge of any other Mezzanine Facility Liabilities; and
- (f) the surplus, if any, in payment into a Senior General Account specified by any Senior Company.

### **Mezzanine enforcement proceeds**

All amounts from time to time received or recovered by the Mezzanine Security Agent pursuant to the terms of any Mezzanine Finance Document or in connection with the realisation or enforcement of all or any part of the Mezzanine Only Security in accordance with the terms of the Intercreditor Agreement shall be applied, to the extent permitted by applicable law, in accordance with the Mezzanine Finance Documents.

### **Prospective Liabilities**

Following a Distress Event, the Common Security Agent may, in its discretion, hold any amount of the Recoveries in an interest-bearing suspense or impersonal account(s) in the name of the Common Security Agent with such financial institution (including itself) and for so long as the Common Security Agent shall think fit (the interest being credited to the relevant account) for later application under "*Application of Enforcement Proceeds*" above in respect of:

- (a) any sum to any Common Security Agent, any Receiver or any Senior Delegate; and
- (b) any part of the Liabilities,

that the Common Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

### **Valuations**

Any Valuation obtained under the Common Terms Agreement shall be addressed to, capable of reliance on and be provided to the Senior Facility Creditors and the Mezzanine Facility Creditors and shall constitute a "Valuation" for the purposes of both the Common Terms Agreement and the Mezzanine Facility Agreement.

The Senior Loan Facility Agent must (i) promptly notify the Mezzanine Loan Facility Agent upon instructing a Valuation and (ii) provide a copy of each Valuation it receives to the Mezzanine Loan Facility Agent within three business days. The Mezzanine Facility Creditors will be given no less than five Business Days from the date of receipt of the copy of the final draft of each Valuation to provide comments to the Senior Loan Facility Agent on the final draft of each Valuation.

### **Anti-layering**

No additional financial indebtedness between the Senior Lender Liabilities and the Mezzanine Lender Liabilities is permitted under the terms of the Intercreditor Agreement (other than subordinated debt).

## THE STRUCTURE OF THE ISSUER ACCOUNTS

### The Issuer Transaction Account

Pursuant to the Issuer Account Bank Agreement, the Issuer Account Bank will open and maintain the Issuer Transaction Account into which all collections in respect of the Securitised Senior Loan will be paid.

The Issuer and the Issuer Cash Manager will make payments out of the Issuer Transaction Account in accordance with the terms of the Conditions, Issuer Deed of Charge, the Issuer Account Bank Agreement and the Cash Management Agreement.

The Issuer Transaction Account will have, among others, the following ledgers:

- (a) the Issuer Reserve Ledger; and
- (b) the Class X Interest Diversion Ledger.

### The DB Issuer Stand-by Account

Any Stand-by Drawing made under the DB Liquidity Facility will be credited to an account in the name of the Issuer (the **DB Issuer Stand-by Account**) with the Issuer Account Bank. The full Liquidity Commitment under the DB Liquidity Facility will be drawn by the Issuer and deposited into the DB Issuer Stand-by Account within seven Business Days of the Closing Date. Refer to the section entitled "*Description of the Liquidity Facility Agreements*" for further details.

### The SG Issuer Stand-by Account

Any Stand-by Drawing made under the SG Liquidity Facility will be credited to an account in the name of the Issuer (the **SG Issuer Stand-by Account**) with the Issuer Account Bank. Refer to the section entitled "*Description of the Liquidity Facility Agreements*" for further details.

### The Class X Account

The Issuer Account Bank will open and maintain the "Class X account" in the name of the Issuer (the **Class X Account**). On the Closing Date, the proceeds of the issue of the Class X Notes (being an amount equal to €400,000) will be transferred into the Class X Account. On the first Note Payment Date (in February 2019), an amount equal to €380,000 will be applied in redemption of the Class X Notes in accordance with Condition 7.3 (Mandatory redemption of the Class X Notes). On the Final Note Maturity Date (or any other date on which the Notes are to be redeemed in full or cancelled), the Class X Notes will be redeemed in full from amounts standing to the credit of the Class X Account in accordance with Condition 7.1(b) (Final redemption of the Notes).

### The Issuer Proceeds Account

The Issuer will maintain the Issuer Proceeds Account for the sole purpose of holding the proceeds of its share capital (€1), payments representing Issuer's Profit and interest thereon (if any) and making or receiving certain payments (if any) from the Irish Revenue Commissioners in accordance with the Issuer Transaction Documents. The Issuer Proceeds Account will be held with the Issuer Account Bank.

**Other Issuer Accounts**

The Issuer may open such other accounts as the Issuer or the Issuer Cash Manager may require to be opened for or on behalf of the Issuer. The Issuer may at any time subject to certain requirements, acquire any right, title, interest or benefit or otherwise place and hold its cash or securities in such accounts.

## **CASH MANAGEMENT**

### **Issuer Cash Manager**

Pursuant to the Cash Management Agreement, the Issuer will appoint the Issuer Cash Manager to be its agent to provide certain cash management services in relation to the Issuer Transaction Account, the DB Issuer Stand-by Account, the SG Issuer Stand-by Account, the Class X Account and, in certain circumstances, the Issuer Proceeds Account, and any other Issuer Accounts. The Issuer Cash Manager will undertake to perform its obligations under the Cash Management Agreement in accordance with good practice according to market standards so as to ensure that the amounts received are monitored, allocated, transferred and paid out in accordance with the Issuer Priorities of Payments and the Issuer Transaction Documents. The Issuer Cash Manager will also undertake to comply with any proper directions, orders and instructions which the Issuer or, following the delivery of a Note Acceleration Notice, the Issuer Security Trustee may from time to time give to the Issuer Cash Manager in accordance with the Cash Management Agreement.

### **Calculation of amounts and payments**

On the relevant Determination Date, the Issuer Cash Manager is required to determine all amounts due in accordance with the applicable Issuer Priority of Payments on the next Note Payment Date. In addition, the Issuer Cash Manager will calculate the Principal Amount Outstanding and the Note Factor for each Class of Notes for the Note Interest Period commencing on the next following Note Payment Date. The Issuer Cash Manager will make all Liquidity Drawings and/or Stand-by Drawings on behalf of the Issuer and if the Issuer Cash Manager fails to submit a notice of drawdown when it is required to do so, then the Issuer may submit the relevant notice of drawdown.

If the Servicer or, as the case may be, the Special Servicer fails to supply the Issuer Cash Manager with any information it requires to make the relevant determinations, the Issuer Cash Manager will make all reasonable enquiries of the Servicer or the Special Servicer, as applicable, and the Senior Loan Facility Agent to obtain such information. If the Servicer or the Special Servicer, as applicable, and the Senior Loan Facility Agent fail to provide such information, the Issuer Cash Manager will make its determinations based on the information it does have in connection with payments due on the Notes on the relevant Note Payment Date. If the Issuer Cash Manager does not have sufficient information to make such determinations it can make its determinations based on information provided to it by the Servicer or, as the case may be, the Special Servicer, on the three preceding Determination Dates (or whether there is no such information for at least three previous Note Interest Periods, any previous Note Interest Period) and will not be liable to any person (in the absence of gross negligence, fraud or wilful default) for the accuracy of such determinations.

Furthermore, if, for whatever reason, an incorrect payment is made to any party entitled thereto (including the Noteholders of any Class) pursuant to the Issuer Priorities of Payments, the Issuer Cash Manager will rectify the same by increasing or reducing payments to such party (including the Noteholders of any Class), as appropriate, on each subsequent Note Payment Date or Note Payment Dates (if applicable) to the extent required to correct the same. Neither the Issuer nor the Issuer Cash Manager will have any liability to any person for making any such correction.

### **Issuer Cash Manager Quarterly Report**

The Issuer Cash Manager will, on each Note Payment Date, make available electronically via its website (as at the date of this Offering Circular, located at <https://pivot.usbank.com>) a statement to the Noteholders in respect of such Note Payment Date in which it will notify the recipients of, among other things, all amounts received in the Issuer Transaction Account and payments made with respect thereto (the **Issuer Cash Manager Quarterly Report**).

It is not intended that the Issuer Cash Manager Quarterly Reports will be made available in any other format, save in certain limited circumstances with the Issuer Cash Manager's agreement. The Issuer Cash Manager's website does not form part of the information provided for the purposes of this Offering Circular and disclaimers may be posted with respect to the information posted thereon.

### **Delegation by the Issuer Cash Manager**

Subject to the terms of the Cash Management Agreement, the Issuer Cash Manager will not be permitted to sub-contract or delegate the performance of any of its obligations under the Cash Management Agreement to any sub-contractor, agent, representative or delegate without the prior written consent of the Issuer, such consent not to be unreasonably withheld. In any event, any delegated or sub-contracted obligations, when the necessary consent is given, will not relieve the Issuer Cash Manager from any liability under the Cash Management Agreement.

### **Fees**

Pursuant to the Cash Management Agreement, the Issuer will pay to the Issuer Cash Manager on each Note Payment Date a cash management fee as agreed between the Issuer Cash Manager and the Issuer and will reimburse the Issuer Cash Manager for all properly incurred out-of-pocket costs, expenses and charges in the performance of the cash management services.

### **Termination of appointment of the Issuer Cash Manager**

The appointment of Elavon Financial Services DAC, UK Branch as Issuer Cash Manager under the Cash Management Agreement may be terminated by virtue of its resignation or its removal by the Issuer or the Issuer Security Trustee.

The Issuer (prior to the delivery of a Note Acceleration Notice and with the prior written consent of the Issuer Security Trustee) or the Issuer Security Trustee (following the delivery of a Note Acceleration Notice) may terminate the Issuer Cash Manager's appointment upon not fewer than 90 days' written notice or immediately upon the occurrence of a termination event as prescribed under the Cash Management Agreement, including, among other things:

- (a) provided there are sufficient funds available, a failure by the Issuer Cash Manager to make when due a payment required to be made by the Issuer Cash Manager in accordance with the Cash Management Agreement and such default continues unremedied for three Business Days;
- (b) any failure by the Issuer Cash Manager to maintain all necessary licences, consents, approvals and authorisations required to perform its obligations under the Cash Management Agreement;
- (c) a default by the Issuer Cash Manager in the performance or observance of any of its other covenants and obligations under the Cash Management Agreement which in the opinion of (prior to the delivery of a Note Acceleration Notice) the Issuer (and with the prior written consent of the Issuer Security Trustee) or (following the delivery of a Note Acceleration Notice) the Issuer Security Trustee is materially prejudicial to the interests of the Issuer Secured Creditors, which default continues unremedied for 10 Business Days; or
- (d) the occurrence of an insolvency event in respect of the Issuer Cash Manager.

The termination of the appointment of the Issuer Cash Manager will become effective upon the appointment of a suitably experienced replacement Issuer Cash Manager.



The Issuer Cash Manager may resign as Issuer Cash Manager, upon not fewer than 90 days' written notice of resignation to each of the Issuer, the Servicer or the Special Servicer, as applicable, the Issuer Account Bank and the Issuer Security Trustee, provided that a suitably qualified replacement Issuer Cash Manager has been appointed.

The Noteholders (acting as a single class) may by an Ordinary Resolution require the Issuer Cash Manager to resign (provided that a suitably experienced replacement Issuer Cash Manager has been appointed).

Pursuant to the terms of the Cash Management Agreement, the Issuer is required to notify the Rating Agencies of any termination or replacement of the Issuer Cash Manager.

### **Issuer Account Bank**

Pursuant to the Issuer Account Bank Agreement, the Issuer Account Bank will open and maintain the Issuer Transaction Account, the DB Issuer Stand-by Account, the SG Issuer Stand-by Account, the Class X Account, the Issuer Proceeds Account and such other accounts as the Issuer Cash Manager may be required to open for or on behalf of the Issuer as described in more detail in the section "*The Structure of the Issuer Accounts*".

### **Issuer Account Bank Minimum Required Ratings**

The Issuer Account Bank represents and warrants to the Issuer and the Issuer Security Trustee in the Issuer Account Bank Agreement that it has at least the **Issuer Account Bank Minimum Required Ratings**, which are:

- (a) in respect of DBRS:
  - (i) if DBRS has assigned a long-term COR to the institution acting as Issuer Account Bank, a rating that is the higher of:
    - (A) the DBRS rating that is one notch below such COR for the relevant institution; and
    - (B) the issuer rating or long-term senior unsecured debt or deposit rating from DBRS for the relevant institution; or
  - (ii) if a long-term COR is not available from DBRS for the relevant institution, an issuer rating or long-term senior unsecured debt or deposit rating from DBRS for the relevant institution (whichever is the higher) as is commensurate with the ratings assigned to the Notes from time to time as set out in the table below; or

<b>Current rating of the Most Senior Class of Notes outstanding</b>	<b>DBRS Issuer Account Bank minimum rating</b>
"AAA (sf)"	"A"
"AA (high) (sf)"	"A (low)"
"AA (sf)"	"BBB (high)"
"AA (low) (sf)"	"BBB (high)"

<b>Current rating of the Most Senior Class of Notes outstanding</b>	<b>DBRS Issuer Account Bank minimum rating</b>
"A (high) (sf)"	"BBB"
"A (sf)"	"BBB (low)"
"A (low) (sf)"	"BBB (low)"
"BBB (high) (sf)"	"BBB (low)"
"BBB (sf)"	"BBB (low)"

- (iii) to the extent that no DBRS rating is available, the DBRS Minimum Equivalent Rating; and
- (b) in respect of Fitch, a long-term issuer default rating of at least "A" or a short-term issuer default rating of at least "F1".

If the Issuer Account Bank no longer maintains all of the Issuer Account Bank Minimum Required Ratings, the Issuer (prior to the delivery of a Note Acceleration Notice) or the Issuer Security Trustee (following the delivery of a Note Acceleration Notice) shall terminate the appointment of the Issuer Account Bank and replace the Issuer Account Bank within 30 days of the date on which the Issuer Account Bank no longer holds the Issuer Account Bank Minimum Required Ratings. Such termination shall not take effect until a substitute Issuer Account Bank has been duly appointed which has the Issuer Account Bank Minimum Required Ratings or some other arrangement is made which will not result in a downgrade, withdrawal or suspension of the then current ratings assigned by the Rating Agencies to the Notes. Pursuant to the terms of the Issuer Account Bank Agreement, the Issuer is required to notify the Rating Agencies of any termination or replacement of the Issuer Account Bank.

## CASHFLOW AND ISSUER PRIORITIES OF PAYMENTS

### Source of funds

The repayment of principal and the payment of interest by the Senior Borrowers in respect of the Senior Loan will provide the principal source of funds for the Issuer to make payments of interest on and repayments of principal in respect of the Notes (other than the Class X Notes). For details regarding the amounts of principal and interest payable by the Senior Borrowers under the Securitised Senior Loan, see “*Description of the Common Terms Agreement*” and regarding potential risk relating to the insufficiency of assets, see “*Risk Factors – Considerations relating to the Notes*”.

### Determination Date Calculations

On the date which is two Business Days prior to each Note Payment Date (each, a **Determination Date**), the Issuer Cash Manager will be required, *inter alia*, to determine or calculate (as applicable), based on, in certain instances, information provided to it by the Servicer or the Special Servicer on such Determination Date, the following:

- (a) all amounts due in accordance with the Pre-Enforcement Priority of Payments or the Post-Enforcement Priority of Payments, as applicable;
- (b) the amount of Revenue Receipts and Principal Receipts received during the Collection Period to which such Determination Date relates;
- (c) the amount of Issuer Priority Payments to be made by the Issuer on such Determination Date (if any);
- (d) the Available Funds available to the Issuer for distribution on the next following Note Payment Date;
- (e) the amounts required to pay interest on and repay principal due on the Notes on the next following Note Payment Date, all other amounts payable by the Issuer on the next following Note Payment Date and the funds available to the Issuer to make such payments;
- (f) the amount of any Interest Shortfall;
- (g) the Principal Distribution Amount and the amount of each principal payment (if any) due on each Class of Notes on the next following Note Payment Date;
- (h) the Pro Rata Principal Distribution Amount;
- (i) the Sequential Principal Distribution Amount;
- (j) the Principal Amount Outstanding and the Note Factor for each Class of Notes for the Note Interest Period commencing on the next following Note Payment Date (in each case pursuant to Condition 7.6 (Principal Amount Outstanding and Note Factor)); and
- (k) the amount of any Liquidity Drawings which will be required to be made on the next following Note Payment Date.

### Transfer of funds to the Issuer Transaction Account

On each Senior Loan Payment Date, the Senior Loan Facility Agent will transfer from the relevant Senior Obligor Account to the Issuer Transaction Account an amount equal to the aggregate amounts

in respect of interest, principal, fees and other amounts, if any, then payable to the Issuer under the Common Terms Agreement and the French Facility Agreement (to the extent such funds are available in such Senior Obligor Account(s)).

Such funds are to be utilised by or on behalf of the Issuer to make payments to, among others, the Noteholders in accordance with, as applicable, the Pre-Enforcement Priority of Payments or (following the service of a Note Acceleration Notice) in accordance with the Post-Enforcement Priority of Payments, in each case as further described below.

### **Application of Loan Default Interest**

On each Note Payment Date on which any Note (other than the Class X Notes) is outstanding following the application of Available Funds in accordance with paragraphs (a) to (cc) of the Pre-Enforcement Priority of Payments, an amount of the remaining Available Funds up to the Default Interest Withheld Amount will be retained on deposit in the Issuer Transaction Account in accordance with paragraph (dd) of the Pre-Enforcement Priority of Payments. On the subsequent Note Payment Date, such amount will, prior to the Senior Loan Maturity Date, constitute Revenue Receipts and form part of Available Funds and, following the Senior Loan Maturity Date, constitute Principal Receipts and form part of Available Funds.

**Default Interest Withheld Amount** means, on each Note Payment Date occurring prior to the Senior Loan Maturity Date, the aggregate of: (i) the amount of Revenue Receipts determined on the immediately preceding Determination Date comprising the payment of Loan Default Interest received by the Issuer during the immediately preceding Collection Period; and (ii) the amount credited to the Issuer Transaction Account on the immediately preceding Note Payment Date pursuant to paragraph (dd) of the Pre-Enforcement Priority of Payments and on each Note Payment Date occurring after the Senior Loan Maturity Date, zero.

**Loan Default Interest** means the excess of the interest accruing on the Senior Loan at the default interest rate in accordance with the Common Terms Agreement over the interest accruing on the Senior Loan at the pre-default interest rate.

### **Application of Senior Loan Prepayment Fees – payment of Note Prepayment Amount to Noteholders**

As described in Condition 7.2 (Mandatory redemption from Principal Distribution Amounts), if any Class of Notes (other than the Class X Notes) is subject to mandatory early redemption in part due to the receipt by the Issuer of a prepayment under a Securitised Senior Loan, the relevant Class(es) of Noteholders will be entitled to receive a portion of the Senior Loan Prepayment Fee (if any) that has been received by or on behalf of the Issuer in connection with such prepayment subject to the applicable Issuer Priorities of Payments.

On each Note Payment Date, the Senior Loan Prepayment Fee will be allocated to each Class of Notes (other than the Class X Notes) that is subject to prepayment on such Note Payment Date (the **Class of Prepaid Notes**) in an amount equal to the Note Prepayment Amount calculated for that Class of Notes by reference to each such Note Payment Date. Any Senior Loan Prepayment Fee in excess of those allocated to the Notes will be paid to the Class X Noteholder.

**Administrative Fee Rate** means, for any Note Interest Period, an amount expressed as a percentage equal to (i) the Administrative Fees paid during such Note Interest Period, divided by (ii) the aggregate outstanding principal balances of the Notes during each such Note Interest Period.

**Administrative Fees** means, with respect to any Note Payment Date, an amount equal to the aggregate of (i) the items set out in (a) to (d) of the Pre-Enforcement Priority of Payments and (ii) the accrued LF Commitment Fee, in each case, due to be paid by the Issuer on such Note Payment Date.

**Excess Amount** means, with respect to any Note Payment Date, the number of basis points by which the Senior Loan Margin exceeds the sum of (i) the WAFR and (ii) the Note WAC.

**Margin Factor** means, with respect to any Class of Prepaid Notes and any Note Payment Date, the result (expressed as a percentage) of (i) the Note Margin Interest due on such Class of Prepaid Notes on such Note Payment Date, divided by (ii) the aggregate Note Margin Interest due on all Classes of Prepaid Notes on such Note Payment Date.

**Note Margin Interest** means, with respect to any Class of Prepaid Notes and any Note Payment Date, the aggregate amount of interest payable on such Class of Prepaid Notes on such Note Payment Date which has accrued during the Note Interest Period ending on such Note Payment Date at the rate equal to the Relevant Margin applicable to such Class of Prepaid Notes.

**Note Portion Factor** means, with respect to any Note Payment Date (i) 1.00, minus (ii) the Excess Amount divided by the Senior Loan Margin for the Securitised Senior Loan in respect of which a Relevant Prepayment Fee has been received (expressed in basis points).

**Note Prepayment Amount** or **Note Prepayment Fee** means, with respect to a Class of Prepaid Notes, the product of (i) the Relevant Prepayment Fees and (ii) the Prepayment Fee Factor related to the relevant Class of Prepaid Notes.

**Note WAC** means, with respect to any Note Payment Date, the weighted average note margin for the Notes (other than the Class X Notes), weighted based on the outstanding principal balance of each Class of Notes as the related Note Interest Period.

**Prepayment Fee Factor** means, with respect to any relevant Class of Prepaid Notes, the product of (i) the Margin Factor for such Class of Notes and (ii) the Note Portion Factor.

**Relevant Prepayment Fee** has the meaning given to it in Condition 5.5 (Note Prepayment Fee).

**WAFR** means, with respect to any Note Payment Date, the weighted average annualised Administrative Fee Rate for a Note Interest Period based upon the Administrative Fee Rate for the current Note Interest Period and the prior three Note Interest Periods (or, in respect of the first three Note Payment Dates following the Closing Date, the prior Note Interest Periods (if any)), weighted based on the aggregate outstanding principal balance of the Notes during each such Note Interest Period.

However, it should be noted that:

- (a) no Note Prepayment Amount will be payable in any circumstance where there is no Senior Loan Prepayment Fee payable pursuant to the terms of the relevant Senior Finance Documents; and
- (b) the aggregate Note Prepayment Amount payable for all Classes of Notes on any Note Payment Date will never be greater than the Senior Loan Prepayment Fees payable to the Issuer under the Common Terms Agreement on the corresponding Senior Loan Payment Date (and, in the event that the aggregate Note Prepayment Amounts as calculated would exceed the Relevant Prepayment Fees received, any shortfall shall first be applied so as to reduce the amount otherwise payable in respect of the Class F Notes, then the Class E Notes, then the

Class D Notes, then the Class C Notes, then the Class B Notes, then the Class A2 Notes and then the Class A1 Notes).

### **Revenue Receipts**

The Issuer's revenue receipts (the **Revenue Receipts**) will comprise, on any day, the sum of all amounts received or recovered by or on behalf of the Issuer in respect of:

- (a) under or in connection with the Common Terms Agreement and the French Facility Agreement received by the Issuer and including, without limitation:
  - (i) all amounts received or recovered by or on behalf of the Issuer in respect of interest and breakage costs (if any) incurred by the Senior Borrowers and fees, costs, indemnities expenses, commissions and other sums, in each case in respect of the Senior Loan;
  - (ii) recovery of any of the amounts determined to represent the same as the amounts referred to in paragraph (i) above and received by or on behalf of the Issuer:
    - (A) on enforcement of the Common Transaction Security in respect of the Senior Loan;
    - (B) on a repurchase of the Securitised Senior Loan by the Loan Sellers pursuant to the terms of the Securitised Senior Loan Sale Agreement; or
    - (C) on any sale of the Securitised Senior Loan:
      - (I) undertaken at the instigation of the Special Servicer (or at the direction of the relevant Noteholders pursuant to a Note Maturity Plan) as an alternative to directing enforcement of the Common Transaction Security; or
      - (II) to a Purchasing Party (or its nominee) in accordance with the Intercreditor Agreement;
- (b) the amount of any other income, payment or distribution (including, without limitation, in respect of interest income in respect of any cash deposits held in a bank account of the Issuer and any amounts received from the Senior Loan Facility Agent representing amounts to be used to repay Property Protection Drawings which have been recovered from the Senior Obligors and paid into the Issuer Transaction Account) received during such period by the Issuer, to the extent that the Issuer is not required to pass on such income, payment or distribution to a specified party under the terms of any Issuer Transaction Documents; and
- (c) any indemnity payment(s) (or from the repurchase of the Securitised Senior Loan) received by or on behalf of the Issuer from a Loan Seller pursuant to the Securitised Senior Loan Sale Agreement (excluding, in each case, the principal element thereof),

in each case, excluding Principal Receipts, Senior Loan Prepayment Fees, Tax Credits, Property Protection Drawings and (only at the election of the Issuer) any Liquidity Repayment Amounts.

### **Principal Receipts**

The Issuer's principal receipts (**Principal Receipts**) will comprise, on any day, all payments and repayments of principal (or amounts designated as principal below) received or recovered by or on

behalf of the Issuer under or in connection with the Common Terms Agreement and the French Facility Agreement and standing to the credit of the Issuer Transaction Account, including, without limitation, all amounts received or recovered by or on behalf of the Issuer in respect of:

- (a) prepayments, scheduled amortisation payments, and/or repayments of principal received by or on behalf of the Issuer in respect of the Securitised Senior Loan;
- (b) amounts recovered in respect of the Securitised Senior Loan which are applied towards the reduction of outstanding principal as a result of any action taken to enforce the Securitised Senior Loan and/or the Common Transaction Security;
- (c) the principal element of all amounts received or recovered by or on behalf of the Issuer upon a purchase of the Securitised Senior Loan by the Loan Sellers pursuant to the terms of the Securitised Senior Loan Sale Agreement;
- (d) the principal element of all amounts received or recovered by or on behalf of the Issuer in respect of any sale of the Securitised Senior Loan:
  - (i) undertaken at the instigation of the Special Servicer (or at the direction of the relevant Noteholders pursuant to a Note Maturity Plan) as an alternative to directing enforcement of the Common Transaction Security; or
  - (ii) to a Purchasing Party (or its nominee) in accordance with the Intercreditor Agreement;
- (e) the principal element of any indemnity payment(s) (or from the repurchase of the Securitised Senior Loan) received by or on behalf of the Issuer from a Loan Seller pursuant to the Securitised Senior Loan Sale Agreement;
- (f) following the Senior Loan Maturity Date (but prior to the delivery of a Note Acceleration Notice) to the extent that a Class X Interest Diversion Trigger Event is continuing:
  - (i) any Class X Interest Diversion Amounts standing to the credit of the Class X Interest Diversion Ledger; and
  - (ii) the Class X Amount for the relevant Note Payment Date;
- (g) following the Senior Loan Maturity Date, amounts in respect of Loan Default Interest and any amounts credited to the Issuer Transaction Account on the immediately preceding Note Payment Date pursuant to paragraph (dd) of the Pre-Enforcement Priority of Payments;
- (h) following the Senior Loan Maturity Date, amounts in respect of Senior Loan EURIBOR Excess Amounts;
- (i) any other receipts of a principal nature.

### **Distribution of Principal Receipts**

The **Principal Distribution Amount** for any Note Payment Date will be equal to the sum, without duplication, of all Principal Receipts actually received by or on behalf of the Issuer during the Collection Period related to such Note Payment Date (including, for the avoidance of doubt, the amounts referred to in limbs (f), (g) and (h) of the definition of Principal Receipts).

The **Pro Rata Principal Distribution Amount** as determined on any Determination Date means: (i) if a Sequential Payment Trigger will exist on the next following Note Payment Date, zero; or (ii) if no Sequential Payment Trigger will exist on such Note Payment Date, an amount equal to the Principal Distribution Amount.

The Pro Rata Principal Distribution Amount as determined on any Determination Date prior to the occurrence of a Sequential Payment Trigger will, prior to the allocation of the Sequential Principal Distribution Amounts, be allocated to the outstanding Notes (other than the Class X Notes) in accordance with the following formula and applied in accordance with, and subject to, the Pre-Enforcement Priority of Payments:

$$\text{Class Allocation of PRPDA} = \text{Total PRPDA} \times \frac{(\text{Original Class PAO})}{\text{Total Original Note PAO}}$$

Where:

**Class Allocation of PRPDA** means, with respect to each Class of Note (other than the Class X Notes), the amount of the Pro Rata Principal Distribution Amount allocated to such Class of Note.

**Collection Period** means each period beginning on (and including) a Determination Date (or, in the case of the first Collection Period, the Closing Date) and ending on (and including) the Business Day immediately preceding the next Determination Date.

**Original Class PAO** means, with respect to the relevant Class of Notes, the total aggregate Principal Amount Outstanding of that Class of Notes as of the Closing Date.

**Total Original Note PAO** means the total aggregate Principal Amount Outstanding of all Classes of Notes (other than the Class X Notes) as of the Closing Date.

**Total PRPDA** means the total Pro Rata Principal Distribution Amount as determined on the relevant Determination Date.

If the amount of the Pro Rata Principal Distribution Amount allocated to any Class of Notes in accordance with this formula exceeds the Principal Amount Outstanding of that Class of Notes at the relevant time or if there are surplus Pro Rata Principal Distribution Amounts which remain unallocated as a result of a Class of Notes having been redeemed in full prior to such Determination Date, the amount of such surplus (the **Surplus PRPD Amounts**) will be allocated sequentially to the Class A1 Notes *pro rata*, in full and, if the Class A1 Notes have been or will on such Note Payment Date be redeemed in full to the Class A2 Notes *pro rata*, and if the Class A2 Notes have been or will on such Note Payment Date be redeemed in full to the Class B Notes *pro rata*, and if the Class B Notes have been or will on such Note Payment Date be redeemed in full to the Class C Notes *pro rata*, and if the Class C Notes have been or will on such Note Payment Date be redeemed in full to the Class D Notes *pro rata*, and if the Class D Notes have been or will on such Note Payment Date be redeemed in full to the Class E Notes *pro rata*, and if the Class E Notes have been or will on such Note Payment Date be redeemed in full to the Class F Notes *pro rata* and applied in accordance with and subject to the Pre-Enforcement Priority of Payments.

The **Sequential Principal Distribution Amount** as determined on any Determination Date will be the Principal Distribution Amount as determined on that Determination Date less the Pro Rata Principal Distribution Amount as determined on that Determination Date plus any Surplus PRPD Amounts as determined on that Determination Date.

Following the allocation of any Pro Rata Principal Distribution Amounts to the Notes (other than the Class X Notes), the Sequential Principal Distribution Amount will be allocated sequentially to the Class A1 Notes *pro rata*, in full and, if the Class A1 Notes have been or will on such Note Payment



Date be redeemed in full to the Class A2 Notes *pro rata*, and if the Class A2 Notes have been or will on such Note Payment Date be redeemed in full to the Class B Notes *pro rata*, and if the Class B Notes have been or will on such Note Payment Date be redeemed in full to the Class C Notes *pro rata*, and if the Class C Notes have been or will on such Note Payment Date be redeemed in full to the Class D Notes *pro rata*, and if the Class D Notes have been or will on such Note Payment Date be redeemed in full to the Class E Notes *pro rata*, and if the Class E Notes have been or will on such Note Payment Date be redeemed in full to the Class F Notes *pro rata* and will be applied in accordance with and subject to the Pre-Enforcement Priority of Payments.

**A Sequential Payment Trigger** means the first to occur of:

- (a) if the Senior Loan has not been repaid in full on or before its Senior Loan Maturity Date (for the avoidance of doubt, without reference to any extension that may be agreed to by the Servicer or the Special Servicer, as applicable), the Business Day immediately following such Senior Loan Maturity Date;
- (b) the occurrence of a Special Servicing Transfer Event; or
- (c) the delivery of a Note Acceleration Notice.

#### **Distribution of Principal Distribution Amounts**

On each Note Payment Date prior to the service of a Note Acceleration Notice, unless previously redeemed in full and cancelled, each Class of Notes is subject to mandatory early redemption in part in an amount not exceeding the Principal Distribution Amount allocated to such Class on such Note Payment Date (subject to the applicable Issuer Priority of Payments). For the avoidance of doubt, Principal Receipts shall be applied on each Note Payment Date firstly in payment of Principal Distribution Amounts in accordance with the rules described in this section "*Distribution of Principal Receipts*" and limbs (h), (j), (l), (n), (p), (r) and (t) only of the Pre-Enforcement Priority of Payments, and any Principal Receipts remaining after such application (if any) shall be applied as Available Funds in accordance with the Pre-Enforcement Priority of Payments.

The **Class A1 Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class A1 Notes on such Note Payment Date.

The **Class A2 Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class A2 Noteholders on such Note Payment Date.

The **Class B Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class B Notes on such Note Payment Date.

The **Class C Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class C Notes on such Note Payment Date.

The **Class D Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class D Notes on such Note Payment Date.

The **Class E Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class E Notes on such Note Payment Date.

The **Class F Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class F Notes on such Note Payment Date.

**Minimum Balance** means, in respect of each Class of Notes, if (a) there are EURIBOR Excess Amounts payable to such Class of Notes, €1,000 and (b) if there are no EURIBOR Excess Amounts payable to such Class of Notes, zero.

### **Available Funds**

**Available Funds** means, on any Note Payment Date (and without double counting), an amount equal to the aggregate of:

- (a) the Revenue Receipts, the Principal Receipts and the Senior Loan Prepayment Fees standing to the credit of the Issuer Transaction Account at the close of business on the Business Day immediately prior to the Determination Date immediately preceding such Note Payment Date;
- (b) the amount retained on deposit in the Issuer Transaction Account in accordance with paragraph (dd) of the Pre-Enforcement Priority of Payments on the immediately preceding Note Payment Date (such amounts comprising either Revenue Receipts or Principal Receipts, as described in "*Application of Loan Default Interest*" above);
- (c) an amount equal to that standing to the credit of the Issuer Reserve Ledger; and
- (d) all Expenses Drawings and Interest Drawings which are received by the Issuer and are standing to the credit of the Issuer Transaction Account on such Note Payment Date,

excluding in all cases Class X Released Interest Diversion Amount and any Senior Loan Prepayment Fee in excess of those allocated to the Notes (which are to be paid directly to the Class X Noteholders in accordance with Condition 5.4(d) (Rates of Interest)) and *provided that* Principal Receipts shall be applied on each Note Payment Date firstly in payment of Principal Distribution Amounts in accordance with the rules described in "*Distribution of Principal Receipts*" above, and any Principal Receipts remaining after such application shall be applied as Available Funds in accordance with the Pre-Enforcement Priority of Payments.

### **Issuer Priority Payments**

The Issuer (or the Issuer Cash Manager on its behalf) will make payments of amounts set out in paragraph (b) of the Pre-Enforcement Priority of Payments (other than amounts payable to Issuer Related Parties) (the **Issuer Priority Payments**) from amounts constituting Revenue Receipts standing to the credit of the Issuer Transaction Account in priority to all other payments required to be made by the Issuer on any day on which such Issuer Priority Payments are required to be made.

### **Tax Credits**

If it is determined under the Common Terms Agreement that the Issuer has received a Tax Credit then the Issuer will pay the relevant amount to the Senior Borrowers as soon as is reasonably practicable after the same is determined.

## Corporation tax

Any amount payable by the Issuer in respect of corporation tax shall be payable out of funds standing to the credit of the Issuer Proceeds Account.

## Issuer reserve

The Issuer Cash Manager shall record as a credit entry to the Issuer Reserve Ledger on the Issuer Transaction Account an amount: (i) equal to the Initial Issuer Reserve Amount, on the Closing Date; and (ii) up to the Issuer Reserve Amount, on each Note Payment Date.

All amounts standing to the credit of the Issuer Reserve Ledger on each Determination Date shall be applied by the Issuer Cash Manager on the immediately following Note Payment Date (or other relevant date) in accordance with the relevant Issuer Priority of Payments in force at the relevant time (as Available Funds under the Pre-Enforcement Priority of Payments and as funds available to the Issuer/Issuer Security Trustee to apply under the Post-Enforcement Priority of Payments).

## Priorities of Payments

### *Pre-Enforcement Priority of Payments*

Prior to the service of a Note Acceleration Notice, on each Note Payment Date, the Issuer Cash Manager will, on behalf of the Issuer, apply Available Funds, subject to the prior payment of the Issuer Priority Payments (and subject to the rules described in "*Distribution of Principal Distribution Amounts*" above) each as determined on the immediately preceding Determination Date in the manner and in order of priority set out below under Pre-Enforcement Priority of Payments (the **Pre-Enforcement Priority of Payments**) (in each case, only if and to the extent that payments or provisions of a higher priority have been made in full):

- (a) *first* in or towards satisfaction on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of the fees or other remuneration of (and amounts payable in respect of indemnity protection) and any costs, charges, liabilities and expenses incurred by and any other amounts due and payable to the Note Trustee and the Issuer Security Trustee, respectively, and, in each case, the appointees thereof pursuant to the Issuer Transaction Documents;
- (b) *second* in or towards satisfaction on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of the amounts (including, but not limited to, tax adviser fees, costs of tax compliance, legal fees, all auditors' fees, fees due to the stock exchange where the Notes are then listed, fees due to Rating Agencies, taxes and anticipated winding-up costs, fees and expenses associated with the liquidation of the Issuer and company secretarial expenses) which are payable by the Issuer to third parties under obligations incurred in the ordinary course of the Issuer's business and incurred without breach by the Issuer of the Note Trust Deed or the Issuer Deed of Charge and not provided for payment elsewhere in the Pre-Enforcement Priority of Payments, and to provide for any such amounts expected to become due and payable by the Issuer after that Note Payment Date but prior to the next Note Payment Date, and to provide for the Issuer's liability or possible liability for corporation tax;
- (c) *third* to pay one quarter of the Issuer's Profit to the Issuer Proceeds Account to be retained as profit by the Issuer;

- (d) *fourth* in or towards satisfaction on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of (i) all amounts due to the Corporate Services Provider under the Corporate Services Agreement, (ii) fees and expenses of the directors of the Issuer and any advisers appointed by them, if any, (iii) all amounts due to the Servicer and the Special Servicer, as applicable under the Servicing Agreement, (iv) all amounts due to the Issuer Account Bank under the Cash Management Agreement, (v) all amounts due to the Issuer Cash Manager under the Cash Management Agreement, (vi) all amounts due to the Agents under the Agency Agreement, and (vii) all amounts due to the Registrar under the Agency Agreement;
- (e) *fifth* in or towards all amounts due or accrued but unpaid to the Liquidity Facility Providers under the Liquidity Facility Agreements (other than Liquidity Subordinated Amounts);
- (f) *sixth* in or towards satisfaction, on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of:
- (i) interest (other than EURIBOR Excess Amounts) due or overdue on the Class A1 Notes and Note Prepayment Amounts due in relation to the Class A1 Notes; and
  - (ii) the Class X Amount;
- (g) *seventh* in or towards satisfaction, on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of all amounts due to the advisers of the Noteholders approved by the Servicer or the Special Servicer pursuant to the Servicing Agreement;
- (h) *eighth* to repay all principal due or overdue of the Class A1 Notes in an amount equal to the lesser of the Class A1 Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class A1 Notes until the Class A1 Notes have been fully redeemed (but always so the Minimum Balance of the Class A1 Notes remains outstanding);
- (i) *ninth* in or towards satisfaction of interest (other than EURIBOR Excess Amounts) due or overdue on the Class A2 Notes and Note Prepayment Amounts due in relation to the Class A2 Notes;
- (j) *tenth* to repay all principal due or overdue of the Class A2 Notes in an amount equal to the lesser of the Class A2 Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class A2 Notes until the Class A2 Notes have been fully redeemed (but always so the Minimum Balance of the Class A2 Notes remains outstanding);
- (k) *eleventh* in or towards satisfaction of interest (other than EURIBOR Excess Amounts) due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) on the Class B Notes and Note Prepayment Amounts due in relation to the Class B Notes;
- (l) *twelfth* to repay all principal due or overdue of the Class B Notes in an amount equal to the lesser of the Class B Principal Distribution Amount on such

Note Payment Date and the Principal Amount Outstanding of the Class B Notes until the Class B Notes have been fully redeemed (but always so the Minimum Balance of the Class B Notes remains outstanding);

- (m) *thirteenth* in or towards satisfaction of interest (other than EURIBOR Excess Amounts) due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) on the Class C Notes and Note Prepayment Amounts due in relation to the Class C Notes;
- (n) *fourteenth* to repay all principal due or overdue of the Class C Notes in an amount equal to the lesser of the Class C Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class C Notes until the Class C Notes have been fully redeemed (but always so the Minimum Balance of the Class C Notes remains outstanding);
- (o) *fifteenth* in or towards satisfaction of interest (other than EURIBOR Excess Amounts) due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) on the Class D Notes and Note Prepayment Amounts due in relation to the Class D Notes;
- (p) *sixteenth* to repay all principal due or overdue of the Class D Notes in an amount equal to the lesser of the Class D Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class D Notes until the Class D Notes have been fully redeemed (but always so the Minimum Balance of the Class D Notes remains outstanding);
- (q) *seventeenth* in or towards satisfaction (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) of interest (other than EURIBOR Excess Amounts) due or overdue on the Class E Notes and Note Prepayment Amounts due in relation to the Class E Notes;
- (r) *eighteenth* to repay all principal due or overdue of the Class E Notes in an amount equal to the lesser of the Class E Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class E Notes until the Class E Notes have been fully redeemed (but always so the Minimum Balance of the Class E Notes remains outstanding);
- (s) *nineteenth* in or towards satisfaction (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) of interest (other than EURIBOR Excess Amounts) due or overdue on the Class F Notes and Note Prepayment Amounts due in relation to the Class F Notes;
- (t) *twentieth* to repay all principal due or overdue of the Class F Notes in an amount equal to the lesser of the Class F Principal Distribution Amount on such Note Payment Date and the Principal Amount Outstanding of the Class F Notes until the Class F Notes have been fully redeemed (but always so the Minimum Balance of the Class F Notes remains outstanding);
- (u) *twenty-first* in or towards satisfaction of any Liquidity Subordinated Amounts;
- (v) *twenty-second* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class A1 Notes;
- (w) *twenty-third* in or towards satisfaction of EURIBOR Excess Amounts due or overdue

in respect of the Class A2 Notes;

- (x) *twenty-fourth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class B Notes;
- (y) *twenty-fifth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class C Notes;
- (z) *twenty-sixth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class D Notes;
- (aa) *twenty-seventh* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class E Notes;
- (bb) *twenty-eighth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class F Notes;
- (cc) *twenty-ninth* in or towards payment of the Issuer Reserve Amount to the Issuer;
- (dd) *thirtieth* if any Class of Note (other than the Class X Notes) is still outstanding, an amount up to the Default Interest Withheld Amount to be credited to the Issuer Transaction Account;
- (ee) *thirty-first* the surplus, if any, to the Loan Sellers as Deferred Consideration.

#### ***Post-Enforcement Priority of Payments***

Following the service of a Note Acceleration Notice, the Issuer Security Trustee (or the Issuer Cash Manager on its behalf) will apply all monies and receipts received by the Issuer and/or the Issuer Security Trustee or a receiver (whether of principal or interest or otherwise) (other than amounts constituting Tax Credits or amounts standing credited to the DB Issuer Stand-by Account, the SG Issuer Stand-by Account, the Issuer Proceeds Account or the Class X Account) in the manner and order of priority set out below under Post-Enforcement Priority of Payments (the **Post-Enforcement Priority of Payments**) (in each case only if and to the extent that payments of a higher priority have been made in full).

- (a) *first* in or towards satisfaction on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of the costs, expenses, fees or other remuneration and indemnity payments (if any) payable to the Note Trustee or any of its Appointees and the Issuer Security Trustee or any of its appointees (including any Receiver appointed by the Issuer Security Trustee) and any costs, charges, liabilities and expenses incurred by either the Note Trustee or the Issuer Security Trustee or any of its appointees (including any Receiver) pursuant to the Issuer Transaction Documents;
- (b) *second* in or towards satisfaction on a *pro rata* and *pari passu* basis, according to the respective amounts thereof, of (i) all amounts due to the Corporate Services Provider under the Corporate Services Agreement, (ii) fees and expenses of the directors of the Issuer and any advisers appointed by them, if any, (iii) all amounts due to the Servicer and the Special Servicer, as applicable, under the Servicing Agreement, (iv) all amounts due to the Issuer Account Bank under the Cash Management Agreement, (v) all amounts due to the Issuer Cash Manager under the

Cash Management Agreement, (vi) all amounts due to the Agents under the Agency Agreement and (vii) all amounts due to the Registrar under the Agency Agreement;

- (c) *third* in or towards satisfaction of all amounts due or accrued but unpaid to the Liquidity Facility Providers under the Liquidity Facility Agreements (other than Liquidity Subordinated Amounts);
- (d) *fourth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class A1 Notes remains outstanding) and Note Prepayment Amounts due or overdue in respect of the Class A1 Notes;
- (e) *fifth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class A2 Notes remains outstanding) and Note Prepayment Amounts due or overdue in respect of the Class A2 Notes;
- (f) *sixth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class B Notes remains outstanding) and Note Prepayment Amounts due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) in respect of the Class B Notes;
- (g) *seventh* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class C Notes remains outstanding) and Note Prepayment Amounts due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) in respect of the Class C Notes;
- (h) *eighth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class D Notes remains outstanding) and Note Prepayment Amounts due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) in respect of the Class D Notes;
- (i) *ninth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class E Notes remains outstanding) and Note Prepayment Amounts due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) in respect of the Class E Notes;
- (j) *tenth* in or towards satisfaction of all interest (other than EURIBOR Excess Amounts), principal (but always so the Minimum Balance of the Class F Notes remains outstanding) and Note Prepayment Amounts due or overdue (including Deferred Interest not comprising deferred EURIBOR Excess Amounts) in respect of the Class F Notes;
- (k) *eleventh* in or towards satisfaction of any Liquidity Subordinated Amounts;
- (l) *twelfth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class A1 Notes;
- (m) *thirteenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class A2 Notes;
- (n) *fourteenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue

- in respect of the Class B Notes;
- (o) *fifteenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class C Notes;
  - (p) *sixteenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class D Notes;
  - (q) *seventeenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class E Notes;
  - (r) *eighteenth* in or towards satisfaction of EURIBOR Excess Amounts due or overdue in respect of the Class F Notes;
  - (s) *nineteenth* in or towards payment of the Class X Amount; and
  - (t) *twentieth* the surplus, if any, to the Loan Sellers as Deferred Consideration.



## DESCRIPTION OF THE HEDGING ARRANGEMENTS

Each of Spear Bidco S.C.A., Spear German 2018 Holdco S.à r.l. and Spear Investment Holdco S.à r.l. (each, a **Hedging Obligor**) has entered into an interest rate cap transaction with the Hedge Counterparty with a trade date of 16 November in respect of interest payable under the Senior Loan (each, an **Interest Rate Cap Transaction**), in each case as evidenced by a confirmation dated 16 November 2018 (each, an **Interest Rate Cap Confirmation**).

Each Interest Rate Cap Confirmation forms part of, and is subject to, an ISDA Master Agreement (Multicurrency – Cross Border), including the Schedule thereto and CSA (as defined below) dated as of 16 November 2018 between the relevant Hedging Obligor and the Hedge Counterparty (each, an **ISDA Master Agreement**) (each Interest Rate Cap Confirmation together with the relevant ISDA Master Agreement, an **Interest Rate Cap Agreement**).

### The Interest Rate Cap Transactions

Pursuant to each Interest Rate Cap Transaction, on each Senior Loan Payment Date until 15 November 2020, the Hedge Counterparty will be required to pay an amount equal to the product of (i) the excess (if any) of the floating rate of interest (set by reference to EURIBOR, as determined in respect of the Senior Loan) above a strike rate of 2.00 per cent. per annum, (ii) the notional amount of the Interest Rate Cap Transaction in respect of the relevant calculation period, and (iii) the applicable day count fraction. Each Hedging Obligor will pay an initial fixed amount to the Hedge Counterparty on or about entry into the Interest Rate Cap Transaction, and no further payments (other than the return of any collateral, as described below) will be due from each Hedging Obligor. The final scheduled payment date under each Interest Rate Cap Confirmation is 15 November 2020.

### Interest Rate Cap Transaction credit support annexes

Each Interest Rate Cap Agreement includes a collateral agreement in the form of a 1995 ISDA Credit Support Annex (Bilateral Form – Transfer) dated as of 16 November 2018 (the **CSA**). Each CSA provides that, from time to time, subject to the conditions specified in the respective Interest Rate Cap Agreements (see "*Consequences of a rating downgrade of the Hedge Counterparty*" below), the Hedge Counterparty will make transfers of collateral to the relevant Hedging Obligor in support of its obligations under the Interest Rate Cap Agreement, and the relevant Hedging Obligor will be obliged to return such collateral in accordance with the terms of the CSA.

Collateral amounts that the Hedge Counterparty may be required to post pursuant to the CSA must be delivered in the form of cash or securities in accordance with the terms of the CSA. Collateral amounts will be transferred into an account designated as such and required to be opened by relevant Hedging Obligor in accordance with the Interest Rate Cap Agreement and the Senior Facility (a **Senior Hedge Collateral Account**).

Each Hedging Obligor has agreed to pay to the Hedge Counterparty under the relevant CSA the amount of any interest which the relevant Hedging Obligor actually receives on any swap collateral. If the amount of interest calculated in respect of a relevant period is a negative amount, the Hedge Counterparty will pay the absolute value of such amount to the relevant Hedging Obligor.

### Consequences of a rating downgrade of the Hedge Counterparty

In the event that the relevant rating(s) of the Hedge Counterparty is or are, as applicable, downgraded by a Rating Agency below the rating(s) specified in the Interest Rate Cap Agreement (in accordance

with the requirements of the Rating Agencies), the Hedge Counterparty will, in accordance with the Interest Rate Cap Agreement, be required to take certain remedial measures within the timeframe stipulated in the Interest Rate Cap Agreement and at its own cost, which may include:

- (a) providing collateral for its obligations under the Interest Rate Cap Agreement in accordance with the terms of the applicable CSA;
- (b) arranging for its obligations under the Interest Rate Cap Agreement to be transferred to an entity which satisfies the ratings criteria of the relevant Rating Agency as specified in the Interest Rate Cap Agreement; or
- (c) procuring another entity which satisfies the ratings criteria of the relevant Rating Agency as specified in the Interest Rate Cap Agreement to become guarantor in respect of its obligations.

If the Hedge Counterparty fails to take such actions, the relevant Hedging Obligor (or an agent acting on its behalf) may terminate any transactions under the Interest Rate Cap Agreement, subject to certain conditions set out in the relevant Interest Rate Cap Agreement.

### **Transfers by the Hedge Counterparty**

The Hedge Counterparty may transfer its obligations under each Interest Rate Cap Agreement to another entity, provided that the relevant Hedging Obligor provides its prior written consent to such transfer (such consent not to be unreasonably withheld), amongst other conditions set out in the relevant Interest Rate Cap Agreement.

### **Termination rights under the each Interest Rate Cap Agreement**

The transactions under each Interest Rate Cap Agreement may also be terminated in certain other circumstances, as provided for in the Common Terms Agreement, including the following:

- (a) at the option of one party to the Interest Rate Cap Agreement, if there is a failure by the other party to pay or deliver any amounts due under the Interest Rate Cap Agreement (including the CSA thereto) and any applicable grace period has expired;
- (b) at the option of either party to the Interest Rate Cap Agreement, if the "Secured Liabilities" (as defined in the Common Terms Agreement) are unconditionally and irrevocably paid and discharged in full;
- (c) at the option of either party to the Interest Rate Cap Agreement, upon the occurrence of certain insolvency events in respect of the other party;
- (d) at the option of the relevant Hedging Obligor, upon the occurrence of a merger of the Hedge Counterparty without an assumption of its obligations under the Interest Rate Cap Agreement, or if a breach of a provision of the Interest Rate Cap Agreement or CSA by the Hedge Counterparty is not remedied within the applicable grace period, or, if applicable, if (i) the guarantor of the Hedge Counterparty (A) fails to comply with its obligations under the guarantee or (B) disclaims or repudiates such guarantee, or (ii) any such guarantee expires or terminates prior to the termination of the Interest Rate Cap Agreement;
- (e) at the option of either party to the Interest Rate Cap Agreement, in certain circumstances it becomes unlawful for one of the parties to perform its obligations under the Interest Rate Cap Agreement;

- (f) at the option of the relevant Hedging Obligor, if the Hedge Counterparty is downgraded and fails to comply with the requirements of the ratings downgrade provision contained in the Interest Rate Cap Agreement, as described above under "*Consequences of a rating downgrade of the Hedge Counterparty*"; and
- (g) at the option of the Hedge Counterparty if the NFC Representation (as defined in the relevant Interest Rate Cap Agreement) given by the relevant Hedging Obligor in the Interest Rate Cap Agreement proves to have been incorrect or misleading when made (or deemed repeated) by the relevant Hedging Obligor.

With the exception of items (b), (e), (f) above, the relevant Hedging Obligor may only terminate an Interest Rate Cap Transaction if either (i) following such termination, the Obligors continue to be in compliance with the hedging provisions of the Common Terms Agreement, or (ii) the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Majority Lenders, as defined in the Common Terms Agreement) is obtained.

### **Governing law**

Each Interest Rate Cap Agreement, and any non-contractual obligations arising out of or in connection thereunder, will be governed by and construed in accordance with English law.

## DESCRIPTION OF THE LIQUIDITY FACILITY AGREEMENTS

### General

On or prior to the Closing Date, the Issuer will enter into two Liquidity Facility Agreements between:

- (a) Deutsche Bank AG, London Branch (the **DB Liquidity Facility Provider**), the Issuer Security Trustee, the Issuer Cash Manager, the Servicer and the Special Servicer (the **DB Liquidity Facility**); and
- (b) Société Générale AG, London Branch (the **SG Liquidity Facility Provider**), the Issuer Security Trustee, the Issuer Cash Manager, the Servicer and the Special Servicer (the **SG Liquidity Facility**),

(together, the **Liquidity Facilities**). Such Liquidity Facility Agreements will be in, substantially, the same form.

The full Liquidity Commitment under the DB Liquidity Facility will be drawn by the Issuer and deposited into the DB Issuer Stand-by Account within seven Business Days of the Closing Date. If an LF Relevant Event is no longer outstanding in respect of the DB Liquidity Facility Provider, the funds standing to the credit of the DB Issuer Stand-by Account will be repaid to the DB Liquidity Facility Provider.

### Term

Each Liquidity Facility will expire on the Liquidity Facility Term Date. The Issuer may request the extension of a Liquidity Facility. If a Liquidity Facility Provider does not intend to renew its commitment, it will inform the Issuer (with a copy to the other Liquidity Facility Provider, the Issuer Security Trustee and the Issuer Cash Manager), and where the Issuer has not received a response from a Liquidity Facility Provider to its request to extend the relevant Liquidity Facility within a specified time period, the Liquidity Facility Provider shall be deemed to have refused the request, upon which the relevant Liquidity Facility Provider shall use reasonable endeavours to arrange for a replacement Liquidity Facility Provider which shall be a Qualifying Bank with the LF Required Ratings to provide a facility to the Issuer on substantially the same terms and conditions and be on economic terms no more onerous as under the Liquidity Facility Agreements. If the Issuer has not entered into a replacement Liquidity Facility Agreement, the Issuer shall require the relevant Liquidity Facility Provider to advance a Stand-by Drawing equal to its undrawn portion of its Liquidity Commitment (see “*Drawings – Stand-by Drawings*” below for further details).

The Issuer shall promptly notify the Rating Agencies of any extension request made or agreed to or any extension refusal by a Liquidity Facility Provider.

**Liquidity Facility Term Date** means, subject to any renewal made under the relevant Liquidity Facility Agreement, the date falling 364 days after the date of that Liquidity Facility Agreement and, thereafter, the date falling 364 days after the date of any such renewal or, if such date is not a Business Day, the preceding Business Day.

### Liquidity Commitment

As of the Closing Date, the Liquidity Commitment under the SG Liquidity Facility is €6,750,000 and under the DB Liquidity Facility is €6,750,000. If on any Determination Date:

- (a) there are no outstanding obligations owed to a Liquidity Facility Provider under the terms of the relevant Liquidity Facility Agreement; and
- (b) the aggregate Principal Amount Outstanding of the Class A1 Notes, the Class A2 Notes and the Class B Notes is less than the original aggregate Principal Amount Outstanding of the Class A1 Notes, the Class A2 Notes and the Class B Notes on the Closing Date, respectively, as a result of the application of Principal Receipts in redemption of the Notes as described under the Conditions in accordance with the applicable Issuer Priorities of Payments,

then the Liquidity Commitment for each Liquidity Facility Provider will be re-calculated by the relevant Liquidity Facility Provider as follows:

$$\text{LC Amount} \times \left( \frac{\text{€Principal Amount Outstanding of the Class A1 Notes, the Class A2 Notes and the Class B Notes}}{\text{€Principal Amount Outstanding of the Class A1 Notes, the Class A2 Notes and the Class B Notes on the Closing Date}} \right)$$

For the purposes of the above equation, the **LC Amount** in respect of each Liquidity Facility, means €6,750,000 less the amounts of any cancellations effected or any other reduction in the Liquidity Commitment.

In the event that a lower Liquidity Commitment will be consistent with any criteria (whether updated since the Closing Date or not) published by the Rating Agencies so that such reduction will not result in a downgrade, suspension of or withdrawal of, or otherwise have a material adverse effect on the then current rating of the Notes (and if the ratings of the Notes have previously been downgraded, suspended or withdrawn, consistent with the restoration of such rating), then the relevant Liquidity Commitment will be, upon request by the relevant Liquidity Facility Provider, reduced to such lower amount.

## Drawings

Drawings in respect of each Liquidity Facility will be available in euro only. The Issuer will always draw under both Liquidity Facilities, in a *pro rata* amount of the relevant Liquidity Drawing.

### *Liquidity Drawings*

A Liquidity Facility may be drawn to fund any Expenses Shortfall, any Interest Shortfall or any Property Protection Shortfall.

An **Expenses Shortfall** means, on any Note Payment Date, the amount by which, on such Note Payment Date, the Issuer Priority Expenses exceed the Revenue Receipts (including, for the avoidance of doubt, any amounts standing to the credit of the Issuer Reserve Ledger) available to the Issuer on that Note Payment Date (excluding any Expenses Drawing or other Liquidity Drawing made on that day) to make payment of such amounts.

An **Interest Shortfall** means, on any Determination Date, the amount determined by the Issuer Cash Manager by which, on the relevant Note Payment Date (following such Determination Date):

- (a) the Available Funds (excluding Principal Receipts, Senior Loan Prepayment Fees and any Liquidity Drawing on that day, where applicable) after payment of the Issuer Priority Expenses, is less than;
- (b) the aggregate amount of payments of interest (including Deferred Interest where applicable) due or overdue on that Note Payment Date in respect of the Class A1 Notes, the Class A2 Notes and the Class B Notes then outstanding, in accordance with the Pre-Enforcement Priority of Payments.

For the avoidance of doubt, an Interest Drawing may not be made (and the proceeds of an Interest Drawing cannot be used) to repay any amount of principal on any Class of Notes, Note Prepayment Fees (including Deferred Note Prepayment Fees) or EURIBOR Excess Amounts (including Deferred EURIBOR Excess Amounts) on any Class of Notes or any amount of interest or other amounts that may become due and payable on the Class X Notes.

**Property Protection Shortfall** means, on any day, an amount specified by the Issuer Cash Manager (following notification thereof to it by the Servicer or the Special Servicer (as applicable)) which the Servicer or the Special Servicer (as applicable) has determined should be paid to third parties, such as insurers, payment of real estate taxes, ground rent and persons providing services in connection with the operation of the Property Portfolio.

The Servicer or the Special Servicer, as the case may be, may (but will not be obliged to) direct the Issuer Cash Manager to make, on behalf of the Issuer, the relevant payment to an account directed by the Senior Loan Facility Agent (to make the required payment to the relevant third party) if certain additional requirements have been met (see the section entitled “*Key Terms of the Servicing Arrangements for the Securitised Senior Loan – Property protection*” for further details).

A Property Protection Shortfall, an Expenses Shortfall and an Interest Shortfall are each referred to in this Offering Circular as a **Shortfall**.

The Servicer or the Special Servicer (as applicable) will notify the Issuer Cash Manager of the existence of any Property Protection Shortfall as and when the same may arise. On each applicable Determination Date, the Issuer Cash Manager will determine the amount of any Expenses Shortfall or any Interest Shortfall.

The Issuer Cash Manager will, on behalf of the Issuer, make a drawing pursuant to each Liquidity Facility Agreement in an amount equal to a *pro rata* proportion of the relevant Expenses Shortfall (an **Expenses Drawing**) and/or Interest Shortfall (an **Interest Drawing**) and/or Property Protection Shortfall (a **Property Protection Drawing**). An Expenses Drawing, an Interest Drawing and a Property Protection Drawing are each referred to as a **Liquidity Drawing**. An Expenses Drawing and an Interest Drawing can only be made on a Note Payment Date. A Property Protection Drawing can be made on any Business Day, and must be made at least two Business Days after the Servicer or the Special Servicer (as applicable) notifies the Issuer Cash Manager of the existence of any Property Protection Shortfall.

The Issuer will be required to use the proceeds of any Interest Drawing in making payments of interest to the holders of the Class A1 Notes, the Class A2 Notes and the Class B Notes in accordance with the Pre-Enforcement Priority of Payments.

The proceeds of an Interest Drawing are not permitted to be used to repay any amount of principal, Note Prepayment Fees (including Deferred Note Prepayment Fees) or EURIBOR Excess Amounts (including Deferred EURIBOR Excess Amounts) on any Class of Notes or any amount of interest or other amounts that may become due and payable on the Class X Notes.

All payments due to a Liquidity Facility Provider under a Liquidity Facility Agreement (other than in respect of any Liquidity Subordinated Amounts) will rank ahead of payments of interest and repayments of principal on the Notes. The Issuer can elect to use Liquidity Repayment Amounts to reduce or repay the outstanding balance of an Interest Drawing or an Expenses Drawing on any day (provided such payments are *pari passu* and *pro rata* towards repayment under both Liquidity Facility Agreements).

**Liquidity Subordinated Amounts** are any amounts in respect of increased costs and tax gross up amounts then payable to a Liquidity Facility Provider to the extent that such amounts exceed 2 per

cent. per annum of the commitment provided under the relevant Liquidity Facility Agreement (whether drawn or undrawn).

For further information about the ranking of such payments, see the section “*Cashflow and Issuer Priorities of Payments*”.

### ***Stand-by Drawings***

For the avoidance of doubt, the DB Liquidity Facility will be treated, from the date that it is deposited into the DB Issuer Stand-by Account, as though it is a Stand-by Drawing.

The **LF Required Ratings** are:

- (a) in respect of Fitch, a long-term issuer default rating of at least “A” or a short-term issuer default rating of at least “F1”; and
- (b) in respect of DBRS (if the relevant Liquidity Facility Provider has been assigned a credit rating by DBRS):
  - (i) if DBRS has assigned a long-term COR to the institution acting as Liquidity Facility Provider, a rating that is the higher of:
    - (A) the DBRS rating that is the COR for the relevant institution; and
    - (B) the issuer rating or long-term senior unsecured debt or deposit rating from DBRS for the relevant institution,
 in each case as is commensurate with the ratings assigned to the Most Senior Class of Notes from time to time as set out in the table in paragraph (ii) below; or
  - (ii) if a long-term COR is not available from DBRS for the relevant institution, an issuer rating or long-term senior unsecured debt or deposit rating from DBRS for the relevant institution (whichever is the higher) as is commensurate with the ratings assigned to the Most Senior Class of Notes from time to time as set out in the table below; or

<b>Current rating of the Most Senior Class of Notes outstanding</b>	<b>DBRS Minimum LF Required Ratings</b>
"AAA (sf)"	"A"
"AA (high) (sf)"	"A (low)"
"AA (sf)"	"BBB (high)"
"AA (low) (sf)"	"BBB (high)"
"A (high) (sf)"	"BBB"
"A (sf)"	"BBB (low)"
"A (low) (sf)"	"BBB (low)"

Current rating of the Most Senior Class of Notes outstanding	DBRS Minimum LF Required Ratings
"BBB (high) (sf)"	"BBB (low)"
"BBB (sf)"	"BBB (low)"
"BBB (low) (sf)"	"BBB (low)"

- (c) to the extent that DBRS has not assigned a credit rating to the relevant Liquidity Facility Provider, the DBRS Minimum Equivalent Rating as is commensurate with the ratings assigned to the Most Senior Class of Notes from time to time as set out in the table in paragraph (b)(ii) above.

If:

- (a) a Liquidity Facility Provider ceases to have the LF Required Ratings; or
- (b) there has been a refusal by a Liquidity Facility Provider to agree to an extension request regarding the Liquidity Facility Term Date or where a Liquidity Facility Provider has failed to respond to such an extension request within the applicable time periods;

and such event is outstanding and provided that:

- (c) the Issuer has not entered into a replacement liquidity facility with a substitute Liquidity Facility Provider which is a Qualifying Bank and has the LF Required Ratings and which enters into the Liquidity Facility Agreement or an agreement on substantially the same terms as the relevant Liquidity Facility Agreement within the applicable time frame; or
- (d) a Liquidity Facility Provider's obligations have not been guaranteed by a Qualifying Bank with the LF Required Ratings on terms fully compliant with the then applicable requirements of the Rating Agencies for debt securities rated at least the same level as the then highest rated Notes,

then the Issuer (or the Issuer Cash Manager on behalf of the Issuer) shall, subject to the terms of the relevant Liquidity Facility Agreement, require the relevant Liquidity Facility Provider to pay into the DB Issuer Stand-by Account or the SG Issuer Stand-by Account (as applicable) an amount (a **Stand-by Drawing**) equal to its undrawn portion of the Liquidity Commitment under the relevant Liquidity Facility Agreement at that time no later than the earlier of: (i) 14 calendar days following the receipt of notification relating to the downgrade of the relevant Liquidity Facility Provider or, as applicable, the refusal by the relevant Liquidity Facility Provider to agree to (or the failure of it to respond prior to the expiry of the relevant period to) the extension request; or (ii) 30 calendar days following the downgrade of the relevant Liquidity Facility Provider.

If an LF Relevant Event occurs (other than under limb (a) of the definition of LF Relevant Event in respect of the DB Liquidity Facility Agreement) in respect of a Liquidity Facility Provider, that Liquidity Facility Provider shall (without being under any obligation to do so) use reasonable endeavours to replace itself with a replacement liquidity facility provider or to procure that its obligations under the relevant Liquidity Facility Agreement are guaranteed by an entity which has, in each case, the LF Required Ratings. If a Liquidity Facility Provider ceases to have at least the LF Required Ratings and a transfer to another Liquidity Facility Provider would otherwise have to be made but there is no other liquidity facility provider with the LF Required Ratings or, if no other liquidity facility provider agrees to such transfer, the Issuer and the relevant Liquidity Facility



Provider shall use reasonable endeavours to consult with the Rating Agencies to consider alternative criteria for a Substitute Liquidity Facility Provider prior to selection of a replacement.

Amounts standing to the credit of the DB Issuer Stand-by Account or the SG Issuer Stand-by Account (as applicable) will be available to the Issuer to be drawn in the same circumstances as the Liquidity Drawings, as described above, and otherwise in the circumstances provided in each Liquidity Facility Agreement. All repayments of Liquidity Drawings will, after a Stand-by Drawing has been made, be paid into either of the DB Issuer Stand-by Account or the SG Issuer Stand-by Account (as applicable). Following the service of a Note Acceleration Notice or the Notes otherwise becoming due and repayable in full or following the occurrence of certain events of default under a Liquidity Facility Agreement, principal amounts standing to the credit of the DB Issuer Stand-by Account or the SG Issuer Stand-by Account (as applicable) in respect of a Stand-by Drawing will be returned to the relevant Liquidity Facility Provider and will not be applied in accordance with either the Pre-Enforcement Priority of Payments or the Post-Enforcement Priority of Payments.

### **Commitment fee**

A commitment fee will accrue with respect to each Liquidity Facility at the rate of 1 per cent. per annum on the undrawn, uncanceled amount of the Liquidity Commitment (for the avoidance of doubt, such fee will not accrue in respect of Stand-by Drawings). The accrued commitment fee is payable quarterly in arrear on each Note Payment Date.

### **Interest**

Liquidity Drawings and Stand-by Drawings will bear interest.

The rate of interest payable to each Liquidity Facility Provider in relation to Liquidity Drawings will be a per annum rate equal to the sum of three-month EURIBOR (determined in accordance with each Liquidity Facility Agreement and subject to a floor of zero) plus a margin of 2 per cent. per annum.

The amount of interest payable to each Liquidity Facility Provider in relation to Stand-by Drawings (including, for the avoidance of doubt, the amount drawn by the Issuer under the DB Liquidity Facility on or about the Closing Date) will be an amount equal to the aggregate of (i) any interest earned since the last day of the previous Liquidity Facility interest period (or, in the case of the first Liquidity Facility interest period, since the date the Stand-by Drawing was made) on amounts standing to the credit of the DB Issuer Stand-by Account or the SG Issuer Stand-by Account (as applicable) following the date of the Stand-by Drawing and (ii) an amount calculated by reference to a rate of interest on the balance of any Stand-by Drawings, such rate being equal to the sum of three-month EURIBOR (determined in accordance with each Liquidity Facility Agreement and subject to a floor of zero) plus a margin of 2 per cent. per annum.

The Issuer must pay each Liquidity Facility Provider its break costs in accordance with the terms of the relevant Liquidity Facility Agreement.

Interest on each Liquidity Drawing and each Stand-by Drawing shall accrue daily and shall be calculated on the outstanding daily balance of such Liquidity Drawing or Stand-by Drawing, as applicable, on the basis of actual days elapsed and a 360-day year.

### **Repayment**

On each Note Payment Date or, if earlier, the Liquidity Facility Term Date or the Final Note Maturity Date or the date on which the Notes are redeemed in full or cancelled, on which any Liquidity Drawings are outstanding, the Issuer (or the Issuer Cash Manager on its behalf) shall repay the full amount thereof to each Liquidity Facility Provider. If a Liquidity Drawing is not repaid on the

relevant Note Payment Date, the relevant Liquidity Drawing will be deemed to be repaid (but only for the purposes of the Liquidity Facility) and redrawn on such Note Payment Date in an amount equal to all amounts outstanding provided that the aggregate of the amounts drawn together with other Liquidity Drawings will not exceed the Liquidity Commitment. This procedure will be repeated on each subsequent Note Payment Date, up to the amount of the Liquidity Commitment, until all amounts outstanding are paid and/or repaid or until the earlier of (a) the Final Note Maturity Date, (b) the date on which the Notes are redeemed in full or cancelled or (c) the termination date of the Liquidity Facility, as the case may be.

### **Liquidity Facility Event of Default and liquidity drawstop**

A Liquidity Drawing will not be permitted under either Liquidity Facility Agreement if a Liquidity Facility Event of Default is continuing under any Liquidity Facility. A **Liquidity Facility Event of Default** will include non-payment by the Issuer of amounts payable by it to a Liquidity Facility Provider, certain insolvency-related events, illegality and the occurrence of a Note Event of Default. No Liquidity Drawing may be made on the Determination Date immediately preceding the Final Note Maturity Date.

In addition, a Liquidity Drawing will not be made under either Liquidity Facility Agreement if, at any time, the proportional value of the Properties (based on the most recent Valuation and calculated by reference to the ratio of the Securitised Senior Loan to the total Senior Loan) is less than the aggregate of (without double counting):

- (a)
  - (i) all unpaid costs and expenses due to the Senior Finance Parties under the Common Terms Agreement and the French Facility Agreement (including any due to any receiver or delegate);
  - (ii) all amounts then due or accrued but unpaid to any third party creditors of the Issuer (other than the Noteholders and the Issuer Secured Creditors);
  - (iii) any amounts due or accrued but unpaid to the Liquidity Facility Providers under the relevant Liquidity Facility Agreements (other than Liquidity Subordinated Amounts) and all amounts ranking in priority thereto in the Pre-Enforcement Priority of Payments; and
  - (iv) the aggregate amount of (A) any outstanding Liquidity Drawing and (B) the proposed Liquidity Drawing,

such aggregate of paragraphs (i), (ii), (iii) and (iv) above multiplied by five; and

- (b) the amount of the then undrawn Liquidity Commitments immediately after the relevant Liquidity Drawing, assuming the proposed Liquidity Drawing is made.

### **Miscellaneous**

No amendment can be made to one Liquidity Facility Agreement unless the same amendment is made to the other Liquidity Facility Agreements (other than if the Issuer obtains the consent of both the DB Liquidity Facility Provider and the SG Liquidity Facility Provider to the relevant amendments).

Certain information relating to each Liquidity Facility (including details of the making of any Liquidity Drawings, changes to the credit ratings of the Liquidity Facility Providers and renewals of the Liquidity Facility) will be provided to the Rating Agencies.

Each Liquidity Facility Agreement and any non-contractual obligations arising out of or in connection with it are governed by, and will be construed in accordance with, English law.

## KEY TERMS OF THE SERVICING ARRANGEMENTS FOR THE SECURITISED SENIOR LOAN

### **Servicing and Special Servicing of the Securitised Assets**

Pursuant to the Servicing Agreement, the Issuer will appoint Situs Asset Management Limited as the Servicer and as the Special Servicer to provide certain services in relation to the Securitised Assets.

The Issuer will give to the Servicer, and for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer, the full power, authority and right to act in its name and on its behalf as its lawful attorney and agent in connection with the exercise of the rights of the Issuer (as a Senior Lender and a Senior Finance Party) under and in respect of the Securitised Senior Loan and the Senior Finance Documents. When exercising its obligations and discretions under the Servicing Agreement (save as otherwise provided in the Servicing Agreement), the Servicer or, for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer must act in accordance with, among other things, the Servicing Standard.

Following the delivery of a Note Acceleration Notice, each of the Servicer and the Special Servicer must take such action or refrain from taking such action as the Issuer Security Trustee may direct.

### **Servicing Standard**

Save as otherwise provided in the Servicing Agreement, in the exercise of its obligations and discretions under the Servicing Agreement, each of the Servicer and the Special Servicer assumes a duty of care towards the Issuer and, following and subject to the delivery of a Note Acceleration Notice, the Issuer Security Trustee, such that it must act:

- (a) in accordance with all applicable laws and regulations (including, without limitation, those relating to data protection, licensing, authorisations, registrations and consents to carry out the relevant services or otherwise);
- (b) in accordance with the terms of the Senior Finance Documents (including, without limitation, the terms of the Intercreditor Agreement);
- (c) in accordance with the terms of the Servicing Agreement;
- (d) in the best interests and for the benefit of the Issuer, using reasonable judgement and as determined in good faith by the Servicer or the Special Servicer (as the case may be); and
- (e) to a standard of care which is, in each case and to the extent consistent with such terms, the higher of:
  - (i) the standard of care, skill and diligence which it applies to servicing similar loans for other third

parties; and

- (ii) the standard of care, skill and diligence which it would apply when it services commercial mortgage loans beneficially owned by it and/or its Affiliates (if any),

in each case giving due consideration to the customary and usual standards of practice of reasonably prudent commercial mortgage loan servicers which service commercial mortgage loans which are similar to the Securitised Senior Loan, with a view to:

- (A) the prudent and timely exercise of the rights of the Issuer under the Senior Finance Documents;
- (B) the timely collection of all scheduled payments of principal, interest and other amounts due in respect of the Securitised Assets; and
- (C) if the Securitised Senior Loan comes into, and continues to be in, default, maximising recoveries in respect of the Securitised Senior Loan for the Issuer on or before the Final Note Maturity Date (without prejudice to paragraph (B) above).

If there is a conflict between any of the requirements set forth in paragraphs (a) to (e) (inclusive) above, the Servicer or (for so long as the Securitised Senior Loan is a Specially Serviced Loan) the Special Servicer, as applicable, will apply such requirements in the order of priority in which they appear.

The above standards are referred to as the **Servicing Standard**.

In applying the Servicing Standard and in the performance of its respective obligations under the Servicing Agreement, neither the Servicer nor, for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer shall have regard to:

- (a) any fees or other compensation to which the Servicer or Special Servicer may be entitled;
- (b) any relationship the Servicer, the Special Servicer or any of their respective affiliates may have with any Senior Obligor, the Sponsor or each of their respective Affiliates or any party to the transactions entered into in connection with the issue of the Notes, the Issuer Transaction Documents or the Senior Finance Documents (or any Affiliate of any such person);

- (c) the ownership (whether beneficial or legal, direct or indirect) of any Note or any interest in the Senior Loan or the Mezzanine Loan by the Servicer or the Special Servicer or any of their respective Affiliates or any client of the Servicer or Special Servicer or any Affiliate of any such person; and/or
- (d) any retainer, fee arrangement or other relationship conferring an economic benefit with any person appointed by it to provide any services or advice in connection with the Servicing Agreement.

### **Rights of delegation**

The Servicer or, if the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer may, in certain circumstances, without the consent of any other person (including, without limitation, the Issuer), sub-contract, delegate or enter into sub-servicing agreements regarding their respective obligations under the Servicing Agreement.

If any sub-servicing, sub-contracting or delegation arrangements result in the then-current rating of any Notes assigned by any Rating Agency being downgraded (or placed on review for possible downgrade), then such sub-servicing, sub-contracting or delegation arrangements shall be terminated (unless the Issuer Security Trustee agrees otherwise).

Notwithstanding any sub-contracting or delegation of the performance of any of its obligations under the Servicing Agreement, the Servicer, or for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer, as the case may be, will not be released or discharged from any liability thereunder and each will remain responsible for the performance of its duties and obligations under the Servicing Agreement.

### **Collections**

The Servicer or the Special Servicer, as applicable, will be required to use efforts consistent with the Servicing Standard to monitor (or liaise with the Senior Loan Facility Agent to monitor) collections of all payments to the Issuer called for under the terms and provisions of the Securitised Senior Loan.

### **Required ratings**

The Servicer or the Special Servicer, as applicable, is required to:

- (a) monitor on a daily basis the short-term and the long-term credit ratings of each institution holding any of the Senior Obligor Accounts, the providers of any hedging to any Senior Borrower and the providers of any insurance to any Senior Borrower in respect of the Properties;
- (b) notify the Issuer, the Issuer Cash Manager and the Issuer Security Trustee of any change to the same (including the placing of the same on credit watch or its equivalent);
- (c) establish, on the day of any change of any such rating,

whether as a result of such change any provider of any Senior Obligor Account, any insurance in respect of the Properties or any providers of any hedging to any Senior Borrower has actually or potentially ceased to have the ratings required under the Common Terms Agreement and the course of action that will be required to remedy the same;

- (d) notify the relevant Senior Obligor(s) on the day of any change of any such rating and the actions that are required to remedy the same; and
- (e) monitor on a daily basis and at any other time upon the request of the Issuer, the Issuer Cash Manager and/or the Issuer Security Trustee, the rating of the (A) Liquidity Facility Providers and forthwith notify the Issuer, the Issuer Cash Manager and the Issuer Security Trustee in writing upon becoming aware that a Liquidity Facility Provider has either (i) ceased to have any of the LF Required Ratings or (ii) following the occurrence of an LF Relevant Event under limb (a) of the definition of such term, been restored to the LF Required Ratings and (B) Issuer Account Bank and forthwith notify the Issuer, the Issuer Cash Manager and the Issuer Security Trustee in writing upon becoming aware that the Issuer Account Bank has either (i) ceased to have any of the Issuer Account Bank Minimum Required Ratings or (ii) following the Issuer Account Bank ceasing to have the Issuer Account Bank Minimum Required Ratings, been restored to the Issuer Account Bank Minimum Required Ratings.

**Other responsibilities of the Servicer and the Special Servicer**

In addition to its obligations described above, the Servicer or, if the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer will have certain obligations with respect to managing the interests of the Issuer, and the Issuer Security Trustee, as applicable, including with respect to any modification, waiver, amendment and/or consent relating to the Senior Finance Documents and taking any actions to realise upon the Common Transaction Security. See "*Modifications, waivers, amendments and consents*" below.

**Special Servicing Transfer Event**

The Servicer will have the sole responsibility to service and administer the Securitised Senior Loan until the occurrence of a Special Servicing Transfer Event in relation to the Securitised Senior Loan.

Subject to the provisions of the Servicing Agreement, the Securitised Senior Loan will become a **Specially Serviced Loan** if any of the following events occurs (each a **Special Servicing Transfer Event**):

- (a) a Senior Loan Default is existing on the Senior Loan Maturity Date;

- (b) any Senior Obligor becomes subject to insolvency or insolvency proceedings;
- (c) the occurrence of a Senior Loan Event of Default arising as a result of any creditors' process or cross-default; and
- (d) any other Senior Loan Event of Default (or default however described) occurs or is, in the Servicer's opinion, imminent and in either case not likely (in the Servicer's opinion) to be cured within 21 days of its occurrence and is likely, in the Servicer's opinion, to have a material adverse effect in respect of the Issuer.

Promptly after becoming aware that a Special Servicing Transfer Event has occurred, the Servicer will give written notice thereof to the Issuer (which will notify the Noteholders), the Issuer Security Trustee, the Note Trustee, the Senior Loan Facility Agent, the Common Security Agent, the Special Servicer, the Rating Agencies and the Operating Adviser (if appointed). Upon receipt of such notice, the Special Servicer will automatically assume special servicing duties in respect of the Securitised Senior Loan.

A Specially Serviced Loan will become a Corrected Loan upon the discontinuance of any event which would constitute a non-payment Special Servicing Transfer Event for two consecutive Senior Loan Interest Periods and the facts giving rise to any other Special Servicing Transfer Event ceasing to exist, *provided that* no other matter exists which would give rise to the Securitised Senior Loan becoming a Specially Serviced Loan. Servicing of the Securitised Senior Loan, once it has become a Corrected Loan, will be retransferred to the Servicer.

Notwithstanding the appointment of the Special Servicer, the Servicer shall continue to service the Securitised Senior Loan in all respects as provided for in the Servicing Agreement and will, among other things and without limitation, continue to collect information, prepare reports and perform administrative functions, subject to receipt by it of the required information from the Special Servicer (but will not be subject to any of the duties and obligations of the Special Servicer and shall not be entitled to receive the Special Servicing Fee with respect thereto). Neither the Servicer nor the Special Servicer will have responsibility for the performance by the other of its obligations and duties under the Servicing Agreement (unless the Servicer and the Special Servicer are the same entity).

## **Servicer Valuation**

The Servicer, or if at the relevant time the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer, must obtain or procure the obtaining of a valuation of the Properties (whether (a) by instructing a Valuer, (b) by instructing the Senior Loan Facility Agent to instruct a Valuer or (c) otherwise obtaining) which must be a Valuation (and in relation to paragraph (e) below, with such amendments to the definition of "Valuation" as required by the



relevant Noteholders) (a **Servicer Valuation**) in the following circumstances:

- (a) if a Senior Loan Event of Default is continuing (provided that the Servicer or the Special Servicer (as the case may be) may not request more than one Valuation while that Senior Loan Event of Default is continuing);
- (b) once in every 12-month period falling during the period commencing on the date falling 12 months after the Senior Utilisation Date, in accordance with the Common Terms Agreement;
- (c) at any other time, if the Senior Loan Facility Agent has been instructed by the Senior Majority Lenders (although such valuation will not be considered a Valuation for the purposes of the Common Terms Agreement and the costs of such valuation would not be recoverable from the Senior Obligor);
- (d) in connection with a compulsory purchase of any part of a Property, in accordance with the Common Terms Agreement; or
- (e) if requested by an Ordinary Resolution of the Noteholders (excluding the Class X Noteholders) (acting as a single class) (although such valuation will not be considered a Valuation for the purposes of the Common Terms Agreement and the costs of such valuation would not be recoverable from the Senior Obligor).

In addition, within 60 days after the occurrence of a Special Servicing Transfer Event, the Special Servicer will be required to order a valuation, at the cost of the Issuer (which valuation will not be required to be received within that 60-day period) unless a Valuation which is less than 6 months old has been obtained and such Valuation is not based upon materially different assumptions than those that would be the basis for any new valuation that would be obtained in the reasonable opinion of the Special Servicer.

The Issuer must convene a meeting of Noteholders (except for the Class X Noteholders) to consider an Ordinary Resolution referred to in paragraph (e) above if requested by holders of the Notes (other than the Class X Notes) outstanding constituting not less than 10 per cent. in aggregate of the Principal Amount Outstanding of the Notes (other than the Class X Notes), provided that such requesting Noteholders have entered into arrangements reasonably satisfactory to the Issuer (with the assistance of the Servicer or the Special Servicer, as applicable) to pay the costs of such valuation and the costs of convening the meeting of Noteholders.

Promptly following receipt by the Servicer or the Special Servicer,

as applicable, of the final executed copy of a Servicer Valuation, it shall deliver a copy of such valuation to the Issuer Cash Manager to be made publicly available on its internet website (with any redactions of such valuation as deemed appropriate by the Servicer or the Special Servicer, as appropriate).

The Special Servicer will not be obliged (unless requested to do so by the Issuer Security Trustee or the Noteholders (other than the Class X Noteholders)) to obtain a Servicer Valuation if a Valuation has been obtained during the immediately preceding six months and the Servicer or the Special Servicer (as applicable) determines based on publicly available information in relation to the commercial property markets in Germany, France and the Netherlands (without any liability on its part) that neither any Property nor the relevant property markets have experienced a decrease in value of greater than 5 per cent. since the date of the Valuation.

Following receipt of the Servicer Valuation, the Servicer or the Special Servicer (as applicable) will determine whether or not a Valuation Reduction Amount applies to the Securitised Senior Loan and shall notify the other parties to the Servicing Agreement and the Liquidity Facility Agreements of the occurrence of any Valuation Reduction Amount as soon as reasonably practicable thereafter.

If a Valuation Reduction Amount applies to the Securitised Senior Loan, the Servicer or Special Servicer (as applicable) shall within five Business Days of the determination (or as soon as reasonably practicable thereafter) notify the Issuer, the Note Trustee, the Issuer Cash Manager and the Issuer Security Trustee of the Valuation Reduction Amount, upon which the Issuer Cash Manager shall determine which Class of Notes meets the Controlling Class Test and shall notify the Servicer and the Special Servicer accordingly. It shall be the responsibility of the Issuer Cash Manager to calculate and determine whether a Control Valuation Event has occurred.

Any Noteholder of any Class which is the subject of a Control Valuation Event may, at its discretion, instruct the Servicer or, if the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer to obtain another desktop valuation on the same basis as the previous Control Valuation, at the cost and expense of such Noteholder from another independent valuer who is a member of the Royal Institution of Chartered Surveyors or a qualified independent valuer acting in accordance with the then current RICS Appraisal and Valuation Standards. The Servicer or the Special Servicer, as applicable, will use all reasonable endeavours to procure that such additional valuation is obtained within 30 days of the date of receipt of the instruction from such Noteholder. In the event that a subsequent valuation is so obtained, the Servicer or the Special Servicer, as applicable, will be entitled to use either of the valuations obtained (provided that it

must determine which valuation to use within 15 days of receipt of the second such valuation) to determine the Valuation Reduction Amount.

On the first Note Payment Date occurring on or after the delivery of the later relevant updated valuation, the Servicer or the Special Servicer, as applicable, will adjust the Valuation Reduction Amount (if applicable) to take into account the relevant valuation and will promptly (if it has determined to use such subsequent valuation for such purpose) provide the Issuer Cash Manager and the related Noteholder with such calculations. The Issuer Cash Manager will be required to determine in accordance with the Conditions and/or the Cash Management Agreement which Class of Notes meets the Controlling Class Test and notify the Servicer and Special Servicer accordingly.

### **Asset Status Report**

Pursuant to the Servicing Agreement, if a Special Servicing Transfer Event occurs, the Special Servicer will be required to prepare an Asset Status Report with respect to the Securitised Senior Loan and the Properties not later than 60 days after the occurrence of such Special Servicing Transfer Event.

The Special Servicer will be required to consult with the Operating Adviser (if appointed) in connection with the Asset Status Report.

The Servicing Agreement will provide that the Asset Status Report should contain, among other things:

- (a) a description of the status of the Securitised Senior Loan and the Properties, details of any strategy with respect to the same and any negotiations with the Senior Obligors;
- (b) a consideration of the effect on the net present value of the various courses of action with respect to the Securitised Senior Loan, including, without limitation, a workout of the Securitised Assets;
- (c) confirmation as to whether external legal counsel or any other external advisers have been retained by the Special Servicer;
- (d) the most current rent schedule and income or operating statement available for each of the Properties;
- (e) a summary of the Special Servicer's recommended actions and strategies (the disclosure of which shall be subject to the Servicing Standard) with respect to the Securitised Senior Loan which, subject to the general terms of the Servicing Agreement, shall be the course of action that the Special Servicer has determined would maximise recovery on the Securitised Senior Loan on a net present value basis;

- (f) the latest Valuation of the Properties, together with the assumptions used in the calculation thereof; and
- (g) such other information as the Special Servicer deems relevant in light of the Servicing Standard.

Promptly after the Asset Status Report has been prepared or modified in accordance with the Servicing Agreement, the Special Servicer shall deliver a copy of such Asset Status Report to the Rating Agencies, the Liquidity Facility Providers and the Servicer.

The Special Servicer will also be required to deliver to the Issuer and the Note Trustee a draft form of a proposed notice to the Noteholders that will include a summary of the current Asset Status Report (which will be a brief summary of the current status of the Properties and current strategy with respect to the Securitised Senior Loan, with information redacted if and to the extent that the Special Servicer determines, in its reasonable discretion, that it may compromise the position of the Issuer, as Senior Lender), which the Issuer will be required to publish in a Regulatory Information Service filing or equivalent filing, if any, that complies with the requirements of the relevant exchange on which the Notes are listed and applicable law.

The Special Servicer (i) may, from time to time, modify any Asset Status Report that it has previously delivered, (ii) shall modify any such Asset Status Report to reflect any changes in strategy that it considers are required from time to time by the Servicing Standard and (iii) shall as soon as reasonably practicable thereafter deliver the modified report to the Rating Agencies and the Servicer and shall deliver a revised summary of the same to the Issuer and the Note Trustee, which the Issuer shall publish in compliance with the rules of the relevant stock exchange and applicable law.

## Reviews

The Servicer and, following any Special Servicing Transfer Event, the Special Servicer shall (to the extent permitted by applicable law and subject to the terms of the Senior Finance Documents) visit and enter upon and inspect, or cause to be inspected (including by way of the use of professional advisers), the applicable Properties whenever the Servicer or Special Servicer, as applicable, becomes aware that such Properties have been materially damaged, left vacant or abandoned, or if waste (environmental or otherwise) is being committed there or otherwise at their discretion in accordance with the Servicing Standard (an **Ad Hoc Review**).

The Servicer or, for so long as the Securitised Senior Loan is designated a Specially Serviced Loan, the Special Servicer is authorised to conduct an Ad Hoc Review more frequently (to the extent permitted by applicable law and the terms of the Senior Finance Documents) if the Servicer or, following a Special Servicing Transfer Event, the Special Servicer has cause for concern as to the ability of the Senior Obligor to meet their

financial obligations under the Senior Finance Documents.

An Ad Hoc Review may include: (i) an inspection of a sample of the Properties; (ii) a consideration of the quality of the cashflow arising from the Properties (in the opinion of the Servicer or the Special Servicer, as applicable); and (iii) a compliance check of each Senior Obligor's covenants under the Senior Finance Documents.

All Ad Hoc Reviews will be performed in such manner as is consistent with the Servicing Standard. Ad Hoc Reviews will be at the cost and expense of the Issuer.

## **Insurance**

The Servicer shall, on behalf of the Issuer, establish and administer the procedures for monitoring compliance by the Senior Obligor with their obligations under the Senior Finance Documents in respect of the maintenance of insurance. Pursuant to the terms of the Servicing Agreement, the Servicer will use reasonable efforts to monitor the compliance of and, to the extent reasonably practicable, to cause the Senior Obligor to comply with their obligations regarding the maintenance of insurance as set out in the Senior Finance Documents and the Senior Loan Facility Agent shall, as soon as reasonably practicable following receipt or request (as applicable), provide the Servicer with (i) a copy of any information received by the Senior Loan Facility Agent that is relevant to the maintenance of insurance by the Senior Obligor in accordance with the Senior Finance Documents and (ii) any information which the Servicer reasonably requests in this regard which the Senior Loan Facility Agent can obtain from the Senior Obligor. The Servicer shall not be liable for any failure to monitor compliance by the Senior Obligor with their obligations under the Common Terms Agreement in respect of maintenance of insurance as a result of the Senior Loan Facility Agent failing to provide the requisite information to the Servicer.

If the Servicer or the Special Servicer, as applicable, becomes aware that: (i) any of the Properties are not covered by an Insurance Policy; (ii) an Insurance Policy may lapse in relation to any Property due to the non-payment of any premium; (iii) (other than in respect of vacant space at the Properties owned by it) loss of Rental Income or prospective Rental Income under Occupational Leases for a period of not less than three years (including provision for any increases in rent during the period of insurance) in relation to any Property that is not covered by an Insurance Policy; or (iv) the insurance fails to meet the requirements of the Common Terms Agreement, the Servicer or the Special Servicer, as applicable, shall use reasonable efforts (including, but not limited to, requesting the Issuer Cash Manager to make, if necessary, a Property Protection Drawing) to procure that relevant insurance is maintained for the Properties in the form required under the Senior Finance Documents.

If any Senior Obligor does not comply with its obligations in respect of any Insurance Policy, the Servicer or Special Servicer

will (without any obligation or requirement to expend their own funds to do so) to the extent reasonably practicable effect or renew any such Insurance Policy or instruct the Senior Loan Facility Agent or the Common Security Agent to do so (and not in any way for the benefit of the Senior Obligor concerned) and, to the extent permitted under the Senior Finance Documents, the Servicer or the Special Servicer, as applicable, shall make claim (or shall request that the Common Security Agent or the Senior Loan Facility Agent make claim) for the monies expended by the Servicer, Special Servicer, Senior Loan Facility Agent or the Common Security Agent, as applicable, for so effecting or renewing any such Insurance Policy, from the Senior Obligor. However, neither the Servicer nor the Special Servicer is required to pay or instruct payment of any amount described above if, in its reasonable opinion, to do so would not be in accordance with the Servicing Standard.

Each of the Servicer and the Special Servicer will be required to keep in full force and effect throughout the term of the Servicing Agreement, an errors, acts and omissions Insurance Policy covering the Servicer's or Special Servicer's, as applicable, officers, employees and agents.

## **Property protection**

The Senior Finance Documents oblige the Senior Obligor to pay certain amounts to third parties, such as insurers, payment of real estate taxes, ground rent and payments to persons providing services in connection with the operation of the Properties. Upon becoming aware that any Senior Obligor has not made a Third Party Payment (including where a Property Protection Shortfall has arisen) when required by the terms of the Senior Finance Documents, the Servicer or the Special Servicer, as applicable, may (to the extent permitted by the Senior Finance Documents) apply, instruct or approve the application of funds standing to the credit of the relevant Senior Obligor Account (over which the Senior Loan Facility Agent and/or the Common Security Agent have signing rights) in or towards payment of such outstanding amount to the relevant party (a **Third Party Payment**).

If a Senior Obligor fails to make the relevant Third Party Payment and:

- (a) the amounts standing to the credit of the Senior Obligor Accounts in respect of which the Senior Loan Facility Agent and/or the Common Security Agent has sole signing rights are insufficient or not available or not able to be applied for such purpose; and/or
- (b) the Servicer or (after the occurrence of a Special Servicing Transfer Event) the Special Servicer determines that it would be in the better interest of the Issuer, as Senior Lender, that such amounts were paid as opposed to such amounts not being paid, taking into account the relevant circumstances, which will include, but not be limited to, the related risks that the Issuer would be

exposed to if such amounts were not paid and whether any payments made by or on behalf of the Issuer would ultimately be recoverable from the Senior Obligors,

then, having identified the amount of the relevant shortfall, the Servicer or, if the Senior Loan is then designated a Specially Serviced Loan, the Special Servicer will request the Issuer Cash Manager (on behalf of the Issuer) to make a Property Protection Drawing under the Liquidity Facility by advising the Issuer Cash Manager (copying in the Issuer and the Liquidity Facility Providers) of the relevant Property Protection Shortfall (including details of the amount, relevant third party, reason for drawing and proposed date of payment of such amount) (subject to the Issuer being able to make a Property Protection Drawing for such amount).

The proceeds of such drawing will be paid by the Issuer Cash Manager to an account as directed by the Senior Loan Facility Agent (subject to the receipt by: (i) the Servicer or, for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer; and (ii) the Issuer Cash Manager of the relevant account details from the Senior Loan Facility Agent) and the Senior Loan Facility Agent will use such amounts, upon receipt in the relevant account, to make payment to the relevant third party (a **Facility Agent Protection Payment**).

The Senior Loan Facility Agent will be required to repay to the Issuer an amount equal to the Facility Agent Protection Payment made by the Senior Loan Facility Agent, but only to the extent that the Senior Loan Facility Agent recovers such amounts from the Senior Obligors.

The Senior Loan Facility Agent shall use all reasonable endeavours to ensure that all Facility Agent Protection Payments are, in addition to all other sums then due under the Senior Finance Documents, recovered from the Senior Obligors under the Senior Finance Documents and the Servicer or (if the Securitised Senior Loan is designated a Specially Serviced Loan) the Special Servicer shall use reasonable endeavours to assist the Senior Loan Facility Agent, to the extent required, by providing the Senior Loan Facility Agent with any information it may reasonably require to enable it to make such recoveries.

If the Senior Loan Facility Agent subsequently recovers any amount of any Third Party Payment it makes from any Senior Obligor, the Senior Loan Facility Agent will promptly pay such amount to the Issuer by depositing the same to the Issuer Transaction Account or, following the service of a Note Acceleration Notice, into such account as the Issuer Security Trustee may direct.

**Modifications, waivers,  
amendments and consents**

The Servicing Agreement will permit the Servicer (if no Special Servicing Transfer Event has occurred and is continuing) or the Special Servicer (if a Special Servicing Transfer Event has

occurred and is continuing) to modify, waive, grant consent or amend any term of the Senior Finance Documents on behalf of the Issuer if such modification, amendment, consent or waiver is in accordance with the Servicing Standard and, in certain situations only, subject to certain additional limitations (including, without limitation, the restrictions on the ability of the Servicer or Special Servicer to agree any Reserved Matter, the rights of the Operating Adviser and the rights of the Mezzanine Lenders under the Intercreditor Agreement).

The Servicer and/or the Special Servicer must not, subject to the Servicing Standard, agree to or authorise or instruct a modification, waiver or consent if such modification, waiver or consent:

- (a) permits an amendment to the Senior Loan Maturity Date, without prejudice to the ability to agree to a standstill period (or a series of standstill periods) having a total consecutive duration not exceeding 12 months from the original Senior Loan Maturity Date;
- (b) reduces or changes the amount of principal, the rate of interest or the prepayment fee payable in respect of the Securitised Senior Loan (except (A) in the case of an enforcement or other similar realisation of the Common Transaction Security or (B) any change to the reference rate applicable to the Senior Loan following the discontinuation of EURIBOR);
- (c) alters the currency of payment of the Securitised Senior Loan; and
- (d) modifies this definition of Reserved Matters (each of paragraphs (a) to (d), a **Reserved Matter**),

without first obtaining the approval of each Class of Noteholders (other than the Class X Noteholders) by way of an Extraordinary Resolution. The approval of any Reserved Matter shall follow the voting procedure for a Basic Terms Modification.

In no event shall the Servicer or the Special Servicer, as applicable, consent to any modification which would constitute a Class X Entrenched Right without first obtaining the prior consent of the Class X Noteholders by way of Extraordinary Resolution.

Each of the Servicer and the Special Servicer must not agree to or authorise or instruct any action that would require the Issuer to make any further advance of monies to any Senior Obligor or other person (without prejudice to the property protection provisions of the Servicing Agreement (see "*Property protection*" above for further details)).

The Servicer or, for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer is required to give



prior written notice of any such amendment or variation to the Rating Agencies (to the extent reasonably practicable in a circumstance in which a confirmation from the Rating Agencies is required) and written notice of any such amendment or variation to, among others, the Rating Agencies (to the extent reasonably practicable), the Issuer (and will request that the Issuer notifies the Noteholders), the Issuer Security Trustee, the Note Trustee, the Liquidity Facility Providers and the Operating Adviser (if appointed).

The Servicer or, if the relevant Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer may agree to any request by the Senior Obligors to provide a consent if the provisions of the relevant Senior Finance Document provides that such consent is to be granted subject to certain conditions being satisfied, provided that: (i) it (acting in accordance with the Servicing Standard) is satisfied that the relevant conditions are met; (ii) it has regard to any rights of the Mezzanine Lenders under the Intercreditor Agreement; and (iii) it has consulted with the relevant Operating Adviser (if appointed) if the relevant consent is a matter regarding which the Operating Adviser has to be consulted and the Operating Adviser has confirmed in writing that it is satisfied that the relevant conditions have been met. If the Operating Adviser and the Servicer or, as the case may be, the Special Servicer do not agree as to whether the relevant conditions have been met (within five Business Days (or, if shorter, the time period in which the Servicer or the Special Servicer must respond under the terms of the relevant Senior Finance Documents or in order to comply with the Servicing Standard) of the Operating Adviser's confirmation having been sought), the views of the Servicer or, as the case may be, the Special Servicer will prevail over those of the relevant Operating Adviser.

The Servicer or the Special Servicer, as applicable, shall further require as a condition to the effectiveness of any modification, waiver or consent to any Issuer Transaction Document or Senior Finance Document:

- (a) involving any interaction with any Noteholders, including, but not limited to, any Extraordinary Resolution or Ordinary Resolution pursuant to which the Noteholders provide any consent or direction with respect to any proposed modification, waiver or consent of the Issuer Transaction Documents or the Senior Finance Documents, (i) that each person who voted or counted in the quorum in any meeting of any Class of the Noteholders or otherwise provided any such consent or direction provides a confirmation that it was not, at the time of such quorum, vote or direction, a Disenfranchised Holder, which confirmation shall also be addressed to the Issuer Security Trustee and the Note Trustee and (ii) that the Senior Obligors covenant that neither those Senior Obligors nor any of their respective Affiliates or representatives

engaged in any discussions or correspondence with any Noteholders to which the Servicer or, as applicable, the Special Servicer was not privy and with respect to any such vote, neither those Senior Obligor nor any of their respective Affiliates participated in any such vote of the Noteholders; and

- (b) that the relevant Senior Obligor pay or procure the payment of any related out-of-pocket costs and expenses of the Servicer or the Special Servicer, provided that to do so would be in accordance with the Servicing Standard.

The Servicer or the Special Servicer, as applicable, acting on behalf of the Issuer (as Senior Lender) shall consider and respond to requests by the Senior Obligor, the Senior Loan Facility Agent, the Common Security Agent or any other relevant entity for modifications, waivers, amendments and/or consents relating to the Senior Finance Documents. The Senior Loan Facility Agent must notify in writing the Servicer or the Special Servicer, as applicable, of any request referred to in the preceding sentence above (and any time limit for responding thereto) at the same time as it notifies the Senior Lenders (or promptly thereafter, in the case of a notification received by the Senior Company, any other Senior Obligor or any other relevant entity). The Servicer or the Special Servicer, as applicable, must respond to any such request referred to above within the time period required under the relevant Senior Finance Document pursuant to which the request is made in order to avoid the Issuer (as Senior Lender) being deemed to approve such request for modification, waiver, amendment and/or consent.

The Servicer or the Special Servicer, as applicable, may (but shall not be obliged to) form one or more ad hoc Noteholder committees (each such committee, an **Ad Hoc Noteholder Committee**) in order to allow the Servicer and/or Special Servicer, as applicable, to consult with the Noteholders on matters such as modifications, waivers and consents relating to the Securitised Senior Loan. Any costs of the Issuer or any Issuer Related Party with respect to such Ad Hoc Noteholder Committee will be a cost of the Issuer. The costs known by the Servicer or the Special Servicer, as applicable, relating to any such Ad Hoc Noteholder Committee will be fully disclosed to the relevant Noteholders by the Servicer in the Servicer Quarterly Reports (subject to receipt of the required information from the Special Servicer if, at the relevant time, the Securitised Senior Loan is a Specially Serviced Loan). The Servicer or Special Servicer, as applicable, may require the members of the Ad Hoc Noteholder Committee to enter into appropriate confidentiality arrangements where required by law and/or the Servicing Standard.

The Servicer or Special Servicer, as applicable, may agree, on behalf of the Issuer, that the Issuer will compensate the advisers to any Ad Hoc Noteholder Committee subject to the following

requirements:

- (a) the Servicer or Special Servicer, as applicable, has determined, in its reasonable judgement and taking into account the Servicing Standard, that it would be beneficial to engage directly with the Noteholders in connection with any potential modification, waiver or consent relating to the Securitised Senior Loan;
- (b) Noteholders that are members of such Ad Hoc Noteholder Committee have requested that the Servicer or Special Servicer, as applicable, agree on behalf of the Issuer that the Issuer will compensate the advisers to the Ad Hoc Noteholder Committee for their reasonable fees;
- (c) the Servicer or Special Servicer, as applicable, has determined that causing the Issuer to compensate the advisers to the Ad Hoc Noteholder Committee would be consistent with the Servicing Standard;
- (d) the Ad Hoc Noteholder Committee has provided evidence to the Servicer or Special Servicer, as applicable, that its advisers are independent from the relevant Senior Obligors and their advisers and were selected as a result of a competitive bid process from at least three reputable potential advisers with relevant experience, with the selected adviser providing the lowest bid;
- (e) the Servicer or Special Servicer, as applicable, is satisfied that members of the Ad Hoc Noteholder Committee represent at least 50 per cent. of all the Notes (other than the Class X Notes) based upon the Principal Amount Outstanding;
- (f) each Noteholder participating in the Ad Hoc Noteholder Committee will be divided based upon the Class of Notes that it holds, with each Class of Notes participating in a vote being a **Voting Class**; upon a vote of the Ad Hoc Noteholder Committee conducted by the Servicer or the Special Servicer, as applicable, at least 66 $\frac{2}{3}$  per cent. of the Principal Amount Outstanding of each such Voting Class (other than the Class X Notes) has approved the payment of such expenses; provided that it will not be necessary for the Ad Hoc Noteholder Committee to include Noteholders for each Class of Notes and provided that the Servicer or Special Servicer has invited all Classes of Notes (other than the Class X Notes) to participate in such Ad Hoc Noteholder Committee; and
- (g) such proposal to approve expenses presented for voting to the relevant Ad Hoc Noteholder Committee provides for no more than one legal adviser and one financial adviser for such Ad Hoc Noteholder Committee and does not provide for separate advisers for any Voting Class, unless

such proposal for separate advisers for each Voting Class is approved by an Ad Hoc Noteholder Committee of the Noteholders containing a Voting Class for each Class of the Notes that is outstanding pursuant to a vote of a majority of at least 66⅔ per cent. of the outstanding Notes (other than the Class X Notes) of each such Class of Notes based upon the Principal Amount Outstanding.

## **Note Maturity Plan**

If:

- (a) any part of the Securitised Senior Loan remains outstanding six months prior to the Final Note Maturity Date; and
- (b) in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the Common Transaction Security or otherwise) are unlikely to be realised in full prior to the Final Note Maturity Date,

the Special Servicer shall be required to prepare a draft Note Maturity Plan and present the same to the Issuer, the Note Trustee and the Issuer Security Trustee not later than 45 days after the date falling six months prior to the Final Note Maturity Date together with a statement of whether, in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the Common Transaction Security, sale of the Securitised Senior Loan, or otherwise) are reasonably likely to be realised in full prior to the Final Note Maturity Date. At least one proposal provided by the Special Servicer must be that the Issuer Security Trustee, at the cost of the Issuer, will engage an independent financial adviser or a receiver to advise the Issuer Security Trustee as to the enforcement of the Issuer Security. The Issuer, with the assistance of the Special Servicer, will publish a draft of the Note Maturity Plan with the Regulatory Information Service.

Upon receipt of the draft Note Maturity Plan, the Note Trustee shall convene, at the cost of the Issuer, a meeting of all Noteholders at which the Noteholders will have the opportunity to discuss the various proposals contained in the draft Note Maturity Plan with the Special Servicer.

Following such meeting, the Special Servicer shall reconsider the Note Maturity Plan and make modifications thereto to address the views of the Noteholders (subject to the Servicing Standard) following which it will promptly (x) provide a final Note Maturity Plan to the Issuer, the Rating Agencies, the Note Trustee and the Issuer Security Trustee and (y) request that the Issuer provide the Noteholders with the final Note Maturity Plan.

Upon receipt of the final Note Maturity Plan, the Note Trustee shall convene, at the cost of the Issuer, a meeting of the

Noteholders of the Most Senior Class of Notes then outstanding at which the Noteholders of the Most Senior Class of Notes will be requested to select their preferred option among the proposals set out in the final Note Maturity Plan. The Special Servicer shall, notwithstanding any other provision of the Servicing Agreement or requirement to act in accordance with the Servicing Standard, implement the proposal that receives the approval of the Noteholders of the Most Senior Class of Notes by way of Ordinary Resolution, irrespective of whether it results in a Basic Terms Modification or relates to a Class X Entrenched Right, and shall have no liability to any person for seeking to implement and subsequently implementing such proposal with no regard to the Servicing Standard.

If no proposal presented to the Noteholders on the Note Maturity Plan receives the approval of the Noteholders of the Most Senior Class of Notes then outstanding by Ordinary Resolution at such meeting, then the Issuer Security Trustee shall be deemed to be directed by all the Noteholders to appoint a receiver in order to realise the Issuer Charged Property pursuant to the Issuer Deed of Charge and the German Security Agreement as soon as practicable upon such right becoming enforceable, provided that it will have no obligation to do so if it shall not have been indemnified and/or secured and/or prefunded to its satisfaction.

**Note Maturity Plan** means the selection of proposals prepared by the Special Servicer and presented to the Issuer, the Noteholders, the Note Trustee and the Issuer Security Trustee relating to the final disposal or other resolution of the Securitised Senior Loan, which assumes that the Notes are not repaid on the Final Note Maturity Date.

## **Servicing Fee**

On each Note Payment Date, the Issuer shall pay to the Servicer an amount equal to €55,000 per annum (exclusive of VAT if applicable) (the **Servicing Fee**). The Servicing Fee will continue to be paid notwithstanding the fact that the Securitised Senior Loan may have been designated a Specially Serviced Loan. Following any termination of the Servicer's appointment as Servicer, the Servicing Fee will be paid to any substitute servicer appointed, provided that the Servicing Fee may be payable to any substitute servicer at a higher rate agreed in writing by the Issuer (but which does not exceed the rate then payable generally to providers of loan servicing in relation to commercial properties).

The Servicing Fee shall be calculated on the basis of the actual number of days to elapse from and including the most recently preceding Note Payment Date (or, in the case of the first Note Payment Date, from and including the Closing Date) and be payable by the Issuer on each Note Payment Date in accordance with the provisions of the Cash Management Agreement and the Issuer Deed of Charge along with all other compensation payable by the Issuer to the Servicer under the Servicing Agreement.

**Special Servicing Fee,  
Liquidation Fee, Workout  
Fee:**

On each Note Payment Date, if the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer will be entitled to be paid by the Issuer:

- (a) a fee (the **Special Servicing Fee**) equal to 0.12 per cent per annum (exclusive of VAT, if applicable) of the outstanding principal balance of the Securitised Senior Loan for each day that it is designated as a Specially Serviced Loan. The Special Servicing Fee shall be paid in addition to the Servicing Fee. The Special Servicing Fee shall be calculated on the basis of the actual number of days to elapse from and including the most recently preceding Note Payment Date (or, in the case of the first Note Payment Date following the occurrence of the relevant Special Servicing Transfer Event, from and including the date on which the Special Servicing Transfer Event occurred) and shall be payable on each Note Payment Date in accordance with the provisions of the Cash Management Agreement. The Special Servicing Fee in respect of a Specially Serviced Loan shall cease to accrue (i) on the date that the Specially Serviced Loan becomes a Corrected Loan or (ii) if a Liquidation Event occurs in relation to the Securitised Senior Loan;
- (b) a Liquidation Fee equal to 0.50 per cent. of the Liquidation Proceeds, which will be payable in accordance with the terms of the Servicing Agreement, provided that no Liquidation Fee will be payable in respect of Liquidation Proceeds:
  - (i) where the Securitised Senior Loan was a Specially Serviced Loan for a period of fewer than 30 days;
  - (ii) where the Securitised Senior Loan or any Senior Obligor or any part of any Property (whether directly or indirectly) is sold to an Affiliate of the Special Servicer; or
  - (iii) where the Securitised Senior Loan is repurchased by the Loan Sellers pursuant to the terms of the Securitised Senior Loan Sale Agreement or by another party pursuant to the Intercreditor Agreement.

The Liquidation Fee will be payable in accordance with the relevant Issuer Priorities of Payments on the Note Payment Date following the receipt of Liquidation Proceeds; and

- (c) a workout fee payable to the Special Servicer, if the Specially Serviced Loan subsequently becomes a Corrected Loan. The Workout Fee shall be an amount

equal to 0.50 per cent. of each collection of interest and principal received in respect of the Securitised Senior Loan for so long as it remains a Corrected Loan (exclusive of VAT, if applicable). However, no Workout Fee will be payable if the Special Servicing Transfer Event which gave rise to the Securitised Senior Loan becoming a Specially Serviced Loan ceased to exist within 30 days of the Securitised Senior Loan becoming a Specially Serviced Loan and no other Special Servicing Transfer Event occurred while the Securitised Senior Loan remained a Specially Serviced Loan.

The Servicing Fee and the Special Servicing Fee will cease to be payable in relation to the Securitised Senior Loan if any of the following events occurs in relation to the Securitised Senior Loan:

- (i) the Securitised Senior Loan is repaid in full; or
- (ii) a Final Recovery Determination is made with respect to the Securitised Senior Loan.

#### **Servicer's modification fee**

In addition to the Servicing Fee, the Servicer will also be entitled to receive a fee, in an amount which it agrees with the Senior Obligors, as remuneration for any action taken by the Servicer in respect of any request for an amendment, consent or waiver made or given in respect of the Senior Loan and the Senior Finance Documents prior to the occurrence of a Special Servicing Transfer Event (a **Modification Fee**), provided that:

- (a) its receipt of such fee would be consistent with the Servicing Standard;
- (b) such fee can be recovered from the relevant Senior Obligors or any of their Affiliates (or from proceeds and/or collections from the Properties based on the current valuation and the Servicer's estimate of income generated from the Properties) without resulting in any shortfall in other amounts due under the terms of the Senior Loan; and
- (c) the payment of such fee would not result in any shortfall in current interest due on the Senior Loan at its original terms (other than as a result of any amendment or modification to the interest applicable to the Senior Loan agreed in accordance with the terms of the Servicing Agreement).

In no circumstances will the Issuer be liable to pay a Modification Fee to the Servicer if it has not first been recovered from the Senior Obligors or any other person (other than a party to the Issuer Transaction Documents).

#### **Servicing expenses**

On each Note Payment Date, the Servicer and the Special Servicer

shall be entitled to be reimbursed in respect of out-of-pocket costs, expenses and charges reasonably and properly incurred by them in the performance of their servicing obligations. Such costs and expenses are payable by the Issuer on the Note Payment Date following the Senior Loan Interest Period during which they are incurred by the Servicer or the Special Servicer and without prejudice to any other right to payment or, in the case of fees, costs and expenses which are paid directly by the Senior Obligor immediately on the date which such fees, costs and expenses are collected from the Senior Obligor (without double counting).

**Liability of Servicer and Special Servicer**

Neither the Servicer nor the Special Servicer will be responsible for any loss or liability to the Issuer other than those losses caused by its negligence, fraud or wilful misconduct or material breach of the Servicing Agreement or the negligence, wilful default or fraud of the Common Security Agent or the Senior Loan Facility Agent where those parties are the same entity as, or an Affiliate of, the Servicer or the Special Servicer, as applicable. Each of the Servicer and the Special Servicer, as applicable, may, in relation to its authorities, rights, powers, duties and discretions conferred or imposed by or referred to in the Servicing Agreement or by operation of law, appoint and act on the opinion or advice of, or a certificate or any information obtained from, any lawyer, banker, valuer, surveyor, broker, auctioneer, accountant, financial adviser, securities dealer, investment bank, computer consultant or other expert or professional adviser (whether obtained by the Servicer, the Special Servicer, any sub-contractor, any sub-servicer, the Issuer, the Issuer Security Trustee, the Note Trustee or any Senior Obligor) provided that (among other matters), in relation to the appointment of any of such persons, it will and will procure that any sub-contractor or sub-servicer will use reasonable care in the selection of the foregoing and will not be responsible for any loss occasioned by so acting, provided that it was not fraudulent, negligent or engaged in wilful misconduct in the selection of the foregoing and provided further that, having made reasonable enquiries as to the same, it was not aware (nor negligent for not being aware) of any conflict of interest that such adviser might have with respect to the advice being provided where such conflict of interest was a likely source of the loss to the Issuer.

**Reporting**

The Servicer (with the assistance of, and based on information provided by, the Senior Loan Facility Agent in accordance with the Servicing Agreement) must deliver to the Issuer, the Issuer Cash Manager, the Special Servicer and the Operating Adviser (if appointed) (in draft) two Business Days prior to each Determination Date and (in final form) by 10.00 a.m. on each Determination Date, in respect of the Securitised Senior Loan, for the period from (and including) a Senior Loan Payment Date to (and excluding) the next following Senior Loan Payment Date, a report in respect of the Securitised Senior Loan setting forth, among other things, quarterly payments actually received or expected to be actually received in respect of the Securitised Senior Loan as well as both scheduled and unscheduled payments



in respect of the Securitised Senior Loan.

Such report will also include:

- (a) following a modification of the Securitised Senior Loan, a report setting forth, among other things, the original and revised terms, as applicable, of (i) the Securitised Senior Loan, as of such Senior Loan Payment Date and (ii) either the Securitised Senior Loan as of the Closing Date or the most recent version of the Securitised Senior Loan prior to such modification; and
- (b) following a liquidation of the Securitised Senior Loan, a report setting forth, among other things, the amount of Liquidation Proceeds and liquidation expenses in connection with the liquidation of the Securitised Senior Loan.

Subject to any limitation imposed by applicable law or any confidentiality agreement, the Servicer must deliver to the Issuer, the Issuer Cash Manager, the Special Servicer, the Rating Agencies, the Operating Adviser (if appointed) and the Issuer Security Trustee, not later than four weeks after each Note Payment Date immediately following the end of each Servicer Reporting Period or within such other time as may be required under any applicable regulatory provision (and, with respect to the CREFC E-IRP Loan Set-up File, the Servicer shall, in addition, provide such information prior to the first Note Payment Date), the following reports with respect to the Securitised Senior Loan, each of which shall provide the required information in respect of the immediately ended Servicer Reporting Period (in the case of paragraph (a) below based on information provided by the Senior Obligors and in the case of the other items listed below based on information provided by the Special Servicer if the Securitised Senior Loan is designated a Specially Serviced Loan):

- (a) a report setting out certain loan-level information, including, the cut-off balance, original mortgage rate, maturity date and general payment information, as well as financial data (as set out in the **CREFC E-IRP Loan Set-up File**);
- (b) a report setting out quarterly remittances on the Securitised Senior Loan as well as the tracking of both scheduled and unscheduled payments in respect thereof (as set out in the **CREFC E-IRP Loan Periodic Update File**);
- (c) a report setting out information regarding the Property, including, the property name, address and identification number (as set out in the **CREFC E-IRP Property File**);
- (d) a report setting out, among other things, details of any event that would cause the Securitised Senior Loan to be

included on the servicer watchlist (as set out in the **CREFC E-IRP Servicer Watchlist Criteria and Servicer Watchlist File**); and

- (e) a report in the format of the "ECB Loan Level Data – Reporting Template for CMBS – October 2012" (with the information to be completed in the "bond info" tab to be provided by the Issuer Cash Manager),

(together, the **CREFC European Investor Reporting Package**).

The CREFC European Investor Reporting Package shall (other than the report referred to in paragraph (e) above) be in the form prescribed in the standard "European Investor Reporting Package" published by the Commercial Real Estate Finance Council Europe from time to time (formally and commonly known as the CREFC European Investor Reporting Package) as modified to take into account any changes for properties located in Germany, France or the Netherlands. To the extent any information included in the reports referred to in paragraph (e) above would also simultaneously be required to be included in any of the reports referred to in paragraphs (a) to (d) above, the Servicer will not be required to duplicate the provision of such information in the relevant report referred to in paragraphs (a) to (d) above (provided that all information required to be included in the CREFC European Investor Reporting Package is published either in the reports referred to in paragraphs (a) to (d) above or the reports referred to in paragraph (e) above, in the manner and at the times required in the Servicing Agreement).

The Servicer shall also provide, in respect of each Senior Loan Interest Period, a report based, where necessary, on information provided to the Servicer by the Special Servicer, containing the following information regarding the Securitised Senior Loan and the Properties:

- (a) a report setting out the information provided by the Senior Obligors pursuant to the information covenants contained in the Senior Finance Documents;
- (b) a report setting out, among other things, general information in relation to the Securitised Senior Loan (including the cut-off balance, original mortgage rate, maturity date and general payment information, as well as financial data);
- (c) a report setting out, among other things, information regarding the Properties; and
- (d) a report substantially in the form set out in the Servicing Agreement,

(such reports, together with the CREFC European Investor Reporting Package, the **Servicer Quarterly Report**).

The Servicer Quarterly Report will be made publicly available by the Issuer Cash Manager at <https://pivot.usbank.com>, such internet website not forming part of this Offering Circular.

**Enforcement of  
Securitised Senior Loan**

**the** The Servicer (or, if the Securitised Senior Loan is designated a Specially Serviced Loan, the Special Servicer) will promptly notify the Issuer, the Issuer Cash Manager and the Issuer Security Trustee of the occurrence of a Senior Loan Event of Default.

The Special Servicer (or the Servicer, if the Securitised Senior Loan is then not a Specially Serviced Loan) will determine and is authorised by the Issuer and, following the delivery of a Note Acceleration Notice, the Issuer Security Trustee, as applicable, to determine, the best strategy for exercising the rights, powers and discretions of the Issuer in respect of the Securitised Assets and the exercise of procedures to enforce those rights, powers and discretions following the occurrence of a Senior Loan Event of Default to implement (or, as it reasonably considers necessary, to instruct the Common Security Agent or Senior Loan Facility Agent to implement) such strategy.

The Servicer and the Special Servicer will use reasonable efforts to ensure that no action will be taken in relation to any Property if, as a result of such action, any of the secured obligations in favour of the Issuer, the Common Security Agent, the Note Trustee or the Issuer Security Trustee would be subordinated pursuant to Sec. 39 para. 1 No. 5 or para. 2 of the German Insolvency Code, provided that the Servicer and the Special Servicer shall not be required to prevent any action being taken to the extent that such action has been directed by the Issuer Security Trustee on behalf of the Issuer Secured Creditors or the Common Security Agent on behalf of the Common Secured Parties, as applicable.

At any time after the occurrence of a Special Servicing Transfer Event, the Special Servicer may, if it determines that the most appropriate course of action would be to sell the Securitised Senior Loan (instead of taking enforcement action in respect thereof), dispose of the Securitised Senior Loan on behalf of the Issuer to a third party purchaser (such purchaser cannot be the Sponsor, the Servicer, the Special Servicer or any of their respective Affiliates) on arm's length terms and for a consideration which the Special Servicer determines is the best method of realisation of the Securitised Senior Loan at the time.

If the Special Servicer determines that the most appropriate course of action consistent with the Servicing Standard would be to sell the Securitised Senior Loan, then the Issuer Security Trustee (at the cost of the Issuer) must, at the request of the Special Servicer, release and discharge the Issuer Security to the extent that it relates to the Securitised Senior Loan and Common Transaction Security that pertains to the same in order to allow such sale to proceed.

As soon as reasonably practicable after the Special Servicer makes a Final Recovery Determination with respect to the Securitised Senior Loan, it shall promptly notify the Servicer, the Issuer, the Issuer Cash Manager, the Issuer Security Trustee and, if appointed, the Operating Adviser of the amount of such Final Recovery Determination. The Special Servicer shall maintain an accurate record of the basis of determination of the Final Recovery Determination.

Each of the Servicer and the Special Servicer shall procure or direct that if, after enforcement of the Common Transaction Security, an amount in excess of all sums due from the Senior Obligors to the Issuer under the Senior Finance Documents is recovered or received, the balance (after discharge of all such sums) is paid to the persons entitled thereto pursuant to the terms of the Senior Finance Documents.

**Controlling Class and Operating Adviser** The Controlling Class will be able to appoint an Operating Adviser. Pursuant to the Conditions, the appointment of any Operating Adviser shall not take effect until it notifies the Issuer, the Note Trustee, the Issuer Security Trustee, the Servicer and the Special Servicer in writing (attaching a copy of the relevant Ordinary Resolution) of its appointment.

The Operating Adviser will have the following rights:

- (a) consultation with the Special Servicer in connection with the preparation of any Asset Status Report (see "*Asset Status Report*" above);
- (b) the right to request the termination of the Special Servicer (see "*Termination without cause*" below); and
- (c) rights of consultation in respect of certain actions to be taken by the Servicer or the Special Servicer, as applicable (see "*Rights of consultation*" below and certain aspects of "*Modifications, waivers, amendments and consents*" above).

### ***Rights of consultation***

Subject to the Servicing Standard and the Issuer Security Trustee's instructions (following the service of a Note Acceleration Notice), the Servicer or Special Servicer, as applicable, must not, for at least five Business Days after notifying the Operating Adviser of its intention to do so, agree to amend or waive any provision of the Senior Finance Documents if the effect of such waiver or amendment would be to (among other things):

- (a) make an amendment to the Common Terms Agreement which would result in the shortening of the Senior Loan Maturity Date;

- (b) agree to the release of the Properties from the security created by the Common Transaction Security and/or to the substitution of the Property with another property (other than in circumstances which are contemplated by the Senior Finance Documents);
- (c) agree to the further encumbrance of any assets which secure the Securitised Senior Loan;
- (d) waive or reduce any late payment charge or default interest under the Securitised Senior Loan;
- (e) cross-default the Securitised Senior Loan to any other indebtedness of a Senior Obligor;
- (f) agree to the modification in any material respect of any head lease by which a Senior Obligor holds an interest in a Property;
- (g) consent to the creation of any mezzanine debt of any direct or indirect owner of any Senior Obligor that would be paid from distributions of net cashflows from the Properties;
- (h) consent to the grant of any new occupational lease or the modification or termination of any existing occupational lease unless in accordance with the relevant Senior Finance Documents or, as the circumstances require, as determined by the Servicer or the Special Servicer, such consent not to be withheld or delayed;
- (i) commence formal enforcement proceedings in respect of any Common Transaction Security for the repayment of the Senior Loan, including the appointment of a receiver or administrator or similar or analogous proceedings;
- (j) change the date on which any amount is due to be paid by a Senior Obligor or the timing of any payment;
- (k) provide a waiver to, or release, any Senior Obligor (or release any Senior Obligor) from any of its material obligations under or in respect of the Senior Finance Documents other than in accordance with the terms thereof;
- (l) waive any Senior Loan Event of Default relating to a non-payment, breach of financial covenant or certain insolvency events; or
- (m) sell the Securitised Senior Loan;
- (n) defer interest on all or any part of the Securitised Senior Loan for more than 10 Business Days; and

- (o) approve a restructuring plan in the insolvency of a Senior Obligor.

If within five Business Days of having been notified of any such action proposed to be taken by the Servicer or the Special Servicer, the Operating Adviser has not confirmed in writing to the Servicer or the Special Servicer whether it agrees or disagrees with the proposed course of action, the Operating Adviser will be deemed to have agreed thereto.

If the Operating Adviser notifies the Servicer or the Special Servicer that it disagrees with the proposed course of action and suggests an alternative course of action, the parties will follow the steps set out in the Servicing Agreement to come to a conclusion as to what proposed course of action should be taken.

Without prejudice to certain provisions of the Servicing Agreement, in no event will the Servicer or the Special Servicer:

- (a) take or refrain from taking any action which, in the good faith and reasonable judgement of the Servicer or the Special Servicer, as applicable, would cause the Servicer or Special Servicer to violate the Servicing Standard; or
- (b) refrain from taking any action pending receipt of a response from the Operating Adviser or pending agreement being reached with the Operating Adviser, if the Servicer or Special Servicer, as applicable, in its good faith and reasonable judgement, determines that immediate action is necessary to comply with the Servicing Standard,

and the taking or refraining from taking of any action (x) prior to the receipt of the Operating Adviser's approval thereof, (y) pending agreement being reached with the Operating Adviser, or (z) in a manner which is contrary to the directions of, or disapproved by, the Operating Adviser shall not constitute a breach by the Servicer or the Special Servicer, as applicable, of the Servicing Agreement so long as, in the Servicer's or the Special Servicer's good faith and reasonable judgement, such action was required by the Servicing Standard, provided that the Servicer or the Special Servicer, as applicable, is not obliged to act or refrain from acting where to do so would violate any applicable law or regulation.

**Termination for cause of the appointment of the Servicer or Special Servicer**

By way of summary, each of the following is a **Servicer Termination Event** under the Servicing Agreement:

- (a) any failure by the Servicer, the Special Servicer, the Senior Loan Facility Agent or the Common Security Agent (but only, in the case of failure by the Senior Loan Facility Agent or the Common Security Agent, if the

Senior Loan Facility Agent or the Common Security Agent (as applicable) is an Affiliate of the Servicer) to remit any funds to or for the account of the Issuer where the same are required to be remitted by the Servicer or the Special Servicer under the terms of the Servicing Agreement by 11.00 a.m. (London time) on the first Business Day following the date on which such remittance was required to be made, but only where there are sufficient funds available in the account from which such funds were required to be remitted; provided that, no further Servicer Termination Event shall arise if the failure to pay is caused by a failure or error in the banking system and cured within two Business Days of restoration of the banking system;

- (b) any failure by the Servicer or the Special Servicer to observe or perform in any material respect any other of its other obligations or covenants under the Servicing Agreement (whether failure of a specific obligation or failure to observe or act according to the Servicing Standard), and such failure is either not capable of remedy or, if capable of remedy, such failure continues unremedied for a period of 30 days after the earlier to occur of (i) the date on which the Servicer or Special Servicer, as applicable, becomes aware of such failure and (ii) the date on which written notice of such failure is given to the Servicer or, for so long as the Securitised Senior Loan is a Specially Serviced Loan, the Special Servicer by the Issuer or (following the service of a Note Acceleration Notice) the Issuer Security Trustee provided, however that with respect to any such failure that is capable of remedy, the Servicer or Special Servicer, (as applicable) will have an additional cure period of 30 days to effect such remedy so long as it has commenced remedying such failure within the 30-day period and during that time has provided the Issuer with an officer's certificate certifying that it has commenced, and is continuing to pursue, such remedy;
- (c) breach by the Servicer or Special Servicer, as applicable, in any material respect of any representation or warranty given by it under the Servicing Agreement, and such breach is either not capable of remedy or, if capable of remedy, the circumstances giving rise to such breach are not remedied for a period of 30 days after the earlier to occur of (i) the date on which the Servicer or Special Servicer, as applicable, becomes aware of such breach and (ii) the date on which written notice of such breach is given to the Servicer or Special Servicer, as applicable by the Issuer or (following the service of a Note Acceleration Notice) provided, however that with respect to any such breach that is capable of remedy, the Servicer or the Special Servicer, as applicable, will have an additional

cure period of 30 days to effect such remedy so long as it has commenced remedying such breach within the 30-day period and, during that time, has provided the Issuer with an officer's certificate certifying that it has commenced, and is continuing to pursue, such remedy;

- (d) except in connection with a Permitted Servicer Reorganisation, (i) the Servicer or Special Servicer, as applicable, becomes subject to insolvency or insolvency proceedings or ceases to own the whole or substantially the whole of its business or (ii) the Servicer or Special Servicer, as applicable, ceases to own the whole or substantially the whole of its commercial mortgage servicing business and, as a result, in the reasonable opinion of the Issuer, there are reasonable grounds to believe that the Servicer or the Special Servicer, as applicable, is unlikely to have the resources to perform its obligations under the Servicing Agreement to a satisfactory standard;
- (e) it becomes unlawful for the Servicer or Special Servicer, as applicable, to perform any material part of its obligations under the Servicing Agreement except in circumstances where no other person could perform such material part of the services lawfully; and
- (f) the Servicer or Special Servicer, as applicable, pays or has paid any part of its remuneration under the Servicing Agreement to any person (including any Noteholder) in connection with securing its appointment (or keeping such appointment) under the Servicing Agreement.

**Rights upon Servicer Termination Event; replacement of Servicer and Special Servicer**

Upon the occurrence of any Servicer Termination Event, the Issuer or, following the delivery of a Note Acceleration Notice, the Issuer Security Trustee may (but shall not be obliged to) and shall, if instructed by the Operating Adviser (if appointed) or by way of an Ordinary Resolution of all Classes of Noteholders (other than the Class X Noteholders), serve written notice to the Servicer or the Special Servicer (with a copy to each of the Rating Agencies), as the case may be, terminate the appointment of the Servicer (if the Servicer Termination Event is in respect of the Servicer) or the Special Servicer (if the Servicer Termination Event is in respect of the Special Servicer) (a **Termination for Cause**).

**Termination without cause**

If the Issuer Security Trustee is notified by the Note Trustee that each Relevant Class of Noteholders (acting by Extraordinary Resolution) has directed that the Servicer be replaced, then the Issuer Security Trustee must (by written notice to the Servicer) terminate the appointment of the Servicer (a **Noteholder Termination**).

**Relevant Class of Noteholders** means at any time, the Controlling Class at such time and each Class of Notes (if any)



ranking in point of priority senior thereto, but not, for the avoidance of doubt, any Classes ranking in point of priority subordinate to the Controlling Class at such time.

If (i) the Securitised Senior Loan has been (and remains) designated a Specially Serviced Loan and (ii) the Issuer is so instructed by the Controlling Class or by the Operating Adviser, on behalf of the Controlling Class, then the Issuer must give notice to the Special Servicer to terminate the appointment of that person as Special Servicer (a **Controlling Class Termination**).

**Resignation of the Servicer or Special Servicer**

Each of the Servicer and the Special Servicer may resign from its appointment as such by giving to the Issuer and the Issuer Security Trustee at least three months' written notice to this effect (a **Servicer Resignation**).

**Appointment of substitute**

No termination or resignation of the appointment of the Servicer or the Special Servicer, as applicable, will be effective until (among other conditions) a replacement servicer or special servicer, as the case may be, has been appointed.

**Costs of replacement**

Unless expressly provided otherwise, all costs, fees and expenses incurred in connection with the termination or resignation of the Servicer and/or the Special Servicer shall be paid as follows:

- (a) in the case of a Servicer Resignation or a Termination for Cause, by the outgoing Servicer;
- (b) in the case of a Noteholder Termination, deemed an expense of the Issuer Security Trustee (the **Noteholder Termination Expense**) (and recoverable by it in accordance with the relevant Issuer Priority of Payments to the extent such Noteholder Termination Expense is not otherwise paid directly, and for the avoidance of doubt, such payment shall not be a liability of the Issuer Security Trustee);
- (c) in the case of a Controlling Class Termination, by the incoming servicer; and
- (d) to the extent that any costs payable are not recoverable from the outgoing Servicer, without undue expense to it or the Issuer, in respect of paragraph (a) above, as an expense of the Issuer Security Trustee (the **Outgoing Servicer Expense**) (and recoverable by it in accordance with the relevant Issuer Priority of Payments to the extent such Outgoing Servicer Expense is not otherwise paid directly, and for the avoidance of doubt, such payment shall not be a liability of the Issuer Security Trustee).

**Rating Agency Confirmation**

If under the Servicing Agreement a Rating Agency Confirmation is required to be obtained in relation to a particular matter, the Servicer (or, in the case of matters pertaining to a Specially Serviced Loan, the Special Servicer) shall, as soon as is

practicable following a request therefor, provide each Rating Agency with all information as is reasonably necessary and available to it to enable such Rating Agency to determine whether, and on what basis, confirmation should be given. If any Rating Agency then rating the Notes either:

- (a) does not respond to a request to provide a Rating Agency Confirmation within 10 Business Days after such request is made and then does not respond to a second request to provide a Rating Agency Confirmation, in respect of the same matter as the first request, within five Business Days after such second request is made (such second request not to be made less than 10 Business Days after the first request is made); or
- (b) provides a waiver or acknowledgement indicating its decision not to review or otherwise declining to review the matter for which the Rating Agency Confirmation is sought, and
- (c) in connection with (a) or (b) above, the Issuer has received no indication from that Rating Agency that the then-current ratings of the Notes rated thereby would be qualified, downgraded, withdrawn or put on negative watch as a result of such matter,

the requirement for the Rating Agency Confirmation from the relevant Rating Agency with respect to such matter shall be deemed not to apply.

## MATURITY CONSIDERATIONS OF THE NOTES

The yield to maturity on any Class of Notes will depend upon the price paid by the Noteholders, the interest rate thereof from time to time, the rate and timing of the distributions in reduction of the Principal Amount Outstanding of such Class and the rate, timing and severity of losses on the Securitised Senior Loan, as well as prevailing interest rates at the time of payment or loss realisation.

The distributions of principal that Noteholders (excluding the Class X Noteholders) receive in respect of the Notes are derived from principal repayments on the Securitised Senior Loan.

The rate of distributions of principal in reduction of the Principal Amount Outstanding of any Class of Notes (excluding the Class X Notes), the aggregate amount of distributions in principal on any Class of Notes (excluding the Class X Notes) and the yield to maturity on any Class of Notes will be directly related to the rate of payments of principal on the Senior Loan, the amount and timing of Senior Obligor defaults and the severity of losses occurring upon a default.

Losses with respect to the Securitised Senior Loan may occur in connection with a default on the Securitised Senior Loan and/or the liquidation of all or part of the Properties.

Noteholders will only receive distributions of principal or interest when due to the extent that the related payments under the Issuer Assets are actually received or, in the case of interest, sufficient Liquidity Drawings are available under the Liquidity Facility Agreements (for the avoidance of doubt, an Interest Drawing can only be made under the Liquidity Facilities in relation to interest relating to the Class A1 Notes, the Class A2 Notes and the Class B Notes). Consequently, any defaulted payment for which drawings cannot be made under the Liquidity Facility, will, to the extent of the principal portion thereof, tend to extend the weighted average lives of the Notes. **Issuer Assets** means the Securitised Senior Loan and the Common Transaction Security and interest of the Issuer in respect of the relevant Common Transaction Security and all monies derived therefrom from time to time, held by the Issuer on, or at any time following, the Closing Date.

The rate of payments (including voluntary and involuntary prepayments) on the Securitised Senior Loan is influenced by a variety of economic, geographic, social and other factors, including the level of interest rates, the amount of prior refinancing effected by the Senior Borrowers and the rate at which the Senior Borrowers default on the Senior Loan. The terms of the Securitised Senior Loan and, in particular, the extent to which any Senior Borrower is entitled to prepay the Securitised Senior Loan or extend the Senior Loan Maturity Date, the ability of the Senior Borrowers to realise income from the Properties in excess of that required to meet scheduled payments of interest on the Securitised Senior Loan, the risk of compulsory purchase or reversion (*Heimfall*) of the Properties and the risk that payments by the Senior Borrowers may become subject to Tax or result in an increased cost for the Issuer may affect the rate of principal payments on the Securitised Senior Loan and, consequently, the yield to maturity of the Classes of Notes.

The timing of changes in the rate of prepayment on the Securitised Senior Loan may significantly affect the actual yield to maturity experienced by an investor, even if the average rate of principal payments experienced over time is consistent with such investor's expectation. In general, the earlier a prepayment of principal is made on the Securitised Senior Loan, the greater the effect on such investor's yield to maturity. As a result, the effect on such investor's yield of principal payments occurring at a rate higher (or lower) than the rate anticipated by the investor during the period immediately following the issuance of the Notes would not be fully offset by a subsequent likely reduction (or increase) in the rate of principal payments.

No representation is made as to the rate of principal payments on the Securitised Senior Loan, whether the Senior Loan Extension Options will be exercised (or which Senior Loan Extension

Options will be exercised) or as to the yield to maturity of any Class of Notes. An investor is urged to make an investment decision with respect to any Class of Notes based on the anticipated yield to maturity of such Class of Notes resulting from its purchase price and such investor's own determination as to anticipated prepayment rates in respect of the Securitised Senior Loan under a variety of scenarios. The extent to which any Class of Notes is purchased at a discount or a premium and the degree to which the timing of payments on such Class of Notes is sensitive to prepayments will determine the extent to which the yield to maturity of such Class of Notes may vary from the anticipated yield. An investor should carefully consider the associated risks, including, in the case of any Notes purchased at a discount, the risk that a slower than anticipated rate of principal payments on the Securitised Senior Loan could result in an actual yield to such investor that is lower than the anticipated yield and, in the case of any Notes purchased at a premium, the risk that a faster than anticipated rate of principal payments could result in an actual yield to such investor that is lower than the anticipated yield.

An investor should consider the risk that rapid rates of prepayments on the Securitised Senior Loan, and therefore of amounts distributable in reduction of the principal balance of the Notes, may coincide with periods of low prevailing interest rates. During such periods, the effective interest rates on securities in which an investor may choose to reinvest such amounts distributed to it may be lower than the applicable rate of interest on the Notes. Conversely, slower rates of prepayments and extensions to the Senior Loan Maturity Date on the Securitised Senior Loan, and therefore, of amounts distributable in reduction of the principal balance of the Notes entitled to distributions of principal, may coincide with periods of high prevailing interest rates. During such periods, the amount of principal distributions resulting from prepayments available to an investor in Notes for reinvestment at such high prevailing interest rates may be relatively small.

### **Weighted average life of the Notes**

The weighted average life of a Note refers to the average amount of time that will elapse from the date of its issuance until each euro allocable to principal of such Note is distributed to the investor. For the purposes of this Offering Circular, the weighted average life of a Note is determined by (a) multiplying the amount of (i) each quarterly principal distribution divided by three thereon by (ii) the number of months (taking into account the number of days between the Closing Date and the first Note Payment Date) from the Closing Date to the related Note Payment Date, (b) summing the results and (c) dividing the sum by the aggregate amount of the reductions in the Principal Amount Outstanding of such Note. Accordingly, the weighted average life of any such Note will be influenced by, among other things, the rate at which principal of the Securitised Senior Loan is paid or otherwise collected or advanced and the extent to which such payments, collections or advances of principal are in turn applied in reduction of the Principal Amount Outstanding of the Class of Notes to which such Note belongs.

For the purposes of preparing the following table, it was assumed that:

- (a) all principal is paid *pro rata*;
- (b) the scheduled quarterly instalments payable under the Senior Loan are assumed to be timely received on the relevant Senior Loan Payment Date;
- (c) there is no Senior Loan Event of Default;
- (d) EURIBOR is 0 per cent., subject to a floor of zero;
- (e) there are no delinquencies or losses in respect of the Senior Loan and there are no compulsory purchases affecting any Property;

- (f) there are no prepayments on the Senior Loan and there is no Permitted Senior Change of Control;
- (g) the Closing Date is 20 November 2018;
- (h) the first Note Payment Date is 22 February 2019;
- (i) no Note Acceleration Notice is served;
- (j) the weighted average lives of the Notes have been calculated on an actual/360 basis;
- (k) all three Senior Loan Extension Options have been exercised; and
- (l) the Expected Note Maturity Date is 22 November 2023.

Assumptions (a) to (l) above are collectively referred to as, the **Modelling Assumptions**.

Based on the Modelling Assumptions, the following table indicates the resulting weighted average lives of the Notes.

Class	Weighted Average Life of the Notes (years)
A1	5.0
A2	5.0
B	5.0
C	5.0
D	5.0
E	5.0
F	5.0

## DESCRIPTION OF THE NOTES

*The information set out below has been obtained from sources that the Issuer believes to be reliable, and the Issuer accepts responsibility for correctly reproducing this information, 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 reinterpretation of the rules, regulations and procedures of 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 Registrar, the Note Trustee, the Issuer Security Trustee, the Issuer Cash Manager, the Issuer Account Bank, or any Agent party to the Agency Agreement (or any Affiliate of any of the above, or any person by whom any of the above is controlled) will have any responsibility for the performance by the Clearing Systems or their respective direct or indirect participants or account holders of their respective obligations under the rules and procedures governing their operations or for the sufficiency for any purpose of the arrangements described below.*

### **General**

Each Class of Notes (which will each be in the denomination of €100,000 and integral multiples of €1,000 in excess thereof) will be represented initially by a Global Note in registered form. The Global Notes will be deposited with a common safekeeper and registered in the name of a nominee of the common safekeeper on or about the Closing Date. Upon deposit of the Global Notes, Euroclear and/or Clearstream, Luxembourg will credit each subscriber with a principal amount of Notes in the Class and equal to the principal amount thereof for which each such subscriber has subscribed and paid.

The Notes are intended to be held in a manner which will allow Eurosystem eligibility. This means that the Notes will be held under the New Safekeeping Structure for Global Notes (the NSS) and are intended upon issue to be deposited with one of Euroclear or Clearstream, Luxembourg as Common Safekeeper, and registered in the name of the nominee of one of Euroclear or Clearstream, Luxembourg acting as Common Safekeeper, and does not necessarily mean that the Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon the ECB being satisfied that the Eurosystem eligibility criteria have been met.

### **Holding of beneficial interests in Global Notes**

Ownership of beneficial interests in respect of Global Notes will be limited to persons that have accounts with Euroclear or Clearstream, Luxembourg (direct participants) or persons that hold beneficial interests in the Global Notes through participants (indirect participants) and, together with direct participants, **participants**, including, as applicable, banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with Euroclear or Clearstream, Luxembourg either directly or indirectly. Indirect participants will also include persons that hold beneficial interests through such indirect participants. Beneficial interests in Global Notes will not be held in definitive form. Instead, Euroclear and Clearstream, Luxembourg, as applicable, will credit the participants' accounts with the respective interests beneficially owned by such participants on each of their respective book-entry registration and transfer systems. Ownership of beneficial interests in Global Notes will be shown on, and transfers of beneficial interests therein will be effected only through, records maintained by Euroclear or Clearstream, Luxembourg (with respect to the interests of their participants) and on the records of participants or indirect participants (with respect to the interests of their participants). The laws of some jurisdictions or other applicable rules may require that certain purchasers of securities take physical delivery of such securities in definitive form. The foregoing limitations may therefore impair the ability of persons within such jurisdictions or

otherwise subject to the laws thereof to own, transfer or pledge beneficial interests in the Global Notes.

Except as set out below under "*Issuance of Definitive Notes*", participants or indirect participants will not be entitled to have Notes registered in their names, will not receive or be entitled to receive physical delivery of Notes in definitive registered form and will not be considered the holders thereof under the Note Trust Deed. Accordingly, each person holding a beneficial interest in a Global Note must rely on the rules and procedures of Euroclear or Clearstream, Luxembourg, as the case may be, and indirect participants must rely on the procedures of the participant or indirect participants through which such person owns its beneficial interest in the relevant Global Note to exercise any rights and obligations of a holder of Notes under the Note Trust Deed.

Unlike legal owners or holders of the Notes, holders of beneficial interests in the Global Notes will not have the right under the Note Trust Deed to act upon solicitations by the Issuer of consents or requests by the Issuer for waivers or other actions from the Noteholders. Instead, a holder of a beneficial interest in a Global Note will be permitted to act only to the extent it has received appropriate proxies to do so from Euroclear or Clearstream, Luxembourg (as the case may be) and, if applicable, their participants. There can be no assurance that procedures implemented for the granting of such proxies will be sufficient to enable holders of beneficial interests in Global Notes to vote on any requested actions on a timely basis. Similarly, upon the occurrence of a Note Event of Default under the Notes, holders of beneficial interests in the Global Notes will be restricted to acting through Euroclear and Clearstream, Luxembourg unless and until Definitive Notes are issued in accordance with the Conditions. There can be no assurance that the procedures to be implemented by Euroclear and Clearstream, Luxembourg under such circumstances will be adequate to ensure the timely exercise of remedies under the Note Trust Deed.

Purchasers of beneficial interests in a Global Note will hold such beneficial interests in the Global Note relating thereto. Investors may hold their beneficial interests in respect of a Global Note directly through Euroclear or Clearstream, Luxembourg, if they are account holders in such systems, or indirectly through organisations which are account holders in such systems. Euroclear and Clearstream, Luxembourg will hold beneficial interests in each Global Note on behalf of their account holders through securities accounts in the respective account holders' names on Euroclear's and Clearstream, Luxembourg's respective book-entry registration and transfer systems.

For further information regarding the purchase of beneficial interests in Global Notes, see "*Transfer Restrictions*".

Although Euroclear and Clearstream, Luxembourg have agreed to certain procedures to facilitate transfer of beneficial interests in the Global Notes among account holders of Euroclear and Clearstream, Luxembourg, they are under no obligation to perform or continue to perform such procedures, and such procedures may be discontinued at any time. None of the Issuer, the Note Trustee, the Issuer Security Trustee, the Agents or any of their respective agents will have any responsibility for the performance by Euroclear or Clearstream, Luxembourg or their respective participants or account holders of their respective obligations under the rules and procedures governing their operations.

### ***Payments on Global Notes***

Each payment of interest on and repayment of principal of the Notes will be made in accordance with the Agency Agreement.

Payments of any amounts owing in respect of the Global Notes will be made by the Issuer following receipt of any principal or interest on the Global Notes, in euro as follows: payments of such amounts in respect of the Global Notes are to be made to or to the order of Euroclear or Clearstream,

Luxembourg, or its nominee which will distribute such payments to Euroclear or Clearstream, Luxembourg participants who hold beneficial interests in the Global Notes in accordance with the procedures of Euroclear or Clearstream, Luxembourg.

Under the terms of the Note Trust Deed, the Issuer and the Note Trustee will treat the registered holders of Global Notes as the owners thereof for the purposes of receiving payments and for all other purposes. Consequently, none of the Issuer, the Issuer Security Trustee, the Note Trustee, any Agent or any other agent of the Issuer, the Issuer Security Trustee or the Note Trustee has or will have any responsibility or liability for:

- (a) any aspect of the records of Euroclear or Clearstream, Luxembourg or any participant or indirect participant relating to or to payments made on account of a beneficial interest or book-entry interest in a Global Note or for maintaining, supervising or reviewing any of the records of Euroclear or Clearstream, Luxembourg or any participant or indirect participant relating to or to payments made on account of a beneficial interest in a Global Note; or
- (b) Euroclear or Clearstream, Luxembourg or any participant or indirect participant.

The Note Trustee is entitled to rely on any certificate or other document issued by Euroclear or Clearstream, Luxembourg for determining the identity of the several persons who are for the time being the beneficial holders of any beneficial interest in a Global Note.

All such payments will be distributed without deduction or withholding for any taxes, duties, assessments or other governmental charges of whatever nature except as may be required by law. If any such deduction or withholding is required to be made, then neither the Issuer nor any other person will be obliged to pay additional amounts in respect thereof.

In accordance with the rules and procedures for the time being of Euroclear or, as the case may be, Clearstream, Luxembourg, after receipt of any payment by Euroclear or Clearstream, Luxembourg or its nominee, the respective systems will promptly credit their participants' accounts with payments in amounts proportionate to their respective ownership of beneficial interests in the Global Notes as shown in the records of Euroclear or Clearstream, Luxembourg. The Issuer expects that payments by participants to owners of beneficial interests in Global Notes held through such participants or indirect participants will be governed by standing customer instructions and customary practices, as is now the case with the securities held for the accounts of customers in bearer form or registered in "street name" or in the names of nominees for such customers. Such payments will be the responsibility of such participants or indirect participants. None of the Issuer, the Note Trustee, the Issuer Security Trustee, the Agents or any other agent of the Issuer, the Note Trustee, the Issuer Security Trustee or the Registrar will have any responsibility or liability for any aspect of the records of Euroclear or Clearstream, Luxembourg relating to or to payments made by Euroclear or Clearstream, Luxembourg on account of a participant's ownership of beneficial interests in Global Notes or for maintaining, supervising or reviewing any records relating to a participant's ownership of beneficial interests in the Global Notes.

### ***Book-entry ownership***

Each Global Note will have an ISIN and a Common Code and will be deposited with a common safekeeper for Euroclear and Clearstream, Luxembourg and registered in the name of a nominee of the common safekeeper.



### ***Information regarding Euroclear and Clearstream, Luxembourg***

Euroclear and Clearstream, Luxembourg have informed the Issuer as follows:

Custodial and depositary links have been established between Euroclear and Clearstream, Luxembourg to facilitate the initial issue of the Global Notes and secondary market trading of beneficial interests in the Global Notes.

Clearstream, Luxembourg and Euroclear each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders. Clearstream, Luxembourg and Euroclear provide various services, including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Clearstream, Luxembourg and Euroclear also deal with domestic securities markets in several countries through established depositary and custodial relationships. Clearstream, Luxembourg and Euroclear have established an electronic bridge between their two systems across which their respective participants may settle trades with each other.

Clearstream, Luxembourg and Euroclear customers are worldwide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Indirect access to Clearstream, Luxembourg and Euroclear is available to other institutions that clear through or maintain a custodial relationship with an account holder of either system.

As Euroclear and Clearstream, Luxembourg act on behalf of their respective account holders only, who in turn may act on behalf of their respective clients, the ability of beneficial owners who are not account holders with Euroclear or Clearstream, Luxembourg to pledge interests in the Global Notes to persons or entities that are not account holders with Euroclear or Clearstream, Luxembourg, or otherwise take action in respect of interests in the Global Notes may be limited.

The Issuer understands that under existing industry practices, if either the Issuer or the Note Trustee requests any action of owners of beneficial interests in Global Notes or if an owner of a beneficial interest in a Global Note desires to give instructions or take any action that a holder is entitled to give or take under the Note Trust Deed, Euroclear or Clearstream, Luxembourg, as the case may be, would authorise the direct participants owning the relevant beneficial interests to give instructions or take such action, and such direct participants would authorise indirect participants to give or take such action or would otherwise act upon the instructions of such indirect participants.

### ***Redemption***

For any redemptions of a Global Note in part, selection of the book-entry interests relating thereto to be redeemed will be made by Euroclear or Clearstream, Luxembourg, as the case may be, on a *pro rata* basis (or on such other basis as Euroclear or Clearstream, Luxembourg deems fair and appropriate) provided that only book-entry interests in the original principal amount of €100,000 (and integral multiples of €1,000 in excess thereof) or integral multiples of such original principal amount will be redeemed. Upon any redemption in part, the Registrar will record in the Register the principal amount so redeemed.

### ***Transfer and Transfer Restrictions***

All transfers of beneficial interests in Global Notes will be recorded in accordance with the book-entry systems maintained by Euroclear or Clearstream, Luxembourg, as applicable, pursuant to customary procedures established by each respective system and its participants.

Each Global Note will bear a legend substantially identical to that appearing in paragraph 2 under "Transfer Restrictions". Until and including the 40th day after the later of the commencement of the

offering of the Notes and the closing date for the offering of the Notes, beneficial interests in a Global Note may be held only through Euroclear or Clearstream, Luxembourg.

### ***Transfer of Global Notes***

The Global Notes may be transferred respectively by the common safekeeper to a replacement common safekeeper.

### ***Issuance of Definitive Notes***

Holders of beneficial interests in a Global Note will be entitled to receive Definitive Notes representing Notes of the relevant Class in registered form in exchange for their respective holdings of beneficial interests only if:

- (a) (in the case of Global Notes held by or on behalf of a Common Safekeeper) 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 or does in fact do so and in either case no alternative clearing system acceptable to the Note Trustee is in existence; or
- (b) as a result of any amendment to, or change in, the laws or regulations of the United Kingdom, Germany, the Netherlands, Luxembourg, Ireland, France or any other jurisdiction (or of any political sub division thereof) or of any authority therein or thereof having power to tax or in the interpretation or administration of such laws or regulations which becomes effective on or after the Closing Date, the Issuer or the Principal Paying Agent is or will be required to make any deduction or withholding from any payment in respect of the Notes which would not be required were the Notes in definitive registered form.

Any Definitive Notes issued in exchange for beneficial interests in a Global Note will be registered by the Registrar in such name or names as instructed by Euroclear or Clearstream, Luxembourg. It is expected that such instructions will be based upon directions received by Euroclear or Clearstream, Luxembourg from their participants with respect to ownership of the relevant beneficial interests. In no event will Definitive Notes be issued in bearer form.

## DESCRIPTION OF NOTE TRUST DEED AND ISSUER SECURITY DOCUMENTS

### Note Trust Deed

The Note Trustee will be appointed pursuant to the Note Trust Deed to represent the interests of the Noteholders. The Note Trustee will agree to hold the benefit of the covenants of the Issuer contained in the Note Trust Deed on behalf of itself and on trust for the Noteholders.

Among other things, the Note Trust Deed:

- (a) sets out when, and the terms upon which, the Note Trustee will be entitled or obliged, as the case may be, to take steps to enforce the Issuer's obligations under the Notes (or certain other Issuer Transaction Documents);
- (b) contains various covenants of the Issuer relating to repayment of principal and payment of interest in respect of the Notes to the conduct of its affairs generally and to certain ongoing obligations connected with its issuance of the Notes;
- (c) provides for the remuneration of the Note Trustee, the payment of expenses incurred by it in the exercise of its powers and performance of its duties, provides for the indemnification of the Note Trustee against, among other things, liabilities, losses and costs arising out of the Note Trustee's exercise of its powers and performance of its duties, and provides for the Note Trustee to be indemnified, secured or prefunded to its satisfaction before exercising certain powers and discretions;
- (d) sets out whose interests the Note Trustee should have regard to when there is a conflict between the interests of the different Classes of Noteholders;
- (e) provides that the determinations of the Note Trustee will be conclusive and binding on the Noteholders;
- (f) sets out the extent of the Note Trustee's powers and discretions, including its rights to delegate the exercise of its powers or duties to agents, to seek and act upon the advice of certain experts and to rely upon certain documents without further investigation;
- (g) sets out the scope of the Note Trustee's liability for any fraud, negligence or wilful default in connection with the exercise of its duties;
- (h) sets out the terms upon which the Note Trustee may, without the consent of the Noteholders, waive or authorise any breach or proposed breach of covenant by the Issuer, or determine that a Note Event of Default or an event which will become a Note Event of Default with the giving of notice or the passage of time will not be treated as such;
- (i) sets out the terms upon which the Note Trustee may, without the consent of the Noteholders, make or sanction any modification to the Conditions or to the terms of the Note Trust Deed or certain other Issuer Transaction Documents; and
- (j) sets out the requirements for the organisation of Noteholder meetings.

The Note Trust Deed also contains provisions governing the retirement or removal of the Note Trustee and the appointment of a replacement Note Trustee. The Note Trustee may at any time and for any reason resign as Note Trustee upon giving not fewer than three months' prior written notice to the Issuer. The holders of the Notes of each Class acting as a single class by Ordinary Resolution

may together remove the Note Trustee from office provided that all provisions of the Note Trust Deed with respect to such removal (and subsequent replacement and appointment of a replacement Note Trustee) are complied with in full. No retirement or removal of the Note Trustee (or any replacement Note Trustee) will be effective until a trust corporation has been appointed to act as replacement Note Trustee.

The appointment of a replacement Note Trustee will be made by the Issuer or, where the Note Trustee has given notice of its resignation and the Issuer has failed to make any such appointment by the expiry of the applicable notice period, by the Note Trustee itself.

## **Issuer Security Documents**

### ***Issuer Deed of Charge***

The Issuer will create security (the **Issuer Security**) over substantially all of its assets and undertakings, in favour of the Issuer Security Trustee pursuant to the Issuer Deed of Charge including:

- (a) an assignment (and, to the extent not assignable, a charge by way of first fixed charge) of its rights in respect of the Issuer Charged Documents (other than rights over which the Issuer has granted security pursuant to the German Security Agreement);
- (b) an assignment (or, to the extent not assignable, charge by way of first fixed charge) of its rights in respect of any amount standing from time to time to the credit of the Issuer Accounts (other than the Issuer Proceeds Account and the Class X Account);
- (c) a charge of its rights in respect of all shares, stocks, debentures, bonds or other securities and investments owned by it or held by a nominee on its behalf;
- (d) a first fixed charge of all of its rights in respect of: (i) the benefit of all authorisations (statutory or otherwise) held in connection with its use of any Issuer Charged Property; and (ii) any compensation which may be payable to it in respect of those authorisations;
- (e) a first floating charge over all of the Issuer's assets (other than (i) those subject to the fixed charges or assignments set out in paragraphs (a) to (d) above, (ii) those subject to the German Security Agreement and (iii) the Issuer Proceeds Account and the Class X Account); and
- (f) a first fixed charge in favour of the Issuer Security Trustee as trustee for the Class X Noteholders, for the payment and discharge of the Issuer's obligations to repay principal and to pay net interest earned on the Class X Account, in respect of the Class X Notes, over all its rights, title, interest and benefits both present and future in and to all sums of money or securities which are from time to time and at any time standing to the credit of the Class X Account.

The Issuer Security is held on trust by the Issuer Security Trustee for itself and the other Issuer Secured Creditors in respect of any and all monies, obligations and liabilities incurred or otherwise payable by or on behalf of the Issuer to the Issuer Secured Creditors under the Notes (except with respect to principal under the Class X Notes which is only secured by the Issuer Security referred to under paragraph (f) above) and the other Issuer Transaction Documents.

The Issuer Security Trustee (at the cost of the Issuer) must release and discharge the Issuer Security to the extent it relates to the Securitised Senior Loan and Common Transaction Security that pertains to the same in order to allow: (i) a sale of the same to proceed to the Purchasing Party under the

Intercreditor Agreement or (ii) a sale of the same by the Special Servicer under the terms of the Servicing Agreement to proceed.

The Issuer Deed of Charge:

- (A) regulates the relationship between the various Issuer Secured Creditors (including the Note Trustee on behalf of the Noteholders);
- (B) incorporates market standard provisions whereby all Issuer Secured Creditors agree that the Issuer Security Trustee alone may enforce the Issuer Security; and
- (C) includes market standard limited recourse and non-petition provisions.

***German Security Agreement***

Pursuant to the German Security Agreement, the Issuer will grant security to the Issuer Security Trustee to secure the obligations of the Issuer to the Noteholders (other than as to principal with respect to the Class X Notes) and the other Issuer Secured Creditors in respect of its German law governed present and future rights, claims and interest:

- (a) against the Common Security Agent under the German Security Trust Agreement;
- (b) under any reports, valuations and legal opinions to which the Issuer is a party or addressee or in relation to which the Issuer has the benefit against the relevant issuer of such report, valuation or legal opinion; and
- (c) against any Senior Obligor, any Senior Finance Party or any other party to a Senior Finance Document arising out of or in connection with any Senior Finance Document (other than the German Security Trust Agreement).

## NOTEHOLDER COMMUNICATIONS

Any Verified Noteholder will be entitled from time to time to request the Issuer Cash Manager to request other Noteholders of any Class or Classes to contact it subject to and in accordance with the following provisions.

For these purposes, **Verified Noteholder** means a Noteholder that has satisfied the Issuer Cash Manager in accordance with Condition 17.5(b) (Verified Noteholder and Initiating Noteholder).

Following receipt of a request for the publication of a notice from a Verified Noteholder (being the **Initiating Noteholder**), the Issuer Cash Manager will publish such notice on its investor reporting website and as an addendum to any Issuer Cash Manager Quarterly Report or other report to Noteholders due for publication within five Business Days of receipt of the same (or, if there is no such report, through a special notice for such purpose as soon as is reasonably practical after receipt of the same), provided that such notice contains no more than:

- (a) an invitation to other Verified Noteholders (or any specified Class or Classes of the same) to contact the Initiating Noteholder;
- (b) the name of the Initiating Noteholder and the address, phone number, website or email address at which the Initiating Noteholder can be contacted; and
- (c) the date(s) from, on or between which the Initiating Noteholder may be so contacted.

The Issuer Cash Manager will not be permitted to publish any further or different information through this mechanism.

The Issuer Cash Manager will have no responsibility or liability for the contents, completeness or accuracy of any such published information and will have no responsibility (beyond publication of the same in the manner described above) for ensuring the Noteholders receive the same.

## TERMS AND CONDITIONS OF THE NOTES

*The following are the terms and conditions of the Notes in the form (subject to amendment) in which they will be set out in the Note Trust Deed. The terms and conditions set out below will apply to the Notes in global form.*

The €135,800,000 Class A1 Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class A1 Notes**), the €19,000,000 Class A2 Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class A2 Notes**), the €23,000,000 Class B Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class B Notes**), the €29,300,000 Class C Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class C Notes**), the €32,000,000 Class D Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class D Notes**), the €32,700,000 Class E Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class E Notes**), the €20,900,000 Class F Commercial Mortgage Backed Floating Rate Notes due 2030 (the **Class F Notes**) and the €400,000 Class X Commercial Mortgage Backed Fixed Rate Notes due 2030 (the **Class X Notes** and, together with the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes (the **Notes**)) in each case of Arrow CMBS 2018 DAC (the **Issuer**) are constituted by a note trust deed dated on or about 22 November 2018 (the **Closing Date**) (the **Note Trust Deed**, which expression includes such note trust deed as from time to time modified in accordance with the provisions therein contained and any deed or other document expressed to be supplemental thereto, as from time to time so modified) and made between the Issuer and U.S. Bank Trustees Limited (the **Note Trustee**, which expression includes its successors or any other trustees under the Note Trust Deed) as trustee for the holders for the time being of the Notes.

The respective holders of the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes, the Class F Notes and the Class X Notes (each a **Noteholder** and, collectively, the **Noteholders**) are referred to in these terms and conditions (the **Conditions**) as the **Class A1 Noteholders**, the **Class A2 Noteholders**, the **Class B Noteholders**, the **Class C Noteholders**, the **Class D Noteholders**, the **Class E Noteholders**, the **Class F Noteholders** and the **Class X Noteholders**, respectively. Any reference in these Conditions to a **Class** of Notes or of Noteholders shall be a reference to any, or all of, the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes, the Class F Notes and the Class X Notes, as the case may be, or to the respective holders thereof.

The security for the Notes is constituted by a deed of charge dated on or about the Closing Date (the **Issuer Deed of Charge**, which expression includes such deed of charge as from time to time modified in accordance with the provisions therein contained and any deed or other document expressed to be supplemental thereto, as from time to time modified) and a German law governed security agreement (the **German Security Agreement**, which expression includes such German Security Agreement as from time to time modified in accordance with the provisions contained therein and any agreement or other document expressed to be supplemental thereto, as from time to time so modified and, together with the Issuer Deed of Charge, the **Issuer Security Documents**) and made between, among others, the Issuer and U.S. Bank Trustees Limited (the **Issuer Security Trustee**, which expression includes its successors or any other trustees under the Issuer Deed of Charge).

By an agency agreement dated on or about the Closing Date (the **Agency Agreement**, which expression includes such agency agreement as from time to time modified in accordance with the provisions therein contained and any agreement, deed or other document expressed to be supplemental thereto, as from time to time so modified) and made between, among others, the Issuer, the Note Trustee and Elavon Financial Services DAC, UK Branch in its separate capacities under the same agreement as principal paying agent (the **Principal Paying Agent**, which expression includes its successors or any other principal paying agent appointed in respect of the Notes) and the agent bank (the **Agent Bank**, which expression includes its successors or any other agent bank appointed in

respect of the Notes) (the Principal Paying Agent being together with any other paying agents, if any, appointed from time to time pursuant to the Agency Agreement, the **Paying Agents**) and Elavon Financial Services DAC as registrar (the **Registrar**, which expression includes its successors or any other registrar appointed in respect of the Notes and, together with the Paying Agents and the Agent Bank, the **Agents**), provision is made for, among other things, the payment of principal and interest in respect of the Notes of each Class.

The Noteholders and all persons claiming through them or under the Notes are entitled to the benefit of, are bound by and are deemed to have notice of the provisions of the Note Trust Deed, the Issuer Security Documents, the Agency Agreement and the other Issuer Transaction Documents applicable to them.

The statements in these Conditions include summaries of, and are subject to, the detailed provisions of the Note Trust Deed, the Issuer Security Documents, the Agency Agreement, the Liquidity Facility Agreements, the master definitions schedule entered into by, among others, the Issuer, the Note Trustee, the Issuer Security Trustee and the Agents (the **Master Definitions Schedule**) dated on or about the Closing Date and the other Issuer Transaction Documents.

Copies of the Note Trust Deed, the Issuer Security Documents, the Agency Agreement, the Liquidity Facility Agreements, the Servicing Agreement, the Cash Management Agreement, the Issuer Account Bank Agreement, the Corporate Services Agreement and the Master Definitions Schedule are available for inspection during normal business hours at the specified office for the time being of each of the Paying Agents.

Capitalised terms not otherwise defined in these Conditions shall bear the meanings given to them in the Master Definitions Schedule available as described above. These Conditions shall be construed in accordance with the principles of construction set out in the Master Definitions Schedule.

## **1. FORM, DENOMINATION AND TITLE**

### **1.1 Form and denomination**

- (a) Each Class of Notes will initially be represented by a global note certificate in registered form (a **Global Note**).
- (b) For so long as any of the Notes are represented by a Global Note, transfers and exchanges of beneficial interests in such Global Note and entitlement to payments thereunder will be effected subject to and in accordance with the rules and procedures from time to time of Euroclear Bank S.A./N.V. (**Euroclear**) or Clearstream Banking, *société anonyme* (**Clearstream, Luxembourg**), as appropriate. Each Global Note will be deposited with and registered in the name of a nominee of a common safekeeper for Euroclear and Clearstream, Luxembourg.
- (c) For so long as the Notes are represented by a Global Note, and for so long as Euroclear and Clearstream, Luxembourg so permit, the Notes shall be tradable only in the minimum nominal amount of €100,000 and higher integral multiples of €1,000, notwithstanding that no registered Definitive Notes (as defined below) will be issued with a denomination above €199,000.

### **1.2 Title**

- (a) Title to the Notes passes only by and upon registration in the register of Noteholders (the **Register**) which the Issuer shall procure be kept by the Registrar. 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 or any writing on, or the theft or loss of, the Global Note issued in respect of it) and no person will be liable for so treating the holder.

- (b) Ownership of interests in respect of the Global Notes will be limited to persons who have accounts with Euroclear and/or Clearstream, Luxembourg or persons who hold interests through such participants. Interests will be shown on, and transfers thereof will be effected only through, records maintained in book-entry form by Euroclear and Clearstream, Luxembourg and their participants. Beneficial interests in a Global Note may not be held by a U.S. person (as defined in Regulation S under the Securities Act) at any time.

### 1.3 Global Notes

- (a) Upon deposit of the Global Notes, Euroclear or Clearstream, Luxembourg, as applicable, will credit the account of each Accountholder (as defined below) with the principal amount of Notes for which it has subscribed and paid.
- (b) References in these Conditions to Euroclear and/or Clearstream, Luxembourg shall, wherever the context so admits, be deemed to include reference to any additional or alternative clearing system approved by the Issuer.
- (c) Each of the persons shown in the records of Euroclear and/or Clearstream, Luxembourg and/or any other relevant clearing system, as the case may be, as being entitled to an interest in a Global Note (each an **Accountholder**) must look solely to Euroclear and/or Clearstream, Luxembourg and/or such other relevant clearing system (as the case may be) for such Accountholder's share of each payment made by the Issuer to such Accountholder and in relation to all other rights arising under the Global Note. The extent to which, and the manner in which, Accountholders may exercise any rights arising under a Global Note will be determined by the respective rules and procedures of Euroclear and Clearstream, Luxembourg and any other relevant clearing system (as the case may be) from time to time. For so long as the relevant Notes are represented by a Global Note, Accountholders shall have no claim directly against the Issuer.

## 2. DEFINITIVE NOTES

### 2.1 Issue of Definitive Notes

- (a) A Global Note will be exchangeable for definitive Notes of the relevant Class in registered form (**Definitive Notes**) in an aggregate principal amount equal to the Principal Amount Outstanding (as defined in Condition 7.6 (Principal Amount Outstanding and Note Factor)) of the relevant Global Note only if any of the following circumstances apply:
  - (i) in the case of a Global Note held by or on behalf of a Common Safekeeper, either Euroclear or Clearstream, Luxembourg:
    - (A) is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise); or
    - (B) announces an intention permanently to cease business or does in fact do so,

and in either case no alternative clearing system acceptable to the Note Trustee is in existence; or

- (ii) as a result of any amendment to, or change in, the laws or regulations of the United Kingdom, Ireland, Germany, the Netherlands, Luxembourg, France or of any other jurisdiction (or any political sub division thereof) or of any authority therein or thereof having the power to tax, or in the interpretation or administration of such laws or regulations, which has become effective on or after the Closing Date, the Issuer or the Principal Paying Agent is or will be required to make any deduction or withholding from any payment in respect of the Notes which would not be required if the Notes were in definitive registered form.
- (b) If Definitive Notes are issued in respect of Notes originally represented by a Global Note, the beneficial interests represented by such Global Note shall be exchanged by the Issuer for the relevant Notes in registered definitive form. The aggregate principal amount of the Definitive Notes of the relevant Class shall be equal to the Principal Amount Outstanding of the Notes at the date on which notice of exchange is given of the Global Note for such Class, subject to and in accordance with the detailed provisions of these Conditions, the Agency Agreement, the Note Trust Deed and the relevant Global Note.
- (c) Definitive Notes (which, if issued, will be in the denomination set out below) will be serially numbered and will be issued in registered form only.
- (d) Each Definitive Note will have a minimum original principal amount of €100,000 and will be serially numbered.
- (e) Definitive Notes, if issued, will be available at the offices of any Paying Agent. If the Issuer fails to meet its obligations to issue Notes in definitive form in exchange for a Global Note, then that Global Note shall remain in full force and effect.
- (f) For the purposes of these Conditions, references herein to Notes shall include the Global Notes and the Definitive Notes. These Conditions and the Issuer Transaction Documents will be amended in such manner as the Note Trustee and Issuer Security Trustee require to take account of the issue of Definitive Notes.

## **2.2 Title to and transfer of Definitive Notes**

- (a) Title to a Definitive Note will pass upon registration in the Register. A Definitive Note may be transferred in whole or in part provided that any partial transfer relates to an original principal amount of at least €100,000 upon surrender of such Definitive Note, at the specified office of the Registrar.
- (b) In the case of a transfer of part only of a Definitive Note, a new Definitive Note in respect of the balance not transferred (subject to such balance not being less than €100,000) will be issued to the transferor. All transfers of Definitive Notes are subject to any restrictions on transfer set out in such Definitive Notes and the transfer regulations.

### **3. STATUS AND RELATIONSHIP BETWEEN THE NOTES AND THE ISSUER SECURITY**

#### **3.1 Status and relationship between the Notes**

- (a) The Notes constitute unconditional (subject as provided in Condition 11 (Enforcement)), direct, secured and limited recourse obligations of the Issuer. The Class X Notes are secured as to principal by amounts in the Class X Account only. The Notes of each Class will rank *pari passu* without any preference or priority among themselves as to payments of interest, principal and other amounts at all times. In respect of interest:
  - (i) The Class A1 Notes and the Class X Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest (except in relation to the EURIBOR Excess Amounts) senior to all other Classes of Notes as provided in these Conditions and the Issuer Transaction Documents.
  - (ii) The Class A2 Notes rank *pari passu* without preference or priority among themselves and in respect of payments of interest, junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts) and the Class X Notes as provided in these Conditions and the Issuer Transaction Documents.
  - (iii) The Class B Notes rank *pari passu* without preference or priority among themselves, and in respect of payments of interest junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts) and the Class X Notes as provided in these Conditions and the Issuer Transaction Documents.
  - (iv) The Class C Notes rank *pari passu* without preference or priority among themselves, and in respect of payments of interest junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes and the Class B Notes (except with respect to the EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
  - (v) The Class D Notes rank *pari passu* without preference or priority among themselves, and in respect of payments of interest junior to the Class A1 Notes (except with respect to the EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts) and the Class C Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
  - (vi) The Class E Notes rank *pari passu* without preference or priority among themselves, and in respect of payments of interest junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts), the Class C Notes (except in relation to EURIBOR Excess Amounts) and the Class D Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.

- (vii) The Class F Notes rank *pari passu* without preference or priority among themselves, and in respect of payments of interest junior to the Class A1 Notes (except in relation to EURIBOR Excess Amounts), the Class A2 Notes (except in relation to EURIBOR Excess Amounts), the Class X Notes, the Class B Notes (except in relation to EURIBOR Excess Amounts), the Class C Notes (except in relation to EURIBOR Excess Amounts), the Class D Notes (except in relation to EURIBOR Excess Amounts) and the Class E Notes (except in relation to EURIBOR Excess Amounts) as provided in these Conditions and the Issuer Transaction Documents.
- (b) In respect of principal, prior to the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, Principal Receipts are paid *pro rata* to the Notes (other than the Class X Notes). Following the occurrence of a Sequential Payment Trigger or the service of a Note Acceleration Notice, Principal Receipts are paid sequentially to the Notes.
- (c) Payment of EURIBOR Excess Amounts in respect of all Notes is subordinated to payments of interest, Note Prepayment Amounts and principal on all Notes. Payment of EURIBOR Excess Amounts is made sequentially, first to the Class A1 Notes, second to the Class A2 Notes, third to the Class B Notes, fourth to the Class C Notes, fifth to the Class D Notes, sixth to the Class E Notes and seventh to the Class F Notes.
- (d) In respect of the Class X Notes, principal will be paid when due from the Class X Account (the Class X Account is secured in favour of the Class X Noteholders only) and into which the Issuer will deposit, on the Closing Date, the proceeds of the issuance of the Class X Notes (being an amount equal to €400,000). No other Class of Notes will be entitled to payment from amounts standing to the credit of the Class X Account and, therefore, the Class X Notes do not rank against any other Class of Notes with respect to principal amounts distributable from the Issuer Transaction Account.
- (e) The Note Trust Deed contains provisions requiring the Note Trustee to have regard to the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders equally as regards all rights, powers, trusts, authorities, duties and discretions of the Note Trustee (except where expressly provided otherwise), but requiring the Note Trustee in any such case to have regard only (subject to the requirement to obtain the prior consent of the Class X Noteholders with respect to any Class X Entrenched Rights) to:
  - (i) the interests of the Class A1 Noteholders (for so long as there are any Class A1 Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:
    - (A) the Class A1 Noteholders; and
    - (B) the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and/or the Class F Noteholders; or
  - (ii) subject to paragraph (i) above, the interests of the Class A2 Noteholders (for so long as there are any Class A2 Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:

- (A) the Class A2 Noteholders; and
  - (B) the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and/or the Class F Noteholders; or
- (iii) subject to paragraphs (i) and (ii) above, the interests of the Class B Noteholders (for so long as there are any Class B Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:
  - (A) the Class B Noteholders; and
  - (B) the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and/or the Class F Noteholders; or
- (iv) subject to paragraphs (i), (ii) and (iii) above, the interest of the Class C Noteholders (for so long as there are any Class C Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:
  - (A) the Class C Noteholders; and
  - (B) the Class D Noteholders, the Class E Noteholders and/or the Class F Noteholders; or
- (v) subject to paragraphs (i), (ii), (iii) and (iv) above, the interest of the Class D Noteholders (for so long as there are any Class D Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:
  - (A) the Class D Noteholders; and
  - (B) the Class E Noteholders and/or the Class F Noteholders; or
- (vi) subject to paragraphs (i), (ii), (iii), (iv) and (v) above, the interest of the Class E Noteholders (for so long as there are any Class E Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of:
  - (A) the Class E Noteholders; and
  - (B) the Class F Noteholders; or
- (vii) subject to paragraphs (i), (ii), (iii), (iv), (v) and (vi) above, the interest of the Class F Noteholders (for so long as there are any Class F Notes outstanding) if, in the Note Trustee's opinion, there is a conflict between the interests of the Class F Noteholders.

Except where expressly provided otherwise, so long as any of the Notes remain outstanding, the Note Trustee is not required to have regard to the interest of the Class X Noteholders.

- (f) The Note Trust Deed contains provisions limiting the powers of: (i) the Class A2 Noteholders among other things, to request or direct the Note Trustee to take any action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders; (ii) the Class B Noteholders among other things, to request or direct the Note Trustee to take any

action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders or the Class A2 Noteholders; (iii) the Class C Noteholders among other things, to request or direct the Note Trustee to take any action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders, the Class A2 Noteholders or the Class B Noteholders; (iv) the Class D Noteholders among other things, to request or direct the Note Trustee to take any action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders or the Class C Noteholders; (v) the Class E Noteholders among other things, to request or direct the Note Trustee to take any action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders or the Class D Noteholders; and (vi) the Class F Noteholders among other things, to request or direct the Note Trustee to take any action or to pass any Extraordinary Resolution or Ordinary Resolution according to the effect thereof on the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders or the Class E Noteholders.

- (g) Except in certain circumstances as set out in the Note Trust Deed, the Note Trust Deed contains no such limitation on the powers of the Class A1 Noteholders or, by reference to the effect on the interests of the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders, the exercise of which powers will be binding on the Class A2 Noteholders or the Class B Noteholders or the Class C Noteholders or the Class D Noteholders, the Class E Noteholders or the Class F Noteholders irrespective of the effect thereof on their interests, in each case, subject as provided below in Condition 14 (Meetings of Noteholders, modification and waiver, substitution and termination of Issuer Related Parties).
- (h) The Class X Noteholder will not be entitled to convene, count in the quorum or pass resolutions (including Extraordinary Resolutions and Ordinary Resolutions) other than for resolutions specifically presented to them by request of the Servicer or the Special Servicer acting on behalf of the Issuer, or in respect of a Class X Entrenched Right. Any Ordinary Resolution or Extraordinary Resolution passed by any Class of Noteholders will be binding on the Class X Noteholder (other than any resolutions in respect of a Class X Entrenched Right unless the Class X Noteholder(s), by way of Extraordinary Resolution of the Class X Noteholders, have consented) if passed in accordance with the Conditions.
- (i) Nothing in the Note Trust Deed or the Notes shall be construed as giving rise to any relationship of agency or partnership between the Noteholders and any other person and each Noteholder shall be acting entirely for its own account in exercising its rights under the Note Trust Deed or the Notes.

### 3.2 Security

- (a) As security for its obligations under, *inter alia*, the Notes, the Issuer has granted the Issuer Security in favour of the Issuer Security Trustee on trust for itself, the Noteholders (other than as to principal with respect to the Class X Notes except as set forth under paragraph (i)(F) below), the Issuer Related Parties any other person acceding to the Issuer Security Documents as beneficiary from time to time and any

other person designated as such by the Issuer and the Issuer Security Trustee (all of such persons being collectively, the **Issuer Secured Creditors**):

- (i) pursuant to the Issuer Deed of Charge:
  - (A) an assignment (or to the extent not assignable, a charge by way of a first fixed charge) of the Issuer's rights in respect of the Issuer Charged Documents (other than rights over which the Issuer has granted security pursuant to the German Security Agreement);
  - (B) an assignment (or to the extent not assignable, a charge by way of a first fixed charge) of the Issuer's rights in respect of any amount standing from time to time to the credit of the Issuer Accounts (other than the Issuer Proceeds Account and the Class X Account);
  - (C) a first fixed charge over the Issuer's rights in respect of all shares, stocks, debentures, bonds or other securities and investments owned by it or held by a nominee on its behalf;
  - (D) a first fixed charge over the Issuer's rights in respect of: (1) the benefit of all authorisations (statutory or otherwise) held in connection with its use of any Issuer Charged Property; and (2) any compensation which may be payable to it in respect of those authorisations;
  - (E) a first floating charge over all of the Issuer's assets (other than (1) those subject to the fixed charges or assignments set out in paragraphs (A) to (D) above, (2) those subject to the German Security Agreement and (3) the Issuer Proceeds Account and the Class X Account); and
  - (F) a first fixed charge in favour of the Issuer Security Trustee as trustee for the Class X Noteholders only, for the payment and discharge of the Issuer's obligations to repay principal and to pay net interest earned on the Class X Account in respect of the Class X Notes, all its rights, title, interest and benefits both present and future in and to all sums of money or securities which are from time to time and at any time standing to the credit of the Class X Account; and
- (ii) pursuant to the German Security Agreement in respect of its present and future rights, claims and interest:
  - (A) against the Common Security Agent under the German Security Trust Agreement;
  - (B) under any reports, valuations and legal opinions to which the Issuer is a party or addressee or in relation to which the Issuer has the benefit against the relevant issuer of such report, valuation or legal opinion; and
  - (C) against any Senior Obligor, any Senior Finance Party or any other party to a Senior Finance Document arising out of or in connection with any Senior Finance Document (other than the German Security Trust Agreement).

- (b) The Noteholders and the other Issuer Secured Creditors will share in the benefit of the security constituted by the Issuer Deed of Charge, upon and subject to the terms and conditions of the Issuer Deed of Charge.

### **3.3 Restrictions on disposal of Issuer Security**

- (a) The Issuer Deed of Charge contains provisions regulating the priority of application of the Issuer Security (and the proceeds thereof) by the Issuer (or the Issuer Cash Manager on its behalf) among the persons entitled thereto prior to the service of a Note Acceleration Notice and provisions regulating such application by the Issuer Security Trustee (or the Issuer Cash Manager on its behalf) after the service of a Note Acceleration Notice.
- (b) If the Issuer Security has become enforceable otherwise than by reason of a default in payment of any amount due on the Notes, the Issuer Security Trustee will not be entitled to dispose of the undertaking, property or assets secured under the Issuer Security or any part thereof or otherwise realise the Issuer Security unless:
  - (i) a sufficient amount would be realised to allow discharge in full of all amounts owing to the Noteholders and any amounts required under the Issuer Deed of Charge to be paid *pari passu* with, or in priority to, the Notes; or
  - (ii) the Issuer Security Trustee is of the opinion, which shall be binding on the Noteholders and the Issuer Secured Creditors, reached after considering at any time and from time to time the advice of such professional advisers as are selected by the Issuer Security Trustee (at the cost of the Issuer), upon which the Issuer Security Trustee shall be entitled to rely conclusively and without liability, that the cashflow prospectively receivable by the Issuer will not (or that there is a significant risk that it will not) be sufficient, having regard to any other actual, contingent or prospective liabilities of the Issuer, to discharge in full in due course all amounts owing to: (A) the Noteholders any amounts required under the Issuer Deed of Charge to be paid *pari passu* with, or in priority to, the Notes; and (B) once all the Noteholders (and all such higher ranking persons) have been repaid, to the remaining Issuer Secured Creditors in the order of priority set out in the Post-Enforcement Priority of Payments; or
  - (iii) the Issuer Security Trustee considers, in its discretion, that to not effect such disposal or realisation would place the Issuer Security in jeopardy,

and in each case, the Issuer Security Trustee has been indemnified and/or secured and/or prefunded to its satisfaction.

- (c) Security Interests created pursuant to the Issuer Deed of Charge will be released in, among others, the following circumstances:
  - (i) all amounts which the Issuer Cash Manager, on behalf of the Issuer and the Issuer Security Trustee (if applicable), is permitted to withdraw from the Issuer Account(s), in accordance with the Issuer Deed of Charge, any such release to take effect immediately upon the relevant withdrawal being made; or



- (ii) a sale of the Securitised Senior Loan and any Common Transaction Security pertaining to it pursuant to the Intercreditor Agreement or by the Special Servicer pursuant to the Servicing Agreement.

## 4. COVENANTS

### 4.1 Restrictions

- (a) The Issuer has given certain covenants to the Note Trustee and the Issuer Security Trustee in the Note Trust Deed and the Issuer Deed of Charge, respectively. In particular, save with the prior written consent of the Note Trustee or the Issuer Security Trustee, as applicable, or unless otherwise permitted under these Conditions or the Issuer Transaction Documents, the Issuer shall not, so long as any Note remains outstanding:
  - (i) **Negative pledge:** create or permit to subsist any encumbrance (unless arising by operation of law or permitted under any of the Issuer Transaction Documents) or other security interest whatsoever over any of its assets or undertakings;
  - (ii) **Restrictions on activities:** (A) engage in any activity whatsoever which is not incidental to or necessary in connection with any of the activities in which the Issuer Transaction Documents provide or envisage that the Issuer will engage; or (B) have any subsidiaries (as defined in the English Companies Act), any subsidiary undertakings (as defined in the English Companies Act) or any employees or premises; or (C) engage in any activity whatsoever which is not incidental to or necessary in connection with any of the activities in which the Issuer Transaction Documents provide or envisage that the Issuer will engage;
  - (iii) **Disposal of assets:** transfer, sell, lend, part with or otherwise dispose of, or deal with, or grant any option or present or future right to acquire any of its assets or undertakings or any interest, estate, right, title or benefit therein;
  - (iv) **Dividends or distributions:** pay any dividend or make any other distribution to its shareholders or issue any further shares;
  - (v) **Indebtedness:** incur any financial indebtedness or give any guarantee in respect of any financial indebtedness or of any other obligation of any person;
  - (vi) **Merger:** consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entirety to any other person;
  - (vii) **No modification or waiver:** permit any of the Issuer Transaction Documents to which it is a party to become invalid or ineffective or permit the priority of the security interests created or evidenced thereby or pursuant thereto to be varied, or agree to any modification of, or grant any consent, approval, authorisation or waiver pursuant to, or in connection with, any of the Issuer Transaction Documents to which it is a party, or permit any party to any of the Issuer Transaction Documents to which it is a party to be released from its obligations or exercise any right to terminate any of the Issuer Transaction Documents to which it is a party (in each case, without prejudice to the Servicing Agreement and the express provisions of the Issuer Transaction Documents);

- (viii) **Bank accounts:** have an interest in any bank account other than the Issuer Accounts, unless such account or interest therein is charged to the Issuer Security Trustee on terms acceptable to it;
  - (ix) **U.S. activities:** engage, or permit any of its affiliates to engage, in any activities in the United States (directly or through agents), derive, or permit any of its affiliates to derive, any income from sources within the United States as determined under United States federal income tax principles, and hold, or permit any of its affiliates to hold, any property that would cause it or any of its affiliates to be engaged or deemed to be engaged in a trade or business within the United States as determined under United States federal income tax principles;
  - (x) **Centre of main interests:** move its Centre of Main Interests outside of Ireland or open any centre of main interest, branch, office or establishment outside of Ireland;
  - (xi) **Independent directors:** permit its directors not to act independently of any of its creditors or their respective affiliates, other than the Corporate Services Provider;
  - (xii) **Separate Identity:**
    - (A) allow any known misunderstandings regarding its separate identity from any of its members, general partners, principals or affiliates thereof or any other person to remain uncorrected;
    - (B) mislead any party as to the identity with which such other party is transacting business;
    - (C) become responsible for, guarantee or become obliged to pay the debts of any other third party or hold out credit as available to satisfy the obligations of others; and
    - (D) fail to observe all corporate facilities with respect to its affairs;
  - (xiii) **Corporation tax:** take any action which would cause it to cease to be a "qualifying company" within the meaning of Section 110 of the Taxes Consolidation Act 1997 (as amended) (**TCA**); and
  - (xiv) **VAT:** apply to become part of any group for the purposes of Section 15 of the Value Added Tax Consolidation Act 2010 or under applicable law implementing Article 11 of Directive 2006/112/EC.
- (b) In giving any consent to the foregoing, the Note Trustee may require the Issuer to make such modifications or additions to the provisions of any of the Issuer Transaction Documents or may impose such other conditions or requirements as the Note Trustee may deem expedient (in its absolute discretion) in the interests of the Noteholders but subject to the terms of the Issuer Transaction Documents.

## **4.2 Additional restrictions**

Save with the prior written consent of the Note Trustee or unless otherwise permitted under any of the Issuer Transaction Documents, the Issuer shall, so long as any Note remains outstanding:

- (a) maintain its books and records, accounts and financial statements separate from any other person or entity and use separate stationery, invoices and cheques;
- (b) hold itself out as a separate entity, conduct its business in its own name and maintain an arm's length relationship with its affiliates (if any);
- (c) pay its own liabilities out of its own funds;
- (d) not commingle its assets with those of any other entity; and
- (e) observe all formalities required by its constitution (including maintaining adequate capital for its operations).

## **4.3 Issuer Transaction Documents**

The Issuer will provide the Paying Agents with copies of the Note Trust Deed, the Issuer Security Documents, the Agency Agreement, the Liquidity Facility Agreements, the Servicing Agreement, the Cash Management Agreement, the Issuer Account Bank Agreement, the Corporate Services Agreement and the Master Definitions Schedule, which will be available for inspection during normal business hours at the specified office for the time being of each of the Paying Agents.

## **4.4 Cash Managers, Servicer and Special Servicer**

So long as any Note remains outstanding, the Issuer will procure that there will at all times be a cash manager in respect of the monies from time to time standing to the credit of the Issuer Accounts and a servicer and a special servicer in respect of the Issuer Assets. The Issuer Cash Manager, the Servicer and the Special Servicer will not be permitted to terminate their appointments unless a replacement cash manager, servicer or special servicer, as the case may be, has been appointed in accordance with the terms of the Cash Management Agreement and the Servicing Agreement, respectively.

## **4.5 Dealings with the Rating Agencies**

The Issuer shall not engage in any communication (whether written, oral, electronic or otherwise) with any of the Rating Agencies unless it:

- (a) has given at least two Business Days' notice of the same to the Note Trustee, the Issuer Security Trustee, the Issuer Cash Manager, the Servicer and the Special Servicer;
- (b) permits such parties (or any of them) to participate in such communications; and
- (c) summarises any information provided to the Rating Agencies in such communication in writing to the Note Trustee, the Issuer Security Trustee, the Issuer Cash Manager, the Servicer and the Special Servicer.

## 5. INTEREST

### 5.1 Period of accrual

- (a) Each Note (other than the Class X Notes) bears interest on its Principal Amount Outstanding from (and including) the Closing Date. Each Note (other than the Class X Notes) accrues EURIBOR Excess Amounts for each Note Interest Period commencing on or after the Senior Loan Maturity Date.
- (b) Each Note (or, in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest from its due date for redemption unless payment of the relevant amount of principal or any part thereof is improperly withheld or refused.
- (c) Where such payment of principal is improperly withheld or refused on any Note, interest will continue to accrue thereon (before as well as after any judgment) at the rate applicable to such Note up to (but excluding) the date on which payment in full of the relevant amount of principal, together with the interest accrued thereon, is made or (if earlier) the seventh day after notice is duly given to the holder thereof (either in accordance with Condition 17 (Notice to Noteholders) or individually) that, upon presentation thereof being duly made, in the case of a Global Note, or otherwise in the case of a Definitive Note, such payment will be made, *provided that* upon presentation thereof being duly made, payment is in fact made.
- (d) Whenever it is necessary to compute an amount of interest for any period (including any Note Interest Period (as defined below)), such interest shall be calculated on the basis of actual days elapsed and a 360-day year.

### 5.2 Note Payment Dates and Note Interest Periods

- (a) Interest on the Notes is, subject as provided below in relation to the first Note Payment Date, payable quarterly in arrears on 22 February, 22 May, 22 August and 22 November in each year and on the Final Note Maturity Date (or, if such day is not a Business Day, the next following Business Day in that Month (if there is one) or the preceding Business Day (if there is not)) (each, a **Note Payment Date**) in respect of the Note Interest Period ending immediately prior thereto. The first Note Payment Date in respect of each Class of Notes is the Note Payment Date falling on 22 February 2019 in respect of the period from (and including) the Closing Date to (but excluding) that Note Payment Date.
- (b) In these Conditions, **Note Interest Period** shall mean the period from (and including) a Note Payment Date to (but excluding) the next following Note Payment Date, *provided that* the first Note Interest Period shall be the period from (and including) the Closing Date to (but excluding) the Note Payment Date falling in February 2019. If a Note Interest Period would otherwise end on a day which is not a Business Day, that Note Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

### 5.3 Deferral of Interest, EURIBOR Excess Amounts and Note Prepayment Fees

- (a) To the extent that, on any Note Payment Date (other than the Final Note Maturity Date), there are insufficient funds to pay (in accordance with the relevant Issuer Priority of Payments) the full amount of interest due on any Class of Notes (other than all interest on the Class A1 Notes and the Class A2 Notes) (taking into account

the Class D Available Funds Cap, the Class E Available Funds Cap and the Class F Available Funds Cap) and/or any EURIBOR Excess Amount and/or any Note Prepayment Fees due on any Class of Notes, the amount of shortfall in interest (the **Deferred Interest**), EURIBOR Excess Amount (the **Deferred EURIBOR Excess Amount**) and/or Note Prepayment Fees (the **Deferred Note Prepayment Fees**) will not fall due on that Note Payment Date. Instead, the Issuer (or the Issuer Cash Manager on its behalf) shall, in respect of each affected Class of Notes, create a provision in its accounts for the related Deferred Interest, Deferred EURIBOR Excess Amount and/or Deferred Note Prepayment Fees on the relevant Note Payment Date.

- (b) Such Deferred Interest shall accrue interest at the same rate as that payable in respect of the related Class of Notes from the date of deferral. Deferred Note Prepayment Fees and Deferred EURIBOR Excess Amounts will not accrue any interest. Such Deferred Interest, Deferred EURIBOR Excess Amounts and/or Deferred Note Prepayment Fees shall be payable together with such accrued interest (if applicable) on the earlier of:
  - (i) any succeeding Note Payment Date when any such Deferred Interest and/or Deferred EURIBOR Excess Amount and/or Deferred Note Prepayment Fees shall be paid, but only if and to the extent that, on such Note Payment Date, there are sufficient Available Funds, after deducting amounts ranking in priority thereto in accordance with the relevant Issuer Priority of Payments; and
  - (ii) the Final Note Maturity Date or such other date on which the relevant Class of Notes is redeemed in full.

For the avoidance of doubt, Deferred Interest shall accrue interest at the same rate as that payable in respect of the related Class of Notes. Deferred Note Prepayment Fees and Deferred EURIBOR Excess Amounts will not accrue any interest.

## 5.4 Rates of Interest

- (a) The rate of interest payable from time to time in respect of each Class of Notes (each, a **Rate of Interest** and together, the **Rates of Interest**) will be determined by the Agent Bank on the basis of the following provisions.
- (b) The Rate of Interest applicable to Notes of each Class (other than the Class X Notes) for any Note Interest Period will be equal to (i) the three-month EURIBOR (subject to a floor of zero) plus (ii) the Relevant Margin. For each Note Interest Period commencing on or after the Senior Loan Maturity Date, the EURIBOR component of the Rate of Interest payable on each Class of Notes (other than the Class X Notes) will be subject to the EURIBOR Notes Cap.
- (c) For the purposes of these Conditions, **Relevant Margin** means, with respect to each Class of Notes (other than the Class X Notes):
  - (i) Class A1 Notes: 1.10 per cent. per annum;
  - (ii) Class A2 Notes: 1.20 per cent. per annum;
  - (iii) Class B Notes: 1.50 per cent. per annum;
  - (iv) Class C Notes: 2.05 per cent. per annum;

- (v) Class D Notes: 2.70 per cent. per annum;
  - (vi) Class E Notes: 3.40 per cent. per annum; and
  - (vii) Class F Notes: 4.75 per cent. per annum.
- (d) Each Class X Note represents an entitlement to receive (A) the Class X Amount on each Note Payment Date, where:

**Class X Amount** means, for each Note Payment Date:

- (i) the aggregate amount of Available Funds received by the Issuer during the most recently ended Senior Loan Interest Period or, following the service of a Note Acceleration Notice, all funds applied in accordance with the Post-Enforcement Priority of Payments;
- minus
- (ii) the aggregate of (without double counting):
    - (A) the Administrative Fees paid or payable by the Issuer pursuant to the relevant Issuer Priorities of Payment on such Note Payment Date; and
    - (B) the amount payable on such Note Payment Date pursuant to:
      - (I) items (a) to (dd) (inclusive) (other than item (f)(ii)) of the Pre-Enforcement Priority of Payments; and
      - (II) items (a) to (r) (inclusive) of the Post-Enforcement Priority of Payments; and
    - (C) on the final Note Payment Date (or on any other date on which the Notes are redeemed in full) only, an amount equal to the lower of (a) €150,000 and (b) the Class X Amount for such Note Payment Date (ignoring for this purpose, this limb (C) of the definition of Class X Amount), such amount to be paid directly to the Loan Sellers on a *pro rata* basis,

or (if such amount is a negative amount) zero, (B) any Class X Released Interest Diversion Amount (such amount to be paid directly to the Class X Noteholders and not in accordance with the relevant Issuer Priority of Payment) and (C) any Senior Loan Prepayment Fee in excess of those allocated to the Notes (other than the Class X Notes) (such amount to be paid directly to the Class X Noteholders and not in accordance with the relevant Issuer Priority of Payments).

- (e) The Agent Bank will at, or as soon as practicable after, 11.00 a.m. (Brussels time) two Business Days prior to the first day of each Note Interest Period or, in the case of the first Note Interest Period for which the rate will apply, on the Closing Date (each, an **Interest Determination Date**), determine:
  - (i) the Rate of Interest applicable to, and calculate the amount of interest payable on, each of the Notes (other than the Class X Notes); and

- (ii) (in respect of each Note Interest Period commencing on or after the Senior Loan Maturity Date) the EURIBOR Excess Amount for each Class of Notes,

for that Note Interest Period. The Class X Amount (and any other amounts payable to the Class X Noteholders) payable on each Note Payment Date will be determined by the Issuer Cash Manager on the Determination Date immediately preceding the relevant Note Payment Date.

- (f) For the purposes of determining the Rate of Interest in respect of the Notes (other than the Class X Notes) **EURIBOR** will be determined by the Agent Bank on the basis of the following provisions:

- (i) on each Interest Determination Date, the Agent Bank will determine at, or as soon as practicable after, 11.00 a.m. (Brussels time) on such date the interest rate for three-month euro deposits in the European interbank market which appears on the Reuters screen page EURIBOR01 (the **EURIBOR Screen Rate**) (or (I) such other page as may replace the Reuters screen page EURIBOR01 for the purpose of displaying such information or (II) if that service ceases to display such information, such page as displays such information on such equivalent service (or, if more than one, that one which is approved by the Note Trustee)); or
- (ii) if the EURIBOR Screen Rate is not then available, the arithmetic mean (rounded to four decimal places, 0.00005 rounded upwards) of the rates notified to the Agent Bank at its request by each of three Note Reference Banks duly appointed for such purpose as the rate at which three-month deposits in euro are offered for the same period as that Note Interest Period by those Note Reference Banks to prime banks in the European interbank market at or about 11.00 a.m. (Brussels time) on that date. If, on any such Interest Determination Date, at least two of the Note Reference Banks provide such offered quotations to the Agent Bank, the relevant rate shall be determined, as aforesaid, on the basis of the offered quotations of those Note Reference Banks providing such quotations. If, on any such Interest Determination Date, only one or none of the Note Reference Banks provides the Agent Bank with such an offered quotation, the Agent Bank shall forthwith consult with the Issuer for the purposes of agreeing one or, as the case may be, two additional bank(s) to provide such a quotation or quotations to the Agent Bank, and the rate for the Note Interest Period in question shall be determined, as aforesaid, on the basis of the offered quotations of such Note Reference Bank and/or banks as so agreed. If no such bank or banks is or are so agreed or such bank or banks as so agreed does not or do not provide such a quotation or quotations, then the rate for the relevant Note Interest Period shall be the arithmetic mean (rounded to four decimal places, 0.00005 being rounded upwards) of the rates quoted by major banks in the European interbank market, selected by the Agent Bank, at approximately 11.00 a.m. (Brussels time) on the Closing Date or the relevant Interest Determination Date, as the case may be, for loans in euro to leading Eurozone banks for a period of three months or, in the case of the first Note Interest Period, the same as the relevant Note Interest Period. If the Rate of Interest cannot be determined in accordance with the above provisions, the Rate of Interest shall be determined as at the last preceding Interest Determination Date.

If any rate determined in accordance with the above is below 0 per cent. per annum, EURIBOR will be deemed to be 0 per cent. per annum.

## 5.5 Note Prepayment Fee

On each Note Payment Date, the Senior Loan Prepayment Fee received by the Issuer during the immediately preceding (or then ending) Senior Loan Interest Period (the **Relevant Prepayment Fees**) will be allocated to each Class of Notes (other than the Class X Notes) that is subject to prepayment on such Note Payment Date (the **Class of Prepaid Notes**) in an amount equal to the Note Prepayment Fee calculated for that Class of Prepaid Notes by reference to each such Note Payment Date. Any Relevant Prepayment Fees in excess of those allocated to the Class or Classes of Prepaid Notes will be paid directly to the Class X Noteholders in accordance with Condition 5.4(d).

**Administrative Fee Rate** means, for any Note Interest Period, an amount expressed as a percentage equal to (i) the Administrative Fees paid during such Note Interest Period, divided by (ii) the aggregate outstanding principal balances of the Notes during each such Note Interest Period.

**Administrative Fees** means, with respect to any Note Payment Date, an amount equal to the aggregate of (i) the items set out in (a) to (d) of the Pre-Enforcement Priority of Payments and (ii) the accrued LF Commitment Fee, in each case, due to be paid by the Issuer on such Note Payment Date.

**Excess Amount** means, with respect to any Note Payment Date, the number of basis points by which the Senior Loan Margin exceeds the sum of (i) the WAFR and (ii) the Note WAC.

The **Margin Factor**, with respect to any Class of Prepaid Notes and any Note Payment Date, is the result (expressed as a percentage) of: (i) the Note Margin Interest due on such Class of Prepaid Notes on such Note Payment Date, divided by (ii) the aggregate Note Margin Interest due on all Classes of Prepaid Notes on such Note Payment Date.

The **Note Margin Interest** means, with respect to any Class of Prepaid Notes and any Note Payment Date, the aggregate amount of interest payable on such Class of Prepaid Notes on such Note Payment Date which has accrued during the Note Interest Period ending on such Note Payment Date at the rate equal to the Relevant Margin applicable to such Class of Prepaid Notes.

The **Note Portion Factor** means, with respect to any Note Payment Date: (a) 1.00 minus (b) the Excess Amount divided by the Senior Loan Margin (expressed in basis points).

**Note Prepayment Fee** or **Note Prepayment Amount** means, with respect to a Class of Prepaid Notes, the product of (i) the Relevant Prepayment Fees and (ii) the Prepayment Fee Factor related to the relevant Class of Prepaid Notes.

**Note WAC** means, with respect to any Note Payment Date, the weighted average note margin for the Notes (other than the Class X Notes), weighted based on the outstanding principal balance of each Class of Notes as the related Note Interest Period.

**Prepayment Fee Factor** means, with respect to any relevant Class of Prepaid Notes, the product of (i) the Margin Factor for such Class of Notes and (ii) the Note Portion Factor.

**WAFR** means, with respect to any Note Payment Date, the weighted average annualised Administrative Fee Rate for a Note Interest Period based upon the Administrative Fee Rate



for the current Note Interest Period and the prior three Note Interest Periods (or, in respect of the first three Note Payment Dates following the Closing Date, the prior Note Interest Periods (if any)), weighted based on the aggregate outstanding principal balance of the Notes during each such Note Interest Period.

## **5.6 EURIBOR Excess Amounts**

- (a) On each Note Payment Date relating to each Note Interest Period commencing on or after the Senior Loan Maturity Date, to the extent there is a difference between the Rate of Interest that would have been payable had the Rate of Interest not been subject to the EURIBOR Notes Cap and the Rate of Interest that is actually payable after application of the EURIBOR Notes Cap, the Noteholders of each Class will be entitled to a payment by way of additional return equal to the amount of that difference (the **EURIBOR Excess Amount**).
- (b) The payment of the EURIBOR Excess Amount will be subordinated to, *inter alia*, the payment of interest on and repayment of principal of the Notes in accordance with the relevant Issuer Priority of Payments.
- (c) EURIBOR Excess Amounts are to be calculated by the Agent Bank for each Note Interest Period occurring on or after the Senior Loan Maturity Date on the same basis as EURIBOR is calculated, in accordance with Condition 5.1 (Period of accrual).

## **5.7 Determination of Rates of Interest and calculation of Interest Amounts for Notes**

- (a) The Agent Bank shall at, or as soon as practicable after, each Interest Determination Date, but in no event later than the third day of the relevant Note Interest Period, notify the Issuer, the Note Trustee, the Issuer Cash Manager, the Paying Agents and each of the Clearing Systems in writing of (i) the Rates of Interest applicable to each Class of Notes (other than the Class X Notes), (ii) the amount of interest (the **Interest Amount**) payable on each Class of Notes (other than the Class X Notes), subject to Condition 5.2 (Note Payment Dates and Note Interest Periods), Condition 5.3 (Deferral of Interest, EURIBOR Excess Amounts and Note Prepayment Fees), Condition 5.4 (Rates of Interest) and Condition 5.10 (Available Funds Cap – Class D Notes, Class E Notes and Class F Notes), (iii) the EURIBOR Excess Amount payable in respect of each Class of the Notes (other than the Class X Notes), subject to Condition 5.3 (Deferral of Interest, EURIBOR Excess Amounts and Note Prepayment Fees), and (iv) each Note Factor (as defined in Condition 7.6 (Principal Amount Outstanding and Note Factor)), in each case for the Note Interest Period immediately following such Interest Determination Date (or in the case of the first Note Interest Period, for the Note Interest Period within which such Interest Determination Date falls).
- (b) Each Interest Amount in respect of the Notes of each Class (other than the Class X Notes) shall be calculated by applying the relevant Rate of Interest to the Principal Amount Outstanding of the relevant Class of Notes and multiplying such sum by the actual number of days in the relevant Note Interest Period divided by 360, and rounding the resultant figure downward to the nearest cent.
- (c) The Class X Amount (and any other amount to be paid to the Class X Noteholders under Condition 5.4(d)) for each Note Payment Date will be determined by the Issuer Cash Manager on the Determination Date immediately prior to such Note Payment Date.

## 5.8 Default interest amount

On each Note Payment Date on which any Note (other than the Class X Note) is outstanding following the application of Available Funds in accordance with paragraphs (a) to (cc) of the Pre-Enforcement Priority of Payments, an amount of the remaining Available Funds up to the Default Interest Withheld Amount will be retained on deposit in the Issuer Transaction Account in accordance with paragraph (dd) of the Pre-Enforcement Priority of Payments. On the subsequent Note Payment Date, such amount will, prior to the Senior Loan Maturity Date, constitute Revenue Receipts and form part of Available Funds and, following the Senior Loan Maturity Date, constitute Principal Receipts and form part of Available Funds.

## 5.9 Publication of Interest Amounts and EURIBOR Excess Amounts and other Notices

- (a) As soon as practicable after receiving notification thereof, the Issuer will cause the Rate of Interest, the Interest Amount and the EURIBOR Excess Amount applicable to the Notes of each Class (other than the Class X Notes) for each Note Interest Period and the Note Payment Date in respect thereof to be notified to Euronext Dublin (for so long as the Notes are listed on the official list of Euronext Dublin) and will cause notice thereof to be given to the relevant Class of Noteholders in accordance with Condition 17 (Notice to Noteholders).
- (b) The Interest Amounts, EURIBOR Excess Amounts, Note Payment Dates and other determinations so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of any extension or shortening of the Note Interest Period for the Notes.

## 5.10 Available Funds Cap – Class D Notes, Class E Notes and Class F Notes

- (a) If on any Note Payment Date prior to the service of a Note Acceleration Notice, the Class D Interest Amount on that date is in excess of the Class D Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of prepayments of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class D Notes will be subject to a cap (the **Class D Available Funds Cap**) at the Class D Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any additional amount in respect of interest on the Class D Notes that would otherwise be due on such Note Payment Date and such amount will be extinguished on such Note Payment Date.
- (b) If on any Note Payment Date prior to the service of a Note Acceleration Notice, the Class E Interest Amount on that date is in excess of the Class E Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of prepayments of the Senior Loan (whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class E Notes will be subject to a cap (the **Class E Available Funds Cap**) at the Class E Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any additional amount in respect of interest on the Class E Notes that would otherwise be due on such Note Payment Date and such amount will be extinguished on such Note Payment Date.
- (c) If on any Note Payment Date prior to the service of a Note Acceleration Notice, the Class F Interest Amount on that date is in excess of the Class F Adjusted Interest Payment Amount, and such excess is attributable to a reduction in the interest-bearing balance of the Securitised Senior Loan as a result of prepayments of the Senior Loan

(whether arising voluntarily or otherwise), then the aggregate amount of interest payable in respect of the Class F Notes will be subject to a cap (the **Class F Available Funds Cap**) at the Class F Adjusted Interest Payment Amount and the Issuer will have no further obligation to pay any additional amount in respect of interest on the Class F Notes that would otherwise be due on such Note Payment Date and such amount will be extinguished on such Note Payment Date.

#### **5.11 Notifications to be final**

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 5.11, whether by the Note Reference Banks (or any of them) or the Agent Bank or the Note Trustee shall (in the absence of, in relation to the Note Reference Banks and the Agent Bank, material breach of the relevant Issuer Transaction Document, negligence, wilful default, bad faith or manifest error and in relation to the Note Trustee, negligence, wilful default, fraud or manifest error) be binding on the Issuer, the Note Reference Banks, the Agent Bank, the Note Trustee, the Servicing Entities, the Issuer Cash Manager, the Paying Agents and all the Noteholders and (in the absence of, in relation to the Note Reference Banks and the Agent Bank, material breach of the relevant Issuer Transaction Document, negligence, wilful default, bad faith or manifest error and in relation to the Note Trustee, negligence, wilful default, fraud or manifest error) no liability to the Noteholders shall attach to the Issuer, the Note Reference Banks, the Agent Bank or the Note Trustee in connection with the exercise or non-exercise by them or any of them of their powers, duties and discretions hereunder.

#### **5.12 Note Reference Banks and Agent Bank**

- (a) The Issuer shall ensure that, so long as any Note remains outstanding, there shall, at all times, be three Note Reference Banks and an Agent Bank and the Issuer may, subject to the prior written approval of the Note Trustee, terminate the appointment of the relevant Note Reference Bank or the Agent Bank.
- (b) In the event of the principal Eurozone office of any such Note Reference Bank being unable or unwilling to continue to act as a Note Reference Bank, the Agent Bank shall appoint such other bank as may have been previously approved in writing by the Note Trustee to act as such in its place.
- (c) Subject to the terms of the Agency Agreement, in the event of the Agent Bank being unable or unwilling to continue to act as an Agent Bank or failing duly to determine the Rates of Interest, the Interest Amounts or EURIBOR Excess Amounts for any Note Interest Period, the Issuer shall, subject to the prior written approval of the Note Trustee, appoint another major bank to act in its place.
- (d) Any purported resignation or removal by the Agent Bank shall not take effect until a successor so approved in writing by the Note Trustee has been appointed.

### **5.13 Non-payment of certain amounts**

For the avoidance of doubt, there shall be no Note Event of Default caused by reason only of:

- (a) the non-payment when due of EURIBOR Excess Amounts or Note Prepayment Fees; or
- (b) non-payment of interest on the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes or the Class F Notes.

## **6. PAYMENTS**

### **6.1 Global Notes**

- (a) Payment of principal, interest and other amounts will be made by transfer to the registered account of the Noteholder. Subject to Condition 2 (Definitive Notes), interest, principal or other amounts on Notes due on a Note Payment Date will be paid to the holder (or the first named if joint holders) shown on the Register at the close of business on the date (the **Record Date**) being in the case of Global Notes, the Business Day before the due date for such payment, and in the case of Definitive Notes, the 15th Business Day before the due date for such payment.
- (b) For the purposes of this Condition 6.1, a Noteholder's registered account means the euro account maintained by or on behalf of it with a bank that processes payments in euro, details of which appear on the register of Noteholders at the close of business, in the case of principal, interest and other amounts due other than on a Note Payment Date, on the second Business Day before the due date for payment and, in the case of principal, interest and other amounts due on a Note Payment Date, on the relevant Record Date, and a Noteholder's registered address means its address appearing on the register of Noteholders at that time.

### **6.2 Definitive Notes**

Payments of principal, interest and other amounts (except where, after such payment, the unpaid principal amount of the relevant Note would be reduced to zero (including as a result of any other payment of principal due in respect of such Note), in which case the relevant payment of principal, interest or other amount, as the case may be, will be made against surrender of such Note) in respect of Definitive Notes will be made on the relevant Note Payment Date to the holder of a Definitive Note as at the Record Date for payment in respect of such Definitive Note or by transfer to a euro-denominated account nominated in writing by the payee to the Registrar not later than the due date for such payment. Any such application for transfer to such account shall be deemed to relate to all future payments in respect of such Definitive Note until such time as the Registrar is notified in writing to the contrary by the holder thereof. If any payment due in respect of any Definitive Note is not paid in full, the Registrar will annotate the Register with a record of the amount, if any, so paid.

### **6.3 Payments subject to applicable Laws**

Payments of any amount in respect of a Note, including principal and interest in respect of the Notes, are subject, in all cases, to (i) any fiscal or other laws and regulations applicable in the place of payment but without prejudice to the provisions of Condition 8 (Taxation) and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to

Sections 1471 to 1474 of the Code, any regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto.

#### **6.4 Payment on Business Days**

- (a) Where payment is to be made by transfer to a registered account, payment instructions (for value the due date or, if that is not a Business Day, for value the first following day which is a Business Day) will be initiated on each Note Payment Date or, in the case of a payment of principal, interest or other amount due otherwise than on a Note Payment Date, if later, on the Business Day on which the relevant Global Note is surrendered at the specified office of an Agent.
- (b) Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due, if the due date is not a Business Day, or if the Noteholder is late in surrendering its Global Note (if required to do so).

#### **6.5 Presentation on non-Business Days**

If the date for payment of any amount in respect of a Note is not a Business Day, payment shall be made on the next succeeding day that is a Business Day (unless such Business Day falls in the next succeeding calendar month, in which event the immediately preceding Business Day) and no further payments of additional amounts by way of interest, principal or otherwise shall be due in respect of such Note.

#### **6.6 Accrual of interest on late payments**

If any payment of interest, principal or any other amount in respect of any Class of Notes is not made when due and payable (other than because the due date is not a Business Day (as defined in Condition 6.5 (Presentation on non-Business Days)) or by reason of non-compliance with Condition 6.1 (Global Notes) or Condition 2 (Definitive Notes)), then such unpaid amount shall itself bear interest at the applicable Rate of Interest to (but excluding) the date on which payment in full of the relevant unpaid amount (together with interest accrued thereon) is made and notice thereof has been duly given to the Noteholders in accordance with Condition 17 (Notice to Noteholders), provided that such unpaid amount and interest thereon are, in fact, paid.

#### **6.7 Incorrect payments**

- (a) The Issuer Cash Manager will (on behalf of the Issuer), from time to time, notify the Noteholders in accordance with the terms of Condition 17 (Notice to Noteholders) of any over-payment or under-payment of which it has actual notice made on any Note Payment Date to any party entitled to the same pursuant to the Pre-Enforcement Priority of Payments or, as applicable, the Post-Enforcement Priority of Payments.
- (b) Following the giving of such a notice, the Issuer Cash Manager shall rectify such over-payment or under-payment by increasing or, as the case may be, decreasing payments to the relevant parties on any subsequent Note Payment Date. Any notice of over-payment or under-payment pursuant to this Condition 6.7 shall contain reasonable details of the amount of the same, the relevant parties and the adjustments to be made to future payments to rectify the same. Neither the Issuer nor the Issuer Cash Manager shall have any liability to any person for making any such correction.

## **6.8 Initial Principal Paying Agents, Agent Bank and Registrar**

- (a) The initial Principal Paying Agent and Agent Bank is Elavon Financial Services DAC acting through its UK Branch at its offices at 125 Old Broad Street, London EC2N 1AR, United Kingdom. The Issuer reserves the right, subject to the prior written approval of the Note Trustee, at any time to vary or terminate the appointment of any Paying Agent, the Registrar and the Agent Bank and to appoint additional or other agents provided that:
  - (i) there will at all times be a person appointed to perform the obligations of the Principal Paying Agent;
  - (ii) there will at all times be at least one Paying Agent (which may be the Principal Paying Agent) having its specified office in such place as may be required by the rules and regulations of the relevant stock exchange and competent authority; and
  - (iii) the Issuer shall not appoint a Paying Agent located in Ireland if to do so would require the Issuer to make withholding or deduction in respect of Irish Note Taxes from payments made in respect of the Notes in circumstances where the Notes cease to be held in a recognised clearing system for the purposes of Section 64 TCA.
- (b) The Issuer will not appoint a Registrar which is located in the United Kingdom and will not maintain a register in respect of the Notes in the United Kingdom.
- (c) The Issuer will cause at least 30 days' notice of any change in or addition to the Paying Agents or the Registrar or their specified offices to be given to the Noteholders in accordance with Condition 17 (Notice to Noteholders).

## **7. REDEMPTION**

### **7.1 Final redemption of the Notes**

- (a) Unless previously redeemed in full and cancelled as provided in this Condition 7, the Issuer will redeem the Notes at their respective Principal Amount Outstanding together with the accrued interest and any other accrued but unpaid amounts on the Final Note Maturity Date.
- (b) The Class X Notes will be subject to mandatory redemption in full from amounts standing to the credit of the Class X Account on the Final Note Maturity Date (or any other date on which the Notes are redeemed in full).
- (c) The Issuer may not redeem the Notes in whole or in part prior to the Final Note Maturity Date except as provided in this Condition 7 but without prejudice to Condition 10 (Note Events of Default) and Condition 11 (Enforcement).

### **7.2 Mandatory redemption from Principal Distribution Amounts**

- (a) Subject to paragraph (b) below, unless such Note has been previously redeemed in full and cancelled as provided in this Condition 7, each Class of Notes (other than the Class X Notes) is subject to mandatory early redemption in full or, as the case may be, in part on each Note Payment Date in an amount not exceeding the Principal

Distribution Amount allocated to such Class on such Note Payment Date in accordance with the relevant Issuer Priorities of Payments.

- (b) On each Note Payment Date on which the Post-Enforcement Priority of Payments do not apply, the Class A1 Notes will be subject to mandatory early redemption in part in an amount equal to the Class A1 Principal Distribution Amount for such Note Payment Date, the Class A2 Notes will be subject to mandatory early redemption in part in an amount equal to the Class A2 Principal Distribution Amount for such Note Payment Date, the Class B Notes will be subject to mandatory early redemption in part in an amount equal to the Class B Principal Distribution Amount for such Note Payment Date, the Class C Notes will be subject to mandatory early redemption in part in an amount equal to the Class C Principal Distribution Amount for such Note Payment Date, the Class D Notes will be subject to mandatory early redemption in part in an amount equal to the Class D Principal Distribution Amount for such Note Payment Date, the Class E Notes will be subject to mandatory early redemption in part in an amount equal to the Class E Principal Distribution Amount for such Note Payment Date and the Class F Notes will be subject to mandatory early redemption in part in an amount equal to the Class F Principal Distribution Amount for such Note Payment Date.
- (c) **Principal Receipts** means all payments and repayments of principal (or amounts designated as principal below) received or recovered by or on behalf of the Issuer under or in connection with the Common Terms Agreement and the French Facility Agreement and standing to the credit of the Issuer Transaction Account, including, without limitation all amounts received or recovered by or on behalf of the Issuer in respect of:
  - (i) prepayments, scheduled amortisation payments, and/or repayments of principal received by or on behalf of the Issuer in respect of the Securitised Senior Loan;
  - (ii) amounts recovered in respect of the Securitised Senior Loan which are applied towards the reduction of outstanding principal as a result of any action taken to enforce the Securitised Senior Loan and/or the Common Transaction Security;
  - (iii) the principal element of all amounts received or recovered by or on behalf of the Issuer upon a purchase of the Securitised Senior Loan by the Loan Sellers pursuant to the terms of the Securitised Senior Loan Sale Agreement;
  - (iv) the principal element of all amounts received or recovered by or on behalf of the Issuer in respect of any sale of the Securitised Senior Loan:
    - (A) undertaken at the instigation of the Special Servicer (or at the direction of the relevant Noteholders pursuant to a Note Maturity Plan) as an alternative to directing enforcement of the Common Transaction Security; or
    - (B) to a Purchasing Party (or its nominee) in accordance with the Intercreditor Agreement;
  - (v) the principal element of any indemnity payment(s) (or from the repurchase of the Securitised Senior Loan) received by or on behalf of the Issuer from a Loan Seller pursuant to the Securitised Senior Loan Sale Agreement;

- (vi) following the Senior Loan Maturity Date (but prior to the delivery of a Note Acceleration Notice) to the extent that a Class X Interest Diversion Trigger Event is continuing:
    - (A) any Class X Interest Diversion Amounts standing to the credit of the Class X Interest Diversion Ledger; and
    - (B) the Class X Amount for the relevant Note Payment Date;
  - (vii) following the Senior Loan Maturity Date, amounts in respect of Loan Default Interest and any amounts credited to the Issuer Transaction Account on the immediately preceding Note Payment Date pursuant to paragraph (dd) of the Pre-Enforcement Priority of Payments;
  - (viii) following the Senior Loan Maturity Date, amounts in respect of Senior Loan EURIBOR Excess Amounts; and
  - (ix) any other receipts of a principal nature.
- (d) In respect of a Note Payment Date referred to in paragraph (b) above:
- (i) **Principal Distribution Amount** means for any Note Payment Date will be equal to the sum, without duplication, of all Principal Receipts actually received by or on behalf of the Issuer during the Collection Period related to such Note Payment Date (including, for the avoidance of doubt, the amounts referred to in limbs (f), (g) and (h) of the definition of Principal Receipts);
  - (ii) the **Pro Rata Principal Distribution Amount** as determined on any Determination Date means: (i) if a Sequential Payment Trigger will exist on the next following Note Payment Date, zero; or (ii) if no Sequential Payment Trigger will exist on such Note Payment Date, an amount equal to the Principal Distribution Amount;
  - (iii) the Pro Rata Principal Distribution Amount as determined on any Determination Date prior to the occurrence of a Sequential Payment Trigger will, prior to the allocation of the Sequential Principal Distribution Amounts, be allocated to the outstanding Notes (other than the Class X Notes) in accordance with the following formula and applied in accordance with, and subject to, the Pre-Enforcement Priority of Payments:

$$\text{Class Allocation of PRPDA} = \text{Total PRPDA} \times \frac{(\text{Original Class PAO})}{\text{Total Original Note PAO}}$$

where:

**Class Allocation of PRPDA** means, with respect to each Class of Note (other than the Class X Notes), the amount of the Pro Rata Principal Distribution Amount allocated to such Class of Note;

**Collection Period** means each period beginning on (and including) a Determination Date (or, in the case of the first Collection Period, the Closing Date) and ending on (and including) the Business Day immediately preceding the next Determination Date;



**Original Class PAO** means, with respect to the relevant Class of Notes, the total aggregate Principal Amount Outstanding of that Class of Notes as of the Closing Date;

**Total Original Note PAO** means the total aggregate Principal Amount Outstanding of all Classes of Notes (other than the Class X Notes) as of the Closing Date;

**Total PRPDA** means the total Pro Rata Principal Distribution Amount as determined on the relevant Determination Date;

If the amount of the Pro Rata Principal Distribution Amount allocated to any Class of Notes in accordance with this formula exceeds the Principal Amount Outstanding of that Class of Notes at the relevant time or if there are surplus Pro Rata Principal Distribution Amounts which remain unallocated as a result of a Class of Notes having been redeemed in full prior to such Determination Date, the amount of such surplus (the **Surplus PRPD Amounts**) will be allocated sequentially to the Class A1 Notes pro rata, in full and, if the Class A1 Notes have been or will on such Note Payment Date be redeemed in full to the Class A2 Notes pro rata, and if the Class A2 Notes have been or will on such Note Payment Date be redeemed in full to the Class B Notes pro rata, and if the Class B Notes have been or will on such Note Payment Date be redeemed in full to the Class C Notes pro rata, and if the Class C Notes have been or will on such Note Payment Date be redeemed in full to the Class D Notes pro rata, and if the Class D Notes have been or will on such Note Payment Date be redeemed in full to the Class E Notes pro rata, and if the Class E Notes have been or will on such Note Payment Date be redeemed in full to the Class F Notes pro rata and applied in accordance with and subject to the Pre-Enforcement Priority of Payments;

- (iv) the **Sequential Principal Distribution Amount** as determined on any Determination Date will be the Principal Distribution Amount as determined on that Determination Date less the Pro Rata Principal Distribution Amount as determined on that Determination Date plus any Surplus PRPD Amounts as determined on that Determination Date;
- (v) following the allocation of any Pro Rata Principal Distribution Amounts to the Notes (other than the Class X Notes), the Sequential Principal Distribution Amount will be allocated sequentially to the Class A1 Notes *pro rata*, in full and, if the Class A1 Notes have been or will on such Note Payment Date be redeemed in full to the Class A2 Notes *pro rata*, and if the Class A2 Notes have been or will on such Note Payment Date be redeemed in full to the Class B Notes *pro rata*, and if the Class B Notes have been or will on such Note Payment Date be redeemed in full to the Class C Notes *pro rata*, and if the Class C Notes have been or will on such Note Payment Date be redeemed in full to the Class D Notes *pro rata*, and if the Class D Notes have been or will on such Note Payment Date be redeemed in full to the Class E Notes *pro rata*, and if the Class E Notes have been or will on such Note Payment Date be redeemed in full to the Class F Notes *pro rata* and will be applied in accordance with and subject to the Pre-Enforcement Priority of Payments;
- (vi) the **Class A1 Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal

Distribution Amount, allocated to the Class A1 Notes on such Note Payment Date;

- (vii) the **Class A2 Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class A2 Notes on such Note Payment Date;
- (viii) the **Class B Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class B Notes on such Note Payment Date;
- (ix) the **Class C Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class C Notes on such Note Payment Date;
- (x) the **Class D Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class D Notes on such Note Payment Date;
- (xi) the **Class E Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class E Notes on such Note Payment Date; and
- (xii) the **Class F Principal Distribution Amount** means the sum of that portion of the Sequential Principal Distribution Amount and the Pro Rata Principal Distribution Amount, allocated to the Class F Notes on such Note Payment Date.

### **7.3 Mandatory redemption of the Class X Notes**

The Issuer must redeem the Class X Notes in an amount equal to €380,000 using amounts standing to the credit of the Class X Account on the first Note Payment Date (falling in February 2019).

### **7.4 Optional redemption for tax and other reasons**

If the Issuer at any time satisfies the Note Trustee (which will be so satisfied if it receives a legal opinion confirming such matters (or in relation to paragraph (c) below, a certificate from the Issuer to that effect), upon each of which it may rely conclusively and without liability) immediately prior to giving the notice referred to below that either:

- (a) by virtue of a change in the tax law (or the application or official interpretation thereof) of Germany, the Netherlands, Luxembourg, Ireland, France or any other jurisdiction from that in effect on the Closing Date, on the next Note Payment Date the Issuer, or any Paying Agent on its behalf, would be required to deduct or withhold from any payment of principal, interest or other amount in respect of any Note (other than where the relevant holder or beneficial owner has some connection with the relevant jurisdiction other than the holding of Notes and other than in respect of default interest), any amount for or on account of any present or future taxes, duties,

assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by the relevant jurisdiction (or any political sub division thereof or authority thereof or therein having power to tax) and such requirement cannot be avoided by the Issuer taking reasonable measures available to it; or

- (b) by reason of a change in law (or the application or official interpretation thereof), which change becomes effective on or after the Closing Date, it has become or will become unlawful for the Issuer to make, fund or allow to remain outstanding all or any of the Notes or advances under the Common Terms Agreement or the French Facility Agreement; or
- (c) if any amount payable by the Senior Obligors in respect of the Issuer Assets is reduced or ceases to be receivable (whether or not actually received) by the Issuer during the Note Interest Period preceding the next Note Payment Date,

and, in any such case, the Issuer has, prior to giving the notice referred to below, certified to the Note Trustee (upon which certification it may rely conclusively and without liability) that it will have the necessary funds on such Note Payment Date to discharge all of its liabilities in respect of the Notes to be redeemed under this Condition 7.4 and any amount required to be paid in priority to, or *pari passu* with, the Notes to be so redeemed (and for the avoidance of doubt, the order of priority shall be as set out in the relevant Issuer Priority of Payments), which certificate shall be conclusive and binding, and provided that on the Note Payment Date on which such notice expires, no Note Acceleration Notice has been served, then the Issuer may, but shall not be obliged to, on any Note Payment Date on which the relevant event described above is continuing, having given not more than 60 nor fewer than 30 days' written notice ending on such Note Payment Date to the Note Trustee, the Paying Agents and to the Noteholders in accordance with Condition 17 (Notice to Noteholders), redeem all of the Notes in an amount equal to the then respective aggregate Principal Amount Outstanding plus interest and other amounts accrued and unpaid thereon.

## **7.5 Optional redemption in full**

Upon giving not more than 60 nor fewer than 30 days' written notice to the Note Trustee, the Paying Agents and the Noteholders, in accordance with Condition 17 (Notice to Noteholders) and provided that:

- (a) on the Note Payment Date on which such notice expires, no Note Acceleration Notice has been served; and
- (b) the Issuer has, prior to giving such notice, certified to the Note Trustee (upon which certification it may rely conclusively and without liability) that it will have the necessary funds to discharge on such Note Payment Date (i) all of its liabilities in respect of the Notes to be redeemed under this Condition 7.5; and (ii) any amount required to be paid on such Note Payment Date which rank prior to, or *pari passu* with, the Notes (and for the avoidance of doubt, the order of priority shall be as set out in the relevant Issuer Priorities of Payments), which certificate shall be conclusive and binding; and
- (c) the then aggregate Principal Amount Outstanding of all the Notes is less than 10 per cent. of their aggregate Principal Amount Outstanding as at the Closing Date,

the Issuer may redeem on such Note Payment Date all of the Notes, in an amount equal to their then respective aggregate Principal Amount Outstanding plus interest and other amounts accrued and unpaid thereon.

## 7.6 Principal Amount Outstanding and Note Factor

- (a) On each Determination Date, the Issuer Cash Manager shall determine (i) the Principal Amount Outstanding of each Note on the next following Note Payment Date (after deducting any principal payment to be paid on such Note on that Note Payment Date), and (ii) the fraction (the **Note Factor**), the numerator of which is equal to the Principal Amount Outstanding of the relevant Class of Notes on such Note Payment Date and the denominator of which is equal to the aggregate Principal Amount Outstanding of all the Classes of Notes on such Note Payment Date (in each case after such principal payments have been made). Each determination by the Issuer Cash Manager of the Principal Amount Outstanding of a Note and the Note Factor shall in each case (in the absence of material breach of the relevant Issuer Transaction Document, negligence, wilful default or manifest error) be final and binding on all persons.
- (b) The **Principal Amount Outstanding** of a Note on any date will be its principal amount upon issue less the aggregate amount of principal repayments or prepayments made in respect of that Note since the Closing Date.
- (c) The Issuer (or the Issuer Cash Manager on its behalf) will cause each determination of the Principal Amount Outstanding and the Note Factor to be notified in writing forthwith to the Note Trustee, the Paying Agents, the Rating Agencies, the Agent Bank and (for so long as the Notes are listed on the official list of Euronext Dublin) Euronext Dublin, and will cause notice of each determination of a Principal Amount Outstanding and the Note Factor to be given to the Noteholders in accordance with Condition 17 (Notice to Noteholders) as soon as reasonably practicable thereafter.
- (d) If the Issuer (or the Issuer Cash Manager on its behalf) does not at any time for any reason determine the Principal Amount Outstanding or the Note Factor in accordance with the preceding provisions of this Condition 7.6, such Principal Amount Outstanding and the Note Factor may be determined by the Note Trustee (or an agent appointed by the Note Trustee) in accordance with this Condition 7.6, and each such determination or calculation shall be conclusive and shall be deemed to have been made by the Issuer or the Issuer Cash Manager, as the case may be and the Note Trustee shall have no liability to any person in respect thereof.

## 7.7 Notice of redemption

Any such notice as is referred to in Condition 7.4 (Optional redemption for tax and other reasons) or Condition 7.5 (Optional redemption in full) or above shall be irrevocable and, upon the expiry of such notice, the Issuer shall be bound to redeem the Notes of the relevant Class in the amounts specified in these Conditions. As soon as reasonably practicable after becoming aware that the same will occur, the Issuer will cause notice of redemption of the Notes of each Class to be given to Euronext Dublin (for so long as the Notes are listed on Euronext Dublin). Any certificate or legal opinion given by or on behalf of the Issuer pursuant to Condition 7.4 (Optional redemption for tax and other reasons) or Condition 7.5 (Optional redemption in full) may be relied on by the Note Trustee without further investigation and shall be conclusive and binding on the Noteholders.

## 7.8 Cancellation

All Notes redeemed in full or in part pursuant to the foregoing will be cancelled forthwith and may not be resold or re-issued.

## **7.9 Redemption amount**

Any Note (or part thereof) redeemed pursuant to the above redemption provisions will be redeemed at an amount equal to the Principal Amount Outstanding of the relevant Note (or part thereof) to be redeemed together with accrued (and unpaid) interest on the Principal Amount Outstanding of the relevant Note (or part thereof) and any other amounts accrued and unpaid up to (but excluding) the date of redemption.

## **7.10 No purchase by Issuer**

The Issuer will not purchase any of the Notes.

## **8. TAXATION**

All payments in respect of the Notes by or on behalf of the Issuer shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (**Note Taxes**), unless the Issuer or any relevant Paying Agent is required by applicable law in any jurisdiction to make any payment in respect of the Notes subject to any such withholding or deduction. In that event, the Issuer or, as the case may be, the relevant Paying Agent shall make such payment after the withholding or deduction has been made and shall account to the relevant authorities for the amount required to be withheld or deducted. Neither the Issuer nor any Paying Agent shall be obliged to make any additional payments to the Noteholders in respect of such withholding or deduction on account of Note Taxes.

## **9. PRESCRIPTION**

- (a) Claims in respect of principal and interest on the Notes will be prescribed after ten years (in the case of principal) and five years (in the case of interest) from the relevant date in respect of the relevant payment.
- (b) In this Condition, the **relevant date**, in respect of a payment, means the date on which such payment first becomes due or (if the full amount of the monies payable on that date has not been duly received by the relevant Paying Agent or the Note Trustee on or prior to such date) the date on which the full amount of such monies has been so received, and notice to that effect is duly given to the relevant Noteholders in accordance with Condition 17 (Notice to Noteholders).

## **10. NOTE EVENTS OF DEFAULT**

### **10.1 Note Events of Default**

The Note Trustee at its absolute discretion may, and if either:

- (a) so requested in writing by the holders of Notes outstanding constituting not less than 25 per cent. in aggregate of the Principal Amount Outstanding of the Most Senior Class of Notes then outstanding; or
- (b) so directed by or pursuant to an Extraordinary Resolution of the Most Senior Class of Noteholders then outstanding,

shall (in all cases subject to the Note Trustee being indemnified and/or secured and/or prefunded to its satisfaction), give notice (a **Note Acceleration Notice**) to the Issuer and the Issuer Security Trustee (copied to the Rating Agencies) declaring all the Notes to be

immediately due and repayable at their respective Principal Amount Outstanding together with accrued interest (including, where applicable, Deferred Interest and other accrued and unpaid amounts) as provided in the Note Trust Deed, if any of the following events (each, a **Note Event of Default**) occurs:

- (i) default is made for a period of three Business Days in the payment of the principal on any Class of Notes, in each case when and as the same becomes due and payable in accordance with these Conditions; or
- (ii) default is made for a period of five Business Days in the payment of interest on the Class A1 Notes or the Class A2 Notes, in each case when and as the same becomes due and payable in accordance with these Conditions; or
- (iii) default is made in the payment of interest or principal on any Class of Notes on the Final Note Maturity Date; or
- (iv) (A) the Issuer defaults in the performance or observance of any other obligation binding upon it under the Notes of any Class, the Note Trust Deed, the Issuer Security Documents or the other Issuer Transaction Documents to which it is party; or  
(B) any representation or warranty made by the Issuer under any Issuer Transaction Document is incorrect when made,

and, in any such case (except where the Note Trustee certifies that, in its opinion, such default or matters giving rise to such misrepresentation, as applicable, is incapable of remedy, when no notice will be required), such default or matters giving rise to such misrepresentation, as applicable, continue(s) for a period of 30 days (or such longer period as the Note Trustee may permit) following the service by the Note Trustee on the Issuer of notice requiring the same to be remedied; or

- (v) the Issuer, otherwise than for the purposes of such amalgamation or reconstruction as is referred to in paragraph (vii) below, ceases or, consequent upon a resolution of the board of directors of the Issuer, stops or threatens to cease to carry on business or a substantial part of its business (save for the purposes of reorganisation on terms approved in writing by the Note Trustee or by Extraordinary Resolution of the Most Senior Class of Noteholders then outstanding) or the Issuer is or is deemed unable to pay its debts as and when they fall due or the value of its assets falls to less than the amount of its liabilities (taking into account its contingent and prospective liabilities) or it is deemed unable to pay its debts pursuant to or for the purposes of any applicable law or is adjudicated or found bankrupt or insolvent; or
- (vi) an order is made by any competent court or an effective resolution is passed for the winding-up of the Issuer, except a winding-up for the purposes of or pursuant to an amalgamation or reconstruction, the terms of which have previously been approved by an Extraordinary Resolution of the Most Senior Class of Noteholders then outstanding; or
- (vii) proceedings shall be initiated against the Issuer under any applicable liquidation, insolvency, examinership, composition, receivership, reorganisation or other similar laws (including, but not limited to, presentation of a petition for an administration order, the filing of documents with the court for the appointment of an administrator or the service of a notice to appoint an administrator) and such proceedings are not being disputed in good faith with a reasonable prospect of success, or an

administration order is granted or the appointment of an administrator takes effect or an administrative receiver or other receiver, manager, liquidator, examiner or other similar official shall be appointed (or formal notice is given of an intention to appoint an administrator) in relation to the Issuer or any part of its undertaking, property or assets, or an encumbrance shall take possession of all or any part of the undertaking, property or assets of the Issuer, or an execution, diligence, attachment or sequestration or other process is levied or enforced upon, sued out or put in force against all or any part of the undertaking, property or assets of the Issuer and such appointment, possession or process is not discharged or does not otherwise cease to apply within 15 days; or

- (viii) the Issuer (or the shareholders or directors of the Issuer) initiates or consents to judicial proceedings relating to itself under applicable liquidation, insolvency, examinership, receivership, composition, reorganisation or other similar laws or makes a conveyance or assignment for the benefit of or a composition or similar arrangement with its creditors generally or takes steps with a view to obtaining a moratorium in respect of any of the indebtedness of the Issuer or any meeting is convened to consider a proposal for an arrangement or composition with its creditors generally (or any class of its creditors),

*provided that* in the case of each of the events described in paragraph (iv) above, the Note Trustee shall have certified to the Issuer that such event is, in its opinion, materially prejudicial to the interests of the holders of the Most Senior Class of Notes then outstanding and notice of such certification shall have been given to the Noteholders in accordance with Condition 17 (Notice to Noteholders).

## **10.2 Effect of Note Acceleration Notice**

Upon the service of a Note Acceleration Notice in accordance with Condition 10.1 (Note Events of Default):

- (a) all Classes of the Notes then outstanding shall thereby immediately become due and repayable at their respective Principal Amount Outstanding together with accrued interest and other accrued but unpaid amounts as provided in the Note Trust Deed as described in Condition 11 (Enforcement); and
- (b) the Issuer Security will become enforceable.

## **11. ENFORCEMENT**

The Note Trustee may, at any time, at its discretion and without notice, take such action under or in connection with any of the Issuer Transaction Documents as it may think fit (including, without limitation, directing the Issuer Security Trustee to take any action under or in connection with any of the Issuer Transaction Documents or, after the occurrence of a Note Event of Default, to take steps to enforce the security constituted by the Issuer Deed of Charge), provided that:

- (a) the Note Trustee shall not be bound to take any such action unless it shall have been so directed by (i) an Extraordinary Resolution or Ordinary Resolution (where permitted) of the Noteholders of the Most Senior Class of Notes then outstanding, or (ii) a notice in writing signed by the holders of Notes outstanding constituting at least 25 per cent. in aggregate of the Principal Amount Outstanding of the Most Senior Class of Notes then outstanding;

- (b) (except where expressly provided otherwise) the Issuer Security Trustee shall not, and shall not be bound to, take any such action unless it shall have been so directed by (i) the Note Trustee, or (ii) the Note Trustee, having become bound to do so under paragraph (a) above, fails to do so, or (iii) if there are no Notes outstanding, all of the other Issuer Secured Creditors;
- (c) neither the Note Trustee nor the Issuer Security Trustee shall be bound to take any such action under this Condition 11 unless it shall have been indemnified, secured and/or pre-funded to its satisfaction; and
- (d) the Note Trustee shall not be entitled to take any steps or proceedings to procure the winding-up, administration, dissolution, court protection, examinership, reorganisation, receivership, liquidation, bankruptcy or other insolvency proceeding of the Issuer.

## **12. LIMIT ON NOTEHOLDER ACTION, LIMITED RECOURSE AND NON-PETITION**

- (a) No Noteholder shall be entitled to proceed directly against the Issuer or any other Issuer Secured Creditor or any other party to any of the Issuer Transaction Documents to seek to enforce the Issuer Security or to enforce the performance of any of the provisions of the Issuer Transaction Documents and/or to take proceedings (including lodging an appeal in any proceedings) in respect of or concerning the Issuer, except if the Note Trustee or the Issuer Security Trustee, as the case may be, having become bound to do so, fails to do so within a reasonable period and such failure shall be continuing, provided that no Noteholder shall be entitled to petition or to take any action or other steps or proceedings to procure the winding up, administration, dissolution, court protection, examinership, reorganisation, receivership, liquidation, bankruptcy or other insolvency proceeding of the Issuer or for the appointment of an administrator, manager, receiver, receiver manager, examiner, administrative receiver, trustee, liquidator, sequestrator or similar officer in respect of the Issuer or any of its revenues or assets. Any proceeds received by a Noteholder pursuant to any such proceedings brought by a Noteholder shall be paid promptly following receipt thereof to the Note Trustee for application pursuant to the Note Trust Deed.
- (b) While there are Notes outstanding, the Issuer Security Trustee will not be required to enforce the Issuer Security at the request of any Issuer Secured Creditor other than the Note Trustee.
- (c) Notwithstanding any other Condition or any provision of any Issuer Transaction Document, all obligations of the Issuer to the Noteholders are limited in recourse to the Issuer Charged Property. If on enforcement or realisation of the Issuer Charged Property and distribution of its proceeds in accordance with the applicable Issuer Priority of Payments there are insufficient amounts available to pay in full amounts outstanding under the Notes (including, for the avoidance of doubt, payments of principal, interest and/or other amounts in respect of the Notes) or the Issuer Transaction Documents, none of the Noteholders, the Note Trustee, the Issuer Security Trustee or the other Issuer Secured Creditors may take any further steps against the Issuer in respect of any such amounts and such amounts shall be deemed to be discharged in full and all claims against the Issuer in respect of payment of such amounts will be extinguished and discharged.
- (d) Subject to the Issuer Security Trustee's rights and powers under the Issuer Deed of Charge, none of the Note Trustee, the Issuer Security Trustee, the Noteholders or the



Issuer Secured Creditors will be entitled to petition or take any action or other steps or legal proceedings for the winding-up, dissolution, court protection, examinership, reorganisation, receivership, liquidation, bankruptcy or insolvency of the Issuer or for the appointment of an administrator, manager, receiver, receiver manager, examiner administrative receiver, trustee, liquidator, examiner, sequestrator or similar officer in respect of the Issuer or any of its revenues or assets, provided that the Note Trustee or the Issuer Security Trustee may prove or lodge a claim in the liquidation of the Issuer initiated by another non-affiliated party and provided further that the Note Trustee or the Issuer Security Trustee may take proceedings to obtain a declaration or similar judgment or order as to the obligations and liabilities of the Issuer under the Issuer Deed of Charge or the other Issuer Transaction Documents.

- (e) None of the Noteholders or any of the other parties to the Issuer Transaction Documents will have any recourse against any director, shareholder or officer of the Issuer in respect of any obligations, covenant or agreement entered into or made by the Issuer pursuant to the terms of the Notes, the Issuer Deed of Charge or any other Issuer Transaction Document to which it is a party or any notice or documents which it is requested to deliver hereunder or thereunder.
- (f) Nothing in this Condition 12 shall affect a payment under the Notes from falling due for the purposes of Condition 10 (Note Events of Default).

### **13. NOTE MATURITY PLAN**

- (a) If the Securitised Senior Loan remains outstanding on the date which is six months prior to the Final Note Maturity Date and, in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the related Common Transaction Security or otherwise) are unlikely to be realised in full prior to the Final Note Maturity Date, the Special Servicer will be required to prepare a draft Note Maturity Plan and present the same to the Issuer, the Note Trustee and the Issuer Security Trustee no later than 45 days after such date (together with a statement of whether, in the opinion of the Special Servicer, all recoveries then anticipated by the Special Servicer with respect to the Securitised Senior Loan (whether by enforcement of the Common Transaction Security, sale of the Securitised Senior Loan, or otherwise) are reasonably likely to be realised in full prior to the Final Note Maturity Date). The Issuer, with the assistance of the Special Servicer, will publish a draft of the Note Maturity Plan with the Regulatory Information Service. At least one proposal provided by the Special Servicer must be that the Issuer Security Trustee, at the cost of the Issuer, will engage an independent financial adviser or receiver to advise the Issuer Security Trustee as to the enforcement of the Issuer Security.
- (b) Upon receipt of the draft Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of all Noteholders at which the Noteholders will have the opportunity to discuss the various proposals contained in the draft Note Maturity Plan with the Special Servicer. Following such meeting, the Special Servicer shall reconsider the Note Maturity Plan and make modifications thereto to address the views of the Noteholders (subject to the Servicing Standard), following which it shall provide a final Note Maturity Plan to the Issuer (which will provide a copy to the Noteholders), the Rating Agencies, the Note Trustee and the Issuer Security Trustee.
- (c) Upon receipt of the final Note Maturity Plan, the Note Trustee will convene, at the Issuer's cost, a meeting of the Noteholders of the Most Senior Class of Notes outstanding at which the Noteholders of the Most Senior Class of Notes will be

requested to select their preferred option among the proposals set out in the final Note Maturity Plan. If a proposal in the final Note Maturity Plan receives the approval of the Noteholders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution at such meeting, then such proposal will be implemented by the Special Servicer, irrespective of whether it results in a Basic Terms Modification or relates to a Class X Entrenched Right. However, the Special Servicer shall not be required to implement any such proposal (i) if to do so would cause it to breach any applicable law or regulation and (ii) until it has been indemnified and/or secured and/or prefunded to its satisfaction. If no option receives the approval of the holders of the Most Senior Class of Notes then outstanding by way of Ordinary Resolution at such meeting, then the Issuer Security Trustee will be deemed to be directed by all of the Noteholders to appoint a receiver (to the extent applicable) to realise the Issuer Charged Property in accordance with the Issuer Deed of Charge and the German Security Agreement as soon as practicable upon such right becoming exercisable, provided that the Issuer Security Trustee will have no obligation to do so if it shall not have been indemnified and/or secured and/or prefunded to its satisfaction.

## **14. MEETINGS OF NOTEHOLDERS, MODIFICATION AND WAIVER, SUBSTITUTION AND TERMINATION OF ISSUER RELATED PARTIES**

### **14.1 Meeting of Noteholders**

- (a) The Note Trust Deed contains provisions for convening meetings of any Class or all Classes of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution or Ordinary Resolution, as appropriate, of, among other things, the removal of the Note Trustee, the Issuer Security Trustee, the Servicer, the Special Servicer, the Issuer Cash Manager, the Issuer Account Bank, the Agent Bank, the Principal Paying Agent, the Registrar or the Corporate Services Provider and a modification of the Notes or the Note Trust Deed (including these Conditions) or the provisions of any of the other Issuer Transaction Documents.
- (b) These provisions allow the Issuer, the Note Trustee, the Issuer Cash Manager, the Servicer or the Special Servicer to convene (or require the Issuer to convene) Noteholder meetings for any purpose, including consideration of Extraordinary Resolutions or Ordinary Resolutions and provided that at least 14 clear days' (or, in the case of an adjourned meeting, at least seven clear days') notice of such meeting be given to the Noteholders in accordance with Condition 17 (Notice to Noteholders). The Note Trustee shall be obliged to convene a meeting of the Noteholders of any Class or Classes of the Notes (in each case for so long as any Notes remain outstanding), if requested to do so in writing by the holders of Notes outstanding constituting at least 10 per cent. of the Principal Amount Outstanding of the Notes (other than the Class X Notes) of the relevant Class or Classes (subject to being indemnified and/or secured and/or prefunded to its satisfaction).
- (c) The Note Trust Deed also provides that, notwithstanding any other provision of the Conditions, the Note Trust Deed or any other Issuer Transaction Documents, no Extraordinary Resolution or Ordinary Resolution may authorise or sanction any modification or waiver of the following:
  - (i) any amendment to the Issuer Priorities of Payments (and/or the inclusion of additional creditors in the Issuer Priorities of Payments) that would be materially prejudicial to the Class X Noteholders, any amendment to Condition 5.4(d) or any amendment to the following definitions: "Class X Amount", "Relevant Margin" and "Administrative Fees"; and

- (ii) the provisions of the Servicing Agreement relating to the ability of the Servicer or the Special Servicer to reduce the interest rate on the Senior Loan at any time prior to the Senior Loan Maturity Date,

(except where included in the final Note Maturity Plan delivered to the Noteholders pursuant to Condition 13 (Note Maturity Plan) and approved by the Noteholders of the Most Senior Class of Notes outstanding by Ordinary Resolution in accordance with Condition 13 (Note Maturity Plan)) (the **Class X Entrenched Rights**), unless the Class X Noteholders, by way of Extraordinary Resolution of the Class X Noteholders, have consented to such modification or waiver.

#### **14.2 Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders**

An Extraordinary Resolution or an Ordinary Resolution passed at any meeting of the Class A1 Noteholders shall be binding on the Class X Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders irrespective of the effect upon them, except that an Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class A2 Noteholders and/or the Class B Noteholders and/or the Class C Noteholders and/or the Class D Noteholders and/or the Class E Noteholders and/or the Class F Noteholders, as applicable, are affected by such Basic Terms Modification) will not take effect unless either (i) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of the Class A2 Noteholders, Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders or (ii) it shall have been sanctioned by an Extraordinary Resolution of each of the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and/or the Class F Noteholders (as applicable).

#### **14.3 Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders)) or an Ordinary Resolution passed at any meeting of the Class A2 Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of the Class A1 Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of the Class A1 Noteholders; or
- (c) none of the Class A1 Notes remain outstanding.

Subject thereto, an Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders shall be binding on the Class X Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders irrespective of the effect on them, except that no Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders or the Class F Noteholders are affected by such Basic Terms Modification) passed at any meeting of the Class A2 Noteholders shall take effect

unless such Basic Terms Modification (i) would in the opinion of the Note Trustee not be materially prejudicial to the interests of the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders, (ii) shall have been sanctioned by an Extraordinary Resolution of each of the Class B Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders or (iii) none of the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes remain outstanding.

#### **14.4 Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders)) or Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders) or an Ordinary Resolution passed at any meeting of the Class B Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of the Class A1 Noteholders and the Class A2 Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) and Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders and the Class A2 Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of each of the Class A1 Noteholders and the Class A2 Noteholders; or
- (c) none of the Class A1 Notes and the Class A2 Notes remain outstanding.

Subject thereto, an Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders shall be binding on the Class X Noteholders, the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders irrespective of the effect on them, except that no Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class C Noteholders, the Class D Noteholders, the Class E Noteholders or the Class F Noteholders are affected by such Basic Terms Modification) passed at any meeting of the Class B Noteholders shall take effect unless such Basic Terms Modification (i) would in the opinion of the Note Trustee not be materially prejudicial to the interests of the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders, (ii) shall have been sanctioned by an Extraordinary Resolution of each of the Class C Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders or (iii) none of the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes remain outstanding.

#### **14.5 Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) to Condition 14.4 (Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders)) or an Ordinary Resolution passed at any meeting of the Class C Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of each of the Class A1 Noteholders, the Class A2 Noteholders and the Class B Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders), Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders) and Condition 14.4 (Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders, the Class A2 Noteholders and the Class B Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of each of the Class A1 Noteholders, the Class A2 Noteholders and the Class B Noteholders; or
- (c) none of the Class A1 Notes, the Class A2 Notes and the Class B Notes remain outstanding.

Subject thereto an Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders shall be binding on the Class X Noteholders, the Class D Noteholders, the Class E Noteholders and the Class F Noteholders irrespective of the effect on them, except that (i) no Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class D Noteholders, the Class E Noteholders or the Class F Noteholders are affected by such Basic Terms Modification) passed at any meeting of the Class C Noteholders shall take effect unless such Basic Terms Modification (A) would in the opinion of the Note Trustee not be materially prejudicial to the interests of the Class D Noteholders, the Class E Noteholders and the Class F Noteholders, or (B) shall have been sanctioned by an Extraordinary Resolution of each of the Class D Noteholders, the Class E Noteholders and the Class F Noteholders or (ii) none of the Class D Notes, the Class E Notes and the Class F Notes remain outstanding.

#### **14.6 Extraordinary Resolution or an Ordinary Resolution of the Class D Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) to Condition 14.5 (Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders)) or an Ordinary Resolution passed at a meeting of the Class D Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders and the Class C Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders), Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders), Condition 14.4 (Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders) and Condition 14.5 (Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders and the Class C Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders and the Class C Noteholders; or

- (c) none of the Class A1 Notes, the Class A2 Notes, the Class B Notes and the Class C Notes remain outstanding.

Subject thereto an Extraordinary Resolution or an Ordinary Resolution of the Class D Noteholders shall be binding on the Class X Noteholders, the Class E Noteholders and the Class F Noteholders irrespective of the effect on them, except that (i) no Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class E Noteholders or the Class F Noteholders are affected by such Basic Terms Modification) passed at any meeting of the Class D Noteholders shall take effect unless such Basic Terms Modification (A) would in the opinion of the Note Trustee not be materially prejudicial to the interests of the Class E Noteholders and the Class F Noteholders, or (B) shall have been sanctioned by an Extraordinary Resolution of each of the Class E Noteholders and the Class F Noteholders or (ii) none of the Class E Notes and the Class F Notes remain outstanding.

#### **14.7 Extraordinary Resolution or an Ordinary Resolution of the Class E Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) to Condition 14.6 (Extraordinary Resolution or an Ordinary Resolution of the Class D Noteholders)) or an Ordinary Resolution passed at a meeting of the Class E Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders and the Class D Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders), Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders), Condition 14.4 (Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders), Condition 14.5 (Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders) and Condition 14.6 (Extraordinary Resolution or an Ordinary Resolution of the Class D Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders and the Class D Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders and the Class D Noteholders; or
- (c) none of the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes and the Class D Notes remain outstanding.

Subject thereto an Extraordinary Resolution or an Ordinary Resolution of the Class E Noteholders shall be binding on the Class X Noteholders and the Class F Noteholders irrespective of the effect on them, except that (i) no Extraordinary Resolution to sanction a Basic Terms Modification (only if the Class F Noteholders are affected by such Basic Terms Modification) passed at any meeting of the Class E Noteholders shall take effect unless such Basic Terms Modification (A) would in the opinion of the Note Trustee not be materially prejudicial to the interests of the Class F Noteholders, or (B) shall have been sanctioned by an Extraordinary Resolution of the Class F Noteholders or (ii) none of the Class F Notes remain outstanding.

#### **14.8 Extraordinary Resolution or any Ordinary Resolution of the Class F Noteholders**

An Extraordinary Resolution (other than an Extraordinary Resolution referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) to Condition 14.7 (Extraordinary Resolution or an Ordinary Resolution of the Class E Noteholders)) or an Ordinary Resolution passed at a meeting of the Class F Noteholders shall not be effective for any purpose unless one of the following conditions is satisfied:

- (a) the Note Trustee is of the opinion that it would not be materially prejudicial to the interests of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders and the Class E Noteholders (and for greater certainty, an Extraordinary Resolution (other than as referred to in Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders), Condition 14.3 (Extraordinary Resolution or an Ordinary Resolution of the Class A2 Noteholders), Condition 14.4 (Extraordinary Resolution or an Ordinary Resolution of the Class B Noteholders), Condition 14.5 (Extraordinary Resolution or an Ordinary Resolution of the Class C Noteholders), Condition 14.6 (Extraordinary Resolution or an Ordinary Resolution of the Class D Noteholders) and Condition 14.7 (Extraordinary Resolution or an Ordinary Resolution of the Class E Noteholders)) relating to a Basic Terms Modification shall be materially prejudicial to the interests of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders and the Class E Noteholders); or
- (b) it is sanctioned by an Extraordinary Resolution, or in the case of an Ordinary Resolution, an Ordinary Resolution of each of the Class A1 Noteholders, the Class A2 Noteholders, the Class B Noteholders, the Class C Noteholders, the Class D Noteholders and the Class E Noteholders; or
- (c) none of the Class A1 Notes, the Class A2 Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Class E Notes remain outstanding.

#### **14.9 Exceptions**

Condition 14.2 (Extraordinary Resolution or an Ordinary Resolution of the Class A1 Noteholders) to Condition 14.8 (Extraordinary Resolution or any Ordinary Resolution of the Class F Noteholders) (inclusive), are subject to the following:

- (a) a termination of the Servicer in accordance with the provisions of the Servicing Agreement, which must be directed by each Relevant Class of Noteholders (acting by Extraordinary Resolution);
- (b) the removal of the Note Trustee, the Issuer Security Trustee, the Servicer (on the occurrence of any Servicer Termination Event), the Special Servicer (on the occurrence of any Servicer Termination Event), the Issuer Cash Manager, the Issuer Account Bank, the Principal Paying Agent, the Registrar or the Corporate Services Provider, the appointment of a new note trustee and the appointment of a new issuer security trustee which must be directed by an Ordinary Resolution of all of the Noteholders (acting as a single Class or otherwise, in accordance with the relevant Issuer Transaction Document) (other than the Class X Noteholders); and

- (c) the request for a Servicer Valuation in accordance with the Servicing Agreement, which must be directed by an Ordinary Resolution of the Noteholders (other than the Class X Noteholders) acting as a single Class.

#### **14.10 Quorum at Noteholder's meeting**

- (a) Subject as provided in Condition 14.11 (Basic Terms Modification), the quorum at any meeting of the Noteholders (or of any Class of Noteholders) for passing an Ordinary Resolution or an Extraordinary Resolution will be one or more persons present holding Notes outstanding or holding voting certificates or being proxies representing Notes outstanding constituting not less than 50.1 per cent. of the aggregate Principal Amount Outstanding of such Class or Classes of Notes then outstanding.
- (b) Subject as provided in Condition 14.11 (Basic Terms Modification), the quorum at any adjourned meeting of the Noteholders (or of any Class of Noteholders), for passing an Extraordinary Resolution or an Ordinary Resolution will be one or more persons present holding Notes outstanding or holding voting certificates or being proxies representing Notes outstanding, whatever the Principal Amount Outstanding of such Class or Classes of Notes then outstanding.
- (c) The Class X Noteholders will not be entitled to convene, count in the quorum or pass resolutions (including Extraordinary Resolutions and Ordinary Resolutions) other than resolutions specifically presented to it by request of the Issuer, the Servicer or the Special Servicer acting on behalf of the Issuer, or in respect of the Class X Entrenched Rights.

#### **14.11 Basic Terms Modification**

The quorum at any meeting of the Noteholders of any Class for passing an Extraordinary Resolution that would have the effect of sanctioning:

- (a) a modification of the date of maturity of any Class of Notes;
- (b) a change in the amount of principal or the rate of interest payable in respect of any Class of Notes;
- (c) a modification of the method of calculating the amount payable or the date of payment in respect of any interest or principal in respect of any Class of Notes (excluding any change to the reference rate applicable to the Notes following the discontinuation of EURIBOR);
- (d) any alteration of the currency of payment of any Class of Notes;
- (e) a release of the Issuer Security (or any part thereof) other than in accordance with the provisions of the Issuer Transaction Documents (and without prejudice to the Note Trustee's and the Issuer Security Trustee's ability to exercise their respective powers and discretions under the Note Trust Deed, the Issuer Deed of Charge, the German Security Agreement and the other Issuer Transaction Documents);
- (f) a Reserved Matter;
- (g) a modification to clause 10 (Operating Adviser) of the Servicing Agreement;



- (h) a modification to the definition of "Controlling Class"; or
- (i) a modification to the definition of "Basic Terms Modification" or the quorum or majority required to effect a Basic Terms Modification,

(each, a **Basic Terms Modification**), except, in each case, as set out in the final Note Maturity Plan delivered to the Noteholders pursuant to Condition 13 (Note Maturity Plan), shall be one or more persons holding Notes outstanding of the relevant Class or voting certificates in respect thereof or proxies representing not less than 75 per cent. of the Principal Amount Outstanding of the Notes of such Class of Notes for the time being outstanding, or at any such adjourned meeting, not less than  $33\frac{1}{3}$  per cent. of the Principal Amount Outstanding of the Notes of the relevant Class for the time being outstanding. Where a Basic Terms Modification is included in the final Note Maturity Plan delivered to the Noteholders pursuant to Condition 13 (Note Maturity Plan), such Basic Terms Modification may be approved in accordance with Condition 13 (Note Maturity Plan).

Any Extraordinary Resolution in respect of a Basic Terms Modification shall only be effective if duly passed at separate meetings (or by separate resolutions in writing or by separate resolutions passed by way of consents received through the relevant Clearing System(s)) of each relevant affected Class of Noteholders.

#### **14.12 Rating Agency Confirmation**

- (a) Pursuant to the Issuer Transaction Documents, the implementation of certain matters will or may (at the request of the Note Trustee or the Issuer Security Trustee), be subject to the receipt of a Rating Agency Confirmation.
- (b) Any request for a Rating Agency Confirmation shall be given in electronic form to the relevant Rating Agency or Rating Agencies. If any Rating Agency then rating the Notes either:
  - (i) (A) does not respond to a request to provide a Rating Agency Confirmation within 10 Business Days after such request is made; and (B) does not respond to a second request to provide a Rating Agency Confirmation, in respect of the same matter as the request in paragraph (A) above, within five Business Days after such second request is made (such second request not to be made less than 10 Business Days after the first request is made); or
  - (ii) provides a waiver or acknowledgement indicating its decision not to review or otherwise declining to review the matter for which the Rating Agency Confirmation is sought, and
  - (iii) in connection with (a) or (b) above, the Issuer has received no indication from that Rating Agency that the then-current ratings of the Notes rated thereby would be qualified, downgraded, withdrawn or put on negative watch as a result of such matter,

the requirement for the Rating Agency Confirmation from the relevant Rating Agency with respect to such matter will be deemed not to apply, and the Issuer Security Trustee and the Note Trustee shall not be liable for any losses the Noteholders may suffer as a result.

- (c) For the avoidance of doubt, such Rating Agency Confirmation or non-receipt of such Rating Agency Confirmation shall, however, not be construed to mean that any such

action or inaction (or contemplated action or inaction) or such exercise (or contemplated exercise) by the Note Trustee or the Issuer Security Trustee of any right, power, trust, authority, duty or discretion under or in relation to the Note Trust Deed or any of the other Issuer Transaction Documents is not materially prejudicial to the interest of holders of that Class of Notes.

#### **14.13 Disenfranchised Holder**

For the purposes of determining: (a) the quorum at any meeting of the Noteholders considering an Extraordinary Resolution or an Ordinary Resolution of the Noteholders or the majority of votes cast at such meeting; (b) the holders of Notes for the purposes of giving any direction to the Note Trustee (or any other party); or (c) the majorities required for any Written Extraordinary Resolution or Written Ordinary Resolution, the voting, objecting (including, without limitation, in respect of Condition 14.18 (Negative Consent)) or directing rights attaching to any Notes held by (or in relation to which the exercise of the right to vote is directed or otherwise controlled by): (i) the Issuer or any Affiliate Entity of the Issuer; (ii) an Investor or a Restricted Lender; (iii) any member of the Group, any Obligor or their respective Affiliates; (iv) the Sponsor or its respective Affiliates; (v) any Mezzanine Loan Related Lender or its respective Affiliates and (vi) any Property Manager, Operational Manager, other property or asset manager or their respective Affiliates (each such person falling within paragraphs (i), (ii), (iii), (iv), (v) or (vi) above, a **Disenfranchised Holder**) shall not be exercisable by such Disenfranchised Holder, and such Notes shall be treated as if they were not outstanding and shall not be counted in or towards any required quorum or majority.

#### **14.14 Written Ordinary Resolution and Written Extraordinary Resolution**

- (a) The Note Trust Deed provides for the Noteholders (or the Noteholders of the relevant class) to determine certain matters which could be determined by Extraordinary Resolution or Ordinary Resolution passed at a meeting duly convened and held to be determined instead by a Written Extraordinary Resolution or, as applicable, a Written Ordinary Resolution.
- (b) A Written Extraordinary Resolution has the same effect as an Extraordinary Resolution. A Written Ordinary Resolution has the same effect as an Ordinary Resolution.
- (c) The Note Trust Deed further provides that an Extraordinary Resolution and an Ordinary Resolution can take effect by way of electronic consent given through the Clearing Systems by or on behalf of the Noteholders.

#### **14.15 Consent or directions of the Noteholders of any Class**

Notwithstanding any provision to the contrary in these Conditions, the Note Trust Deed or the other Issuer Transaction Documents, at any time that any of the Notes remains outstanding, if the Noteholders of any Class are required to object to, consent or provide directions with respect to a modification of, or waiver or consent in relation to, the Senior Finance Document by Ordinary Resolution or Extraordinary Resolution, the Servicer or Special Servicer as applicable, will require that it will be a condition precedent to the implementation of such modification, waiver or consent that each person who objected, voted or counted in the quorum in any meeting of any Class of Noteholders, or otherwise provided any such objection, consent or direction provides a confirmation that it was not, at the time of such objection, vote, quorum, consent or direction, a Disenfranchised Holder.

#### **14.16 Extraordinary Resolution or Ordinary Resolution binding**

- (a) Subject to the provisions governing a Basic Terms Modification and to the provisions of these Conditions governing voting generally, an Extraordinary Resolution or an Ordinary Resolution passed at any meeting or duly signed by the required majority of Noteholders (or any Class thereof) shall be binding on all the Noteholders (or, as the case may be, all the Noteholders of such Class) whether or not they are present at such meeting or signed such resolution.
- (b) Any Ordinary Resolution or Extraordinary Resolution passed by any Class of Noteholders will be binding on the Class X Noteholders (other than any resolution in respect of a Class X Entrenched Right which shall only be binding on the Class X Noteholder if the Note Trustee has received the consent of the Class X Noteholder(s) by way of Extraordinary Resolution) if passed in accordance with the Conditions.

#### **14.17 Type of resolution**

Other than in respect of any matter requiring an Extraordinary Resolution, the Noteholders are required to vote by way of an Ordinary Resolution.

#### **14.18 Negative Consent**

- (a) The Issuer, the Note Trustee, the Issuer Cash Manager, the Servicer or the Special Servicer may propose an Extraordinary Resolution or an Ordinary Resolution of the Noteholders or any Class of Noteholders relating to any matter for consideration and approval by Negative Consent by the Noteholders or the Noteholders of such Class, other than:
  - (i) an Extraordinary Resolution relating to a Basic Terms Modification, the waiver of any Note Event of Default, the acceleration of the Notes, a resolution relating to the Class X Entrenched Rights or the enforcement of the Issuer Security;
  - (ii) an Ordinary Resolution relating to a Note Maturity Plan; or
  - (iii) any matter which is subject to the provisions of Condition 14.19(c) (Modifications and waivers) (such matter to be determined in accordance with Condition 14.19(c) (Modifications and waivers)).
- (b) **Negative Consent** means, in relation to an Extraordinary Resolution (other than (A) an Extraordinary Resolution relating to a Basic Terms Modification, the waiver of any Note Event of Default, the acceleration of the Notes, the enforcement of the Issuer Security or the Class X Entrenched Rights) or an Ordinary Resolution (other than an Ordinary Resolution relating to a Note Maturity Plan) of the Noteholders or the Noteholders of any Class or Classes (and without prejudice to any matter which is subject to the provisions of Condition 14.19(c) (Modifications and waivers)), the process whereby such Extraordinary Resolution or Ordinary Resolution shall be deemed to be duly passed and shall be binding on all of the Noteholders or the Noteholders of such Class or Classes of Notes (as the case may be) in accordance with its terms where:
  - (i) notice of such Extraordinary Resolution or Ordinary Resolution, as applicable (including the full text of the same) has been given by the Issuer, the Note Trustee, the Issuer Cash Manager, the Servicer or the Special

Servicer to the Noteholders or the Noteholders of such Class or Classes of Notes in accordance with the provisions of Condition 17 (Notice to Noteholders);

(ii) such notice contains a statement:

- (A) requiring such Noteholders to inform the Note Trustee in writing (or otherwise in accordance with the then current practice of any applicable clearing system through which such Notes may be held) if they object to such Extraordinary Resolution or Ordinary Resolution, stating that unless holders of: (I) in the case of an Extraordinary Resolution, Notes outstanding constituting 25 per cent. or more in aggregate Principal Amount Outstanding of the Notes or the Notes of such Class or Classes outstanding; or (II) in the case of an Ordinary Resolution, Notes outstanding constituting 50 per cent. or more in aggregate Principal Amount Outstanding of the Notes outstanding or the Notes of such Class or Classes, make such objection, the Extraordinary Resolution or Ordinary Resolution will be deemed to be passed by the Noteholders or the Noteholders of such Class or Classes; and
- (B) specifying the requirements for the making of such objections (including addresses, email addresses and deadlines) as further set out in the following paragraph; and

(iii) holders of:

- (A) in the case of an Extraordinary Resolution, Notes outstanding constituting 25 per cent. or more in aggregate Principal Amount Outstanding of the Notes or the Notes of such Class or Classes (as the case may be); or
- (B) in the case of an Ordinary Resolution, Notes outstanding constituting 50 per cent. or more in aggregate Principal Amount Outstanding of the Notes or the Notes of such Class or Classes,

have not informed the Note Trustee in writing of their objection to such Extraordinary Resolution or Ordinary Resolution (as applicable) within 30 days of the date of the relevant notice.

- (c) Any notice containing the text of an Extraordinary Resolution or an Ordinary Resolution shall: (i) in all cases also be delivered through the systems of Bloomberg L.P. (or such other medium as may be approved in writing by the Note Trustee) by the Issuer, the Issuer Cash Manager, the Servicer or the Special Servicer; and (ii) for so long as any Notes are listed on the official list of Euronext Dublin, be made available to any Regulatory Information Service maintained by Euronext Dublin.

#### **14.19 Modifications and waivers**

- (a) The Note Trustee may agree or may direct the Issuer Security Trustee to agree, without the consent of the Noteholders of any Class (but without prejudice to Condition 14.20 (Direction of Most Senior Class of Noteholders)):

- (i) to any modification (except a Basic Terms Modification and any modification relating to the Class X Entrenched Rights) of the Notes, the Note Trust Deed (including these Conditions) or any of the other Issuer Transaction Documents which, in the opinion of the Note Trustee, is not materially prejudicial to the interests of the holders of any Class of Notes (for so long as any of the Notes remain outstanding); or
  - (ii) to any modification of the Notes, the Note Trust Deed (including these Conditions) or any of the other Issuer Transaction Documents which, in the opinion of the Note Trustee, is:
    - (A) to correct a manifest error or an error proven to the satisfaction of the Note Trustee; or
    - (B) of a formal, minor or technical nature.
- (b) The Note Trustee may also, without the consent or sanction of the Noteholders or the other Issuer Secured Creditors and without prejudice to its rights in respect of any subsequent breach, condition, event or act from time to time and at any time but only if and in so far as in its opinion the interests of the Noteholders of each Class of Notes (for so long as any of the Notes remain outstanding) shall not be materially prejudiced thereby, waive or authorise, or direct the Issuer Security Trustee to waive or authorise, on such terms and subject to such conditions as it shall deem fit and proper, any breach or proposed breach by the Issuer or any other party thereto of any of the covenants or provisions contained in the Note Trust Deed (including these Conditions) or in any other Issuer Transaction Documents (which, for the avoidance of doubt, shall include payment by the Issuer Cash Manager of monies standing to the credit of the Issuer Transaction Account other than in accordance with the provisions of the Issuer Deed of Charge) or determine that any condition, event or act which constitutes a Note Event of Default or Potential Note Event of Default shall not be treated as such for the purposes of the Note Trust Deed (including these Conditions).
- (c) Subject to condition 14.19(g), if the Issuer is of the opinion that any modification is required to be made to the Issuer Transaction Documents and/or the Conditions in order to:
  - (i) (following discussions with the applicable Rating Agencies or otherwise) (i) comply with any criteria of the Rating Agencies which may be published after the Closing Date; or (ii) comply with any alternative requirements of the Rating Agencies (where it is not possible to replace the Issuer Account Bank with a replacement bank which has the ratings required under the Issuer Account Bank Agreement); or
  - (ii) for the purpose of enabling the Notes to be (or to remain) listed on the Global Exchange Market,

provided that the Issuer certifies to the Note Trustee in writing that such modification is required solely for such purpose and has been drafted solely to such effect, the Issuer shall promptly notify all Noteholders in accordance with Condition 17 (Notice to Noteholders) (but for so long as the Notes are represented by Global Notes and if, for so long as the Notes are listed on a stock exchange, the rules of such stock exchange so allow, of Condition 17.1(a)(ii) and 17.1(a)(iii) (Validity of notices) are complied with) of the proposed amendments (and shall make available to the Noteholders for inspection drafts of any amendments to applicable documents) and, if

within 30 calendar days from service of such notice the Noteholders representing at least 20 per cent. of the then aggregate Principal Amount Outstanding of the Notes then outstanding have not contacted the Issuer in writing (or otherwise in accordance with the then current practice of any applicable clearing system through which such Notes may be held) to reject the proposed amendments, then all the Noteholders will be deemed to have consented to the modifications and the Note Trustee shall (subject as further provided below), without seeking any further consent or sanction of any of the Noteholders or any other Issuer Secured Creditor and irrespective of whether such modifications are or may be materially prejudicial to the interests of the Noteholders of any Class or any other parties to any of the Issuer Transaction Documents, concur with the Issuer and, where relevant, the Senior Borrowers, and/or direct the Issuer Security Trustee to concur with the Issuer and, where relevant, the Senior Borrowers, in making the proposed modifications to the Issuer Transaction Documents and/or the Conditions that are requested by the Issuer and, where relevant, the Senior Borrowers in order to comply with such updated criteria, *provided that* the Issuer certifies to the Note Trustee and the Issuer Security Trustee in writing (upon which the Note Trustee and the Issuer Security Trustee shall rely conclusively and without liability) that: (A) (in respect of paragraph (i) above only) the proposed modifications are required to avoid a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to any Class of the Notes; (B) (in respect of paragraph (i) above only) the proposed modifications seek only to implement the new criteria published by the applicable Rating Agencies or to implement any alternative requirements of the Rating Agencies in respect of a downgrade of the Issuer Account Bank; (C) the proposed modifications do not constitute a Basic Terms Modification; and (D) the Noteholder consultation provisions set out above have been complied with and the Noteholders have not rejected the proposed amendments within the specified time frame; and provided further that the Note Trustee and the Issuer Security Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Note Trustee and the Issuer Security Trustee, as applicable, would have the effect of: (I) exposing the Note Trustee and the Issuer Security Trustee, as applicable, to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction; or (II) adding to or increasing the obligations, liabilities or duties, or decreasing the protections, of the Note Trustee and the Issuer Security Trustee, as applicable in respect of the Notes, in the Issuer Transaction Documents and/or the Conditions.

- (d) The Note Trustee will rely without further investigation on any confirmation or certification provided to it in connection with the modifications (and, in relation to any certification as to whether the modifications constitute a Basic Terms Modification, shall rely on such certification) and will not monitor or investigate whether the Issuer is acting in a commercially reasonable manner, nor will the Note Trustee be responsible for any liability that may be occasioned to any person by acting in accordance with these provisions based on any written notification or confirmation it receives from the Issuer.
- (e) Any such modification, waiver, authorisation or determination in accordance with these Conditions or the Issuer Transaction Documents shall be binding on the Noteholders and, unless the Note Trustee agrees otherwise, any such modification, waiver, authorisation or determination shall be notified by the Issuer to the Noteholders as soon as practicable thereafter in accordance with Condition 17 (Notice to Noteholders).

- (f) **Potential Note Event of Default** means an event which would be (with the expiry of any grace period, the giving of notice or the making of any determination under the Issuer Transaction Documents or any combination of them) a Note Event of Default.
- (g) Any modification or waiver relating to a Class X Entrenched Right will require the consent of the Class X Noteholders by way of Extraordinary Resolution.

#### **14.20 Direction of Most Senior Class of Noteholders**

The Note Trustee shall not exercise the powers of modification, waiver, authorisation or determination set out in Condition 14.19 (Modifications and waivers) (including for the purposes of complying with Rating Agency criteria) in contravention of any Ordinary Resolution of the holders of the Most Senior Class of Notes then outstanding (*provided that* no such direction or restriction shall affect any modification, authorisation, waiver or determination previously made or given).

#### **14.21 Conflicts**

Where the Note Trustee is required, in connection with the exercise of its rights, powers, trusts, authorities, duties and discretions (including, without limitation, giving any consent, approval, modification, waiver, authorisation or determination), to have regard to the general interests of each Class of Noteholders, it shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number), and, in particular, but without prejudice to the generality of the foregoing, the Note Trustee shall not have regard to, or be in any way liable for, the consequences of any such exercise for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory (or any political sub division thereof) and the Note Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer or the Note Trustee or any other person, any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

#### **14.22 Note Trustee discretions**

The Note Trustee shall be entitled to determine, in its own opinion, for the purposes of exercising any right, power, trust, authority, duty or discretion under or in relation to the Notes, the Conditions or any of the Issuer Transaction Documents, that such exercise will not be materially prejudicial to the interests of the Noteholders or any Class of Noteholders and in making such a determination shall be entitled to take into account, without enquiry, among any other things it may in its absolute discretion consider necessary and/or appropriate, any Rating Agency Confirmation (if available) in respect of such exercise. For the avoidance of doubt, such Rating Agency Confirmation or non-receipt of such Rating Agency Confirmation shall, however, not be construed to mean that any such action or inaction (or contemplated action or inaction) or such exercise (or contemplated exercise) by the Note Trustee of any right, power, trust, authority, duty or discretion under or in relation to the Notes, the Conditions or any of the Issuer Transaction Documents is not materially prejudicial to the interests of holders of that Class of Notes.

#### **14.23 Substitution of Issuer**

- (a) The Note Trustee may (subject to such amendments of these Conditions and of any of the Issuer Transaction Documents, and to such other conditions as the Note Trustee may require), without the consent of the Noteholders or any other Issuer Secured Creditor, agree with the Issuer to the substitution in place of the Issuer (or of any

previous substitute) as the principal debtor in respect of the Notes of another body corporate (being a single purpose vehicle) *provided that* each Rating Agency provides a Rating Agency Confirmation (it being acknowledged that there is no obligation on any Rating Agency to provide any such confirmation) prior to such substitution taking place and subject to satisfaction of certain other conditions set out in the Note Trust Deed (or suitable arrangements being put in place to ensure satisfaction of such conditions). In the case of substitution of the Issuer, for so long as the Notes are listed on the official list of Euronext Dublin and its rules so require, Euronext Dublin shall be notified by the Issuer of such substitution, a supplemental offering circular will be prepared by the new principal debtor and filed with Euronext Dublin and notice of the substitution will be given to the Noteholders by the Issuer in accordance with Condition 17 (Notice to Noteholders).

- (b) In connection with any such substitution of the Issuer as referred to above in this Condition 14.23, the Note Trustee and the Issuer Security Trustee may also agree, without the consent of the Noteholders or the other Issuer Secured Creditors, to a change of the laws governing the Notes, these Conditions and/or any of the Issuer Transaction Documents, provided that such change would not, in the opinion of the Note Trustee or, as the case may be, the Issuer Security Trustee, be materially prejudicial to the interests of the Noteholders or (if there are no Notes outstanding) the other Issuer Secured Creditors.

#### **14.24 Notes being held through Euroclear or Clearstream, Luxembourg**

- (a) Where, for the purposes of these Conditions, the Note Trustee or any other party to the Issuer Transaction Documents requires a Noteholder holding an interest in Notes through Euroclear or Clearstream, Luxembourg to establish its holding of such interest in the Notes to the satisfaction of such party, such holding shall be considered to be established if such Noteholder provides to the requesting party:
  - (i) a Euclid Statement (in the case of Euroclear) or a Creation Online Statement (in the case of Clearstream, Luxembourg) in each case providing confirmation at the time of issue of the same of such person's holding in the Notes;
  - (ii) if the relevant Notes are held through one or more custodians, a signed letter from each such custodian confirming on whose behalf it is holding such Notes such that the Note Trustee is able to verify to its satisfaction the chain of ownership to the beneficial owner; and
  - (iii) any other evidence of holding of such interest in the relevant Notes in a form acceptable to the Note Trustee.
- (b) If in connection with verifying its holding the Note Trustee requires a Noteholder to temporarily block its interest in the Notes in Euroclear or Clearstream, Luxembourg, such Noteholder will be required to instruct Euroclear or Clearstream, Luxembourg (via its custodian, if applicable) to do so.

#### **15. INDEMNIFICATION AND EXONERATION OF THE NOTE TRUSTEE AND THE ISSUER SECURITY TRUSTEE**

- (a) The Note Trust Deed and the Issuer Security Documents and certain of the other Issuer Transaction Documents contain provisions for indemnification of each of the Note Trustee and the Issuer Security Trustee and for their responsibility and relief



from responsibility, including provisions relieving them from taking any action including taking proceedings against the Issuer and/or any other person or, in the case of the Issuer Security Trustee, enforcing the security constituted by the Issuer Security Documents unless indemnified and/or secured and/or prefunded to their satisfaction.

- (b) The Note Trust Deed and the Issuer Deed of Charge also contain provisions pursuant to which the Note Trustee and the Issuer Security Trustee are entitled, *inter alia*:
  - (i) to enter into business transactions with the Issuer and/or any other party to any of the Issuer Transaction Documents and to act as trustee for the holders of any other securities issued or guaranteed by, or relating to, the Issuer and/or any other party to any of the Issuer Transaction Documents;
  - (ii) to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the Noteholders; and
  - (iii) to retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

## **16. REPLACEMENT OF GLOBAL NOTES AND DEFINITIVE NOTES**

If any Global Note or Definitive Note is mutilated, defaced, lost, stolen or destroyed, it may be replaced at the specified office of any Paying Agent or the Registrar upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence and indemnity as the Issuer, the Registrar, the Paying Agent or the Note Trustee may reasonably require. Mutilated or defaced Global Notes or Definitive Notes must be surrendered before replacements will be issued.

## **17. NOTICE TO NOTEHOLDERS**

### **17.1 Validity of notices**

- (a) All notices, other than notices given in accordance with Conditions 17.2 (Impossibility) to 17.5 (Verified Noteholder and Initiating Noteholder) (inclusive) to the Noteholders shall be deemed to have been validly given if:
  - (i) for so long as the Notes are listed on a stock exchange, and the rules of such stock exchange or any applicable regulation so require, or at the option of the Issuer, delivered through the announcements section of the relevant stock exchange and a regulated information service maintained or recognised by such stock exchange;
  - (ii) for so long as the Notes are represented by Global Notes, and if, for so long as the Notes are listed on a stock exchange, the rules of such stock exchange so allow, delivered to Euroclear and/or Clearstream, Luxembourg for communication by them to their participants and for communication by such participants to entitled account holders;
  - (iii) for so long as the Notes are represented by Global Notes and if, for so long as the Notes are listed on a stock exchange, the rules of such stock exchange so allow, delivered to the electronic communications systems maintained by

Bloomberg L.P. for publication on the relevant page for the Notes or such other medium for the electronic display of data as may be previously approved in writing by the Note Trustee; or

- (iv) if the Notes are in definitive form, published in a leading daily newspaper printed in the English language and with general circulation in Ireland (which is expected to be the Irish Times) or, if that is not practicable, in such English language newspaper or newspapers having a general circulation in Ireland and the rest of Europe.
- (b) Any such notice shall be deemed to have been given on:
- (i) in the case of a notice delivered to the regulated information service of a stock exchange, the day on which it is delivered to such stock exchange;
  - (ii) in the case of a notice delivered to Euroclear and/or Clearstream, Luxembourg, the day on which it is delivered to Euroclear and/or Clearstream, Luxembourg;
  - (iii) in the case of a notice delivered to Bloomberg L.P., the day on which it is delivered to Bloomberg L.P.; and
  - (iv) in the case of a notice published in a newspaper, the date of such publication or, if published more than once or on different dates, on the first date on which publication shall have been made in the newspaper or newspapers in which publication is required.

## **17.2 Impossibility**

If it is impossible or impractical to give notice in accordance with Condition 17.1(a)(i), (a)(ii) or (a)(iii) (Validity of notices), then notice of the relevant matters shall be given in accordance with Condition 17.1(a)(iv) (Validity of notices).

## **17.3 Copy of notices to Rating Agencies**

A copy of each notice given in accordance with this Condition 17 shall be provided to DBRS and Fitch for so long as, in each case, such rating agency publishes credit ratings in relation to the Notes (the **Rating Agencies**) to which reference in these Conditions shall include any additional or replacement rating agency appointed by the Issuer, with the prior written approval of the Note Trustee, to provide a credit rating in respect of the Notes or any Class thereof. For the avoidance of doubt, and unless the context otherwise requires, all references to **rating** and **ratings** in these Conditions shall be deemed to be references to the ratings assigned by the Rating Agencies.

## **17.4 Note Trustee can sanction other methods of giving notice**

The Note Trustee shall be at liberty to sanction some other method of giving notice to the Noteholders or to a Class or category of them if, in its opinion, such other method is reasonable having regard to market practice then prevailing and to the requirements 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 Note Trustee shall require. The Note Trustee shall give notice to the Noteholders in accordance with this Condition 17 of any additions to, deletions from or alterations to such methods from time to time.

### 17.5 Verified Noteholder and Initiating Noteholder

- (a) Any Verified Noteholder will be entitled from time to time to request the Issuer Cash Manager to publish a notice on its investor reporting website requesting other Verified Noteholders of any Class or Classes to contact it subject to and in accordance with the following provisions.
- (b) For these purposes, **Verified Noteholder** means a Noteholder which has satisfied the Issuer Cash Manager that it is a Noteholder in accordance with Condition 14.24 (Notes being held through Euroclear or Clearstream, Luxembourg).
- (c) Following receipt of a request for the publication of a notice from a Verified Noteholder (the **Initiating Noteholder**), the Issuer Cash Manager shall publish such notice on its investor reporting website as an addendum to any Issuer Cash Manager Quarterly Report or other report to the Noteholders due for publication within five Business Days of receipt of the same (or, if there is no such report, through a special notice for such purpose as soon as is reasonably practical after receipt of the same) *provided that* such notice contains no more than:
  - (i) an invitation to other Verified Noteholders (or any specified Class or Classes of the same) to contact the Initiating Noteholder;
  - (ii) the name of the Initiating Noteholder and the address, phone number, website or email address at which the Initiating Noteholder can be contacted; and
  - (iii) the date(s) from, on or between which the Initiating Noteholder may be so contacted.
- (d) The Issuer Cash Manager will not request and will not be permitted to publish any further or different information through this mechanism.
- (e) The Issuer Cash Manager will have no responsibility or liability for the contents, completeness or accuracy of any such published information and shall have no responsibility (beyond publication of the same in the manner described above) for ensuring the Noteholders receive the same.

### 18. CONTROLLING CLASS

- (a) The Controlling Class may from time to time appoint by way of an Ordinary Resolution any person to be its representative for the purposes of this Condition 18 (each such person, an **Operating Adviser**).
- (b) Any Operating Adviser so appointed will have the rights set out in the Servicing Agreement. Any Operating Adviser shall, unless instructed to the contrary in writing by the majority of persons who constitute the Controlling Class, be entitled in its sole discretion to exercise all of the rights expressed to be given to it pursuant to the Servicing Agreement as it sees fit.
- (c) The appointment of any Operating Adviser shall not take effect until it notifies the Issuer, the Note Trustee, the Issuer Security Trustee, the Servicer and the Special Servicer in writing (attaching a copy of the relevant Ordinary Resolution) of its appointment.

- (d) The Controlling Class may by Ordinary Resolution (notified in writing to the Issuer, the Note Trustee, the Issuer Security Trustee, the Servicer and the Special Servicer) terminate the appointment of any Operating Adviser. Any Operating Adviser may retire by giving not less than 21 days' notice in writing to the Noteholders of the Controlling Class (in accordance with the terms of Condition 17 (Notice to Noteholders)), the Issuer, the Note Trustee, the Issuer Security Trustee, the Servicer and the Special Servicer.
- (e) The Controlling Class may by Extraordinary Resolution direct the Operating Adviser to direct the Issuer to replace the person then acting as the Special Servicer in accordance with the terms of the Servicing Agreement.
- (f) The most junior Class of Notes (excluding the Class X Notes) outstanding which meets the Controlling Class Test at the relevant time shall be the **Controlling Class**. A Class of Notes will meet the **Controlling Class Test** if it has a total Principal Amount Outstanding which is not less than 25 per cent. of the Principal Amount Outstanding of such Class of Notes on the Closing Date and for which a Control Valuation Event is not continuing.
- (g) A **Control Valuation Event** will occur with respect to any class of Notes if and for so long as (i) the difference between: (A) the sum of (I) the then Principal Amount Outstanding of such class of Notes and (II) the then Principal Amount Outstanding of all classes of Notes ranking junior to such class; and (B) the ratio of the amount outstanding under the Securitised Senior Loan on the Closing Date to the amount outstanding under the Senior Loan on the Closing Date multiplied by the sum of: (I) any Valuation Reduction Amounts with respect to the Senior Loan; and (II) without duplication, losses realised with respect to any enforcement of security in respect of the Property Portfolio, is less than (ii) 25 per cent. of the then Principal Amount Outstanding of such class of Notes. Any Noteholder of any Class which is the subject of a Control Valuation Event has certain rights as set out in Clause 12.2(c) of the Servicing Agreement.
- (h) A **Valuation Reduction Amount** with respect to the Senior Loan will be an amount equal to the excess of:
  - (i) the outstanding principal balance of the Senior Loan; over
  - (ii) the excess of:
    - (A) 90 per cent. of the sum of the values set out in the most recent Valuation (including all reserves or similar amounts which may be applied toward payments on the Senior Loan) excluding the value of any part of a Property no longer held by the Senior Borrowers as at the date of determination; over
    - (B) the sum of:
      - (I) all unpaid interest on the Senior Loan;
      - (II) any other unpaid fees, expenses and other amounts that are payable prior to amounts payable to the Issuer under the Senior Loan; and

- (III) all currently due and unpaid ground rents and insurance premia and all other amounts due and unpaid with respect to the Senior Loan.

The Valuation Reduction Amount will be re-determined on each occasion on which an updated Valuation is obtained, by reference to such Valuation and on each other date on which the Issuer Cash Manager determines which Class of Notes meets the Controlling Class Test in accordance with paragraph (k) below.

- (i) If the most junior class of Notes outstanding does not meet the Controlling Class Test, the next most junior Class of Notes outstanding that does meet the Controlling Class Test will be the Controlling Class.
- (j) If no Class of Notes has a Principal Amount Outstanding that satisfies this requirement, then the Controlling Class will be the Most Senior Class of Notes then outstanding. For the avoidance of doubt, the Principal Amount Outstanding of a Class of Notes for the purposes of calculating the Controlling Class Test shall be the then current Principal Amount Outstanding of such Class less any Valuation Reduction Amounts that have been applied to that Class (which shall be applied first to the most junior Class of Notes up to its then current Principal Amount Outstanding and then to the next most junior Class of Notes up to its then current Principal Amount Outstanding and so on).
- (k) The Issuer Cash Manager shall determine which Class of Notes meets the Controlling Class Test promptly following the receipt of a Valuation from the Servicer or the Special Servicer, as the case may be, and in any event will determine which Class of Notes meets the Controlling Class Test on each Determination Date taking into account any Notes to be redeemed on the immediately following Note Payment Date.
- (l) Each Noteholder acknowledges and agrees, by its purchase of the Notes, that:
  - (i) the Operating Adviser may have special relationships and interests that conflict with those of the holders of one or more classes of the Notes;
  - (ii) the Operating Adviser may act solely in the interests of the Controlling Class;
  - (iii) the Operating Adviser does not have any duties to any Noteholders other than the Controlling Class;
  - (iv) the Operating Adviser may take actions that favour the interests of the Noteholders of the Controlling Class over the interests of the other Noteholders;
  - (v) the Operating Adviser will not be deemed to have been negligent or reckless, or to have acted in bad faith or engaged in wilful misconduct, by reason of its having acted solely in the interests of the Controlling Class; and
  - (vi) the Operating Adviser will have no liability whatsoever for having acted solely in the interests of the Controlling Class, and no holder of any other Class of Notes may take any action whatsoever against the Operating Adviser for having so acted.

## **19. RIGHTS OF THIRD PARTIES**

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Notes or these Conditions, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## **20. GOVERNING LAW AND SUBMISSION TO JURISDICTION**

### **20.1 Governing law**

The Issuer Transaction Documents (other than certain of the Senior Finance Documents) and the Notes, and any non-contractual obligation arising from or in connection with them, will be governed by, and shall be construed in accordance with, English law (other than the Corporate Services Agreement which will be governed by Irish law and the German Security Agreement and the German Security Trust Accession Agreement which will be governed by German law).

### **20.2 Jurisdiction**

- (a) Subject to paragraph (c) below, the English courts have exclusive jurisdiction to settle any dispute that may arise out of or in connection with the Note Trust Deed, the Issuer Deed of Charge, the Notes and the other Issuer Transaction Documents (other than certain of the Senior Finance Documents, the Corporate Services Agreement, the German Security Agreement and the German Security Trust Accession Agreement), including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Note Trust Deed, the Issuer Deed of Charge, the Notes and the other Issuer Transaction Documents (other than certain of the Senior Finance Documents, the Corporate Services Agreement, the German Security Agreement and the German Security Trust Accession Agreement) (a **Dispute**) and accordingly each of the Issuer and the Note Trustee and any Noteholders in relation to any Dispute submits to the exclusive jurisdiction of the English courts (other than in relation to certain of the Senior Finance Documents, the Corporate Services Agreement, the German Security Agreement and the German Security Trust Accession Agreement).
- (b) For the purposes of this Condition 20.2, the Issuer waives any objection to the English courts on the ground that they are an inconvenient or inappropriate forum to settle any Dispute.
- (c) To the extent allowed by law, each of the Note Trustee and the Noteholders may, in respect of any Dispute or Disputes, take: (i) proceedings in any other court with jurisdiction; and (ii) concurrent proceedings in any number of jurisdictions.

## CERTAIN MATTERS OF GERMAN LAW

*The following is an overview of certain aspects of German law and practice in force at the date hereof. It is not a complete overview of currently applicable German law and practice and should therefore not be treated as substitute for professional advice. Prospective Noteholders who are in any doubt as to any matter described in this Offering Circular should therefore consult their own professional advisers.*

### Security under German Law

#### *Land charges and mortgages in Germany*

In Germany, a land charge (*Grundschild*) or mortgage (*Hypothek*) will create a security interest over the real property encumbered thereby. It will also create a security interest over the buildings and under certain circumstances over the accessories thereon (*Zubehör*). Under certain circumstances it will create a security interest over the rents resulting from lettings of the property and the insurance claims relating to assets which are encumbered by the land charge. Such a security interest does not have priority over the lien for real estate taxes and assessments. In Germany, land charges (*Grundschilden*) are typically used as security.

The creation of a land charge (*Grundschild*) becomes effective only upon its registration in the relevant land register (*Grundbuch*) and its priority stems from the registered rank itself (and, to the extent there is a conflict with other security rights, the timing). The documents relating to a land charge are the deed of land charge and, due to its non-accessory character, the agreement on the security purpose (*Sicherungszweckerklärung*) of a land charge and, in case of a certificated land charge, the land charge certificate. Pursuant to the agreement on the security purpose, the land charge secures all claims resulting from the related finance documents. The land charge which is evidenced by a land charge certificate (*Grundschildbrief* and the certificated land charge being called *Briefgrundschild*) can be more easily transferred by an assignment and delivery of the land charge certificate. For specific risk factors relating to land charges see "*Risk Factors – Considerations relating to the Senior Loan and the Common Transaction Security – Enforcement of German New Land Charges*".

#### *Security over bank accounts in Germany*

Bank accounts are secured by way of a pledge (*Pfandrecht*) under German law. The present and future credit balance of bank accounts, including all interest payable thereon, together with all ancillary rights and claims associated with such accounts, are usually pledged under an account pledge agreement. However, depending on the circumstances of the individual case (e.g. waiver, partial waiver or step back in rank by a bank), the banks usually have a (prior ranking or subordinated) banker's lien (i.e. a pledge over present and future credit balances of bank accounts for all claims arising under the banking relationship with a customer) pursuant to the general terms and conditions for banks (*Allgemeine Geschäftsbedingungen Banken*).

According to German law, a pledge is an accessory security interest (*akzessorisches Sicherungsrecht*), the validity of which is dependent on the validity of the (future, present or conditional) claim secured. In addition, the creditor and pledgee must be the same person, whereas the pledgor is not necessarily the debtor under the claim secured by the pledge.

For specific risk factors relating to account pledges see "*Risk Factors*".

### *Security over insurances, rents and other receivables*

Receivables such as rental claims, insurance claims, receivables under management agreements or intra-group receivables are secured by way of an assignment agreement for security purposes (*Sicherungsabtretung*). Pursuant to such agreement, present and future receivables and other monetary claims held by the party granting security originating from present and any future contracts entered into by such party (including, without limitation, damage claims (*Schadensersatzansprüche*) or claims resulting from unjust enrichment (*ungerechtfertigte Bereicherung*)) will be encumbered. With respect to claims under insurance policies, security interests can be obtained either by assignment of such claims or the beneficiary being named as an insured party. However, security over rental claims would not include any security for rent paid by a tenant (*Mietkaution*) pursuant to German law, and any such security must be separated from the landlord's assets. Any agreement to the contrary would be void.

Land charges and mortgages that encumber income-producing property are often accompanied by a security assignment of rents and leases, pursuant to which the borrower assigns its right, title and interest as landlord under each lease and the income derived therefrom to the lender, while the borrower retains a revocable licence to collect the rents for so long as there is no default.

### *Documentation and perfection of Security Interests*

The creation and perfection of land charges and mortgages requires notarisation. Moreover, pledges in respect of payment claims require a notification to be sent from the pledgor and the pledgee to a third party debtor (in the case of an account pledge to the bank) in order to become enforceable against third parties. Security interests, such as land charges and mortgages, require registration in the relevant register and in case of a certificated land charge or mortgage, the hand-over of the relevant land charge/mortgage certificate to the holder of that security interest. Otherwise, it is not necessary under German law, in order to ensure the legality and validity of security interests, for it to be filed, registered or recorded with any court or public office.

Failure to properly create a security interest may result in the loss of funds that could otherwise serve as a source of repayment for a loan.

### *Limitations on taking security*

In Germany, a lender cannot take all or substantially all of the security an obligor can provide if such obligor has other unsecured creditors, such as suppliers. A global assignment and transfer of security interests to a finance provider would leave the general creditors of the obligor without any security assets to support the obligations owed to them. Such a result can be considered an unfair treatment of such creditors (*Gläubigerbenachteiligung*) and contrary to *bonos mores* (*sittenwidrig*). For specific risk factors relating to over-security see "*Risk Factors – Considerations relating to the Senior Loan and the Common Transaction Security – Over-collateralisation*".

## **Enforcement of Security in Germany**

### *Enforcement of German Security prior to Administration, Insolvency or Bankruptcy of Chargor*

Enforcement of a Land Charge or a Mortgage. Enforcement of a land charge or a mortgage is regulated in the German Forced Administration and Forced Sale Act. The German Forced Administration and Forced Sale Act provides for two different types of enforcement: (a) compulsory sale (*Zwangsversteigerung*) of the property; and/or (b) compulsory administration (*Zwangsverwaltung*) of the property. An enforcing creditor may require and apply for either a compulsory sale (*Zwangsversteigerung*) or a compulsory administration (*Zwangsverwaltung*) or a combination of both.



In the case of a compulsory sale (*Zwangsversteigerung*), the property will be sold in a public auction organised by the local court (*Vollstreckungsgericht*) where the property is located. Only the purchaser of the property has a right to terminate all or any of the leases, provided that the contractual or statutory termination rights are applicable. In addition to contractual and other statutory termination rights, the purchaser out of an enforcement procedure has an extraordinary statutory termination right. The net proceeds of the sale of the property (less certain enforcement costs and payment to certain categories of preferred creditors) will be applied to reimburse any amounts due and unpaid to the mortgagee. In normal circumstances, the entire auction and sale process may take one year or longer. In the case of compulsory administration, which can be started immediately after attachment (*Beschlagnahme*) of the property, the local court appoints an administrator of the property who administers the property on behalf of the enforcing creditor. The administrator is entitled to receive all income generated from the property, including all rents and insurance claims.

If the competent local court admits the enforcing creditor's application for compulsory sale (*Zwangsversteigerung*), the attachment of property will be ordered. It becomes effective as soon as the court's decision has been served with the debtor, or alternately, as soon as the court's request to register the order in the land register has been received by the land registry.

Rental, lease and any other periodic claims resulting from the rights relating to the property are not attached. The reason for this exception is that the debtor may continue to administer and use the property and sell assets (except for the property itself) in the ordinary course of business. The court may, however, limit or exclude these rights of the debtor to the extent it is required to ensure the ordinary running of the property after the attachment has come into force. Otherwise, these rights may only be attached by way of the compulsory administration as the rights to use and administer the property are transferred to the administrator appointed by the court.

The compulsory administration (*Zwangsverwaltung*) is completed when: (a) all creditors are satisfied; (b) the property is adjudicated in a parallel compulsory sale procedure; or (c) the secured creditor withdraws its application for the compulsory administration.

With respect to a compulsory sale (*Zwangsversteigerung*), after the attachment order has been registered in the relevant land register, the court publicly announces in the local gazette a date for the compulsory sale of the property, which takes place as a public auction. Other holders of registered land charges or mortgages on the property are required to be notified four weeks prior to auction.

The court fixes the minimum bid for the auction by taking into consideration the rights ranking prior to the creditor's right and the costs of the auction (*geringstes Gebot*). The court will typically obtain an expert opinion (*Sachverständigengutachten*) in order to estimate the proper value of the relevant property. The court order fixing the value of the property for the purpose of the public auction procedure may be challenged by means of an immediate complaint (*sofortige Beschwerde*) unless the court has already adjudicated the property.

If the highest bid on the auction is not at least 70 per cent. of the estimated market value, any person who has an interest in the outcome of the decision may request that the court does not sell to the relevant bidder. Such request may be opposed by the enforcing creditor by providing prima facie evidence that the non-acceptance of the bid would cause an unreasonable disadvantage. If the highest bid does not reach 50 per cent. of the estimated market value, the court may not adjudicate the property. If the property has not been adjudicated for one of the above reasons, a new date for the public auction will be scheduled at least three months later. On such new date, there is no requirement that the highest bid reaches 50 per cent. or 70 per cent. of the estimated value of the property.

Upon sale by auction, all rights lower in ranking than the enforcing creditor's rights will be deleted and all rights of prior ranking continue to be registered after transfer of ownership. All leases and

rents relating to the property continue to exist, other than any lease to the debtor, which may be terminated at the option of the new owner such that the owner can be evicted.

The enforcing creditor will be paid out of the sales proceeds prior to any unsecured enforcing creditors, but after: (a) costs for maintenance or necessary improvements of the property that are made in connection with a compulsory administration and incurred prior to the compulsory sale, if the compulsory administration continues until adjudication of the property and the costs for the maintenance cannot be covered from the usage of the property; (b) in the case of insolvency, the insolvency administrator's costs for identification/determination of the movable assets belonging to the property (flat fee of 4 per cent. of the value of such movable assets, payable to the insolvency administrator); (c) certain costs relating to land used for agricultural or forestall purposes; (d) ongoing public charges of the property for any arrears in the last four years (however, periodic charges such as real estate tax, interest, extra-charges, annuities and certain other claims are in this rank only for ongoing claims and arrears for the last two years); (e) claims resulting from rights relating to the property (rights registered with the land register) but only to the extent they do not rank below the rights of the enforcing creditor. The aforementioned classes and rankings apply to a compulsory administration *mutatis mutandis*.

The enforcement proceedings may be reversed or suspended if: (a) the court becomes aware of a registered proprietary or equivalent third party right according to which enforcement is not permitted; (b) the creditor withdraws his application for compulsory sale or compulsory administration; or (c) the debtor requests a suspension. A debtor may request a suspension for a maximum period of six months if there is a possibility that the suspension would avoid a compulsory auction, provided that the court considers the suspension to be equitable in view of the personal economic conditions of the debtor and the debt in question. Furthermore, the court must also consider whether the suspension will be acceptable for the creditor, taking into account his economic condition and, in particular, taking into account whether a suspension would result in an unacceptable disadvantage or if a compulsory auction at a later point in time would considerably compromise the expected proceeds.

The debtor may request a suspension of the enforcement proceedings within a period of two weeks after the necessary caution on the debtor's right to suspend the enforcement proceedings has been served with the debtor. Usually, such caution will be served together with the court decision on the compulsory sale. The court will decide by an order on the debtor's petition to suspend the enforcement proceedings. Prior to the decision, the enforcing creditor and the debtor must be heard. The debtor and the enforcing creditor may lodge an immediate complaint against the court decision.

The date for the public auction will be announced following the final decision made by the court responsible contradicting the desired suspension.

In the case of the opening of insolvency proceedings in Germany, the insolvency administrator may request a temporary suspension of the compulsory sale (see "*Enforcement of German Security upon Administration, Insolvency or Bankruptcy of Chargor – Enforcement of Security during German Administration Proceedings of Chargor*" below).

Costs of Enforcement. Costs and fees resulting from the enforcement can be charged to the account of the borrower and therefore can be enforced (to the extent covered by the granted security) in addition to the loan amount. Generally, German law controls the amount of enforcement expenses and costs, including attorneys' fees, which may be recovered by a lender. Court costs and legal costs relating to either a compulsory sale or compulsory administration will be statutorily based upon the various stages of the proceedings.

The statutory fees for the officially appointed administrator are based on the amount of rent collected or not collected by the administrator and is set out in the German Ordinance for Compulsory Administrators (*Zwangsverwalterverordnung*). According to the German Ordinance for Compulsory

Administrators, the fee is principally 10 per cent. of the de facto gross rent amounts collected during the administration and 20 per cent. of the amount which was not collected plus expenses (*Auslagen*). However, the court may, at its own discretion, increase the administrator's fee up to 15 per cent. or decrease the fee down to 5 per cent. of the collected rents. Several alternative fees may be chosen by the administrator and the court.

Certain claims rank with priority to mortgagees or land chargees. Among others, the proceeds of a compulsory sale (*Zwangsversteigerung*) have to be applied to the tax authorities' claims for the payment of land transfer tax first before the mortgagee's or land chargee's claims may be satisfied. In addition, certain costs of the creditor pursuing the compulsory sale have to be paid off in advance.

Enforcement of Pledged Accounts. Enforcement of a pledge of receivables (including monies standing to the credit of a bank account) under German law essentially involves self-help on the part of the pledgee. The pledgee is, after the pledge has become enforceable, entitled to collect the pledged receivables from the underlying debtor and to apply the receivables as so collected in discharge of the secured debt. However, once insolvency proceedings have been commenced with respect to the assignor, the assignee is barred from enforcing the receivables.

Realisation of Assigned Rights and Receivables. The assignor is authorised to collect and/or receive any and all of the receivables and to exercise all other rights assigned to the security holder during the ordinary course of business, unless the assignee has revoked such authorisation for reasons which are defined in the assignment agreement. The assignee is entitled to realise upon the receivables upon the occurrence of an event of default and if in addition there is an outstanding but unpaid payment claim under any Senior Finance Document as defined in and pursuant to the relevant German law assignment agreement entered into in connection with the Common Terms Agreement. Upon the occurrence of an event of default which is continuing, the assignee is also entitled to inform the underlying obligors of the assignment at its own discretion. In such case, an underlying obligor will discharge its obligations by paying directly to the assignee. The assignee can realise all or part of the receivables to the extent necessary to satisfy any outstanding amount under the secured obligations by collecting all or part of the receivables. The assignment agreement may provide that the assignor must collect the receivables for and on behalf of the assignee at the assignee's request.

Costs in connection with an insolvency are described below under "*Insolvency in Germany – Costs related to Insolvency in Germany*" below.

#### *Enforcement of German Security upon Administration, Insolvency or Bankruptcy of Chargor*

Enforcement of Security during German Administration Proceedings of Chargor. After the commencement of insolvency proceedings in Germany, the nature of the realisation and the question of who is entitled to effect realisation depend on the nature of the collateral. For this purpose security interests can be divided into the following categories: (a) security over immovable property; (b) security over movable property which has been transferred for security purposes or for which there is another right of lien; (c) assignments for security purposes; (d) claims pledged by the debtor; and (e) other rights transferred as security.

Immovable property (such as real property) can be realised by the administrator in insolvency by way of a private sale or by way of a compulsory sale (*Zwangsversteigerung*) or through compulsory administration (*Zwangsverwaltung*). In addition, a secured creditor is entitled to request a compulsory sale (*Zwangsversteigerung*) or compulsory administration (*Zwangsverwaltung*) of such property. Yet it requires an executable title against the debtor, as is the case outside the insolvency proceedings. If a secured creditor initiates debt enforcement, then in certain circumstances, described below, the administrator in insolvency is entitled to request temporary suspension of the compulsory sale or receivership, if such realisation would significantly impede meaningful use of the property for the benefit of the insolvency estate.

The realisation of movable property (such as certain equipment and other movable assets subject to a pledge or other right of lien or which had been transferred as security) is the responsibility of the administrator in insolvency, provided he is in possession of the property. In that case the administrator in insolvency may effect the realisation through a private sale, debt enforcement or the sale of a pledge.

Claims that have been assigned by the debtor as security (such as rents, insurances and other receivables) will be required to be collected by the administrator in insolvency or otherwise realised, for example through a sale or assignment. Claims that have been pledged by the debtor (such as a bank account) may be realised by secured creditors without involvement of the insolvent debtor in accordance with the provisions of the related pledge.

There is a disputed issue in Germany relating to the authority of the secured creditor to realise on other rights transferred as security (such as shares, limited partnership interests, trademarks, patents and copyrights). The law does not stipulate expressly whether the administrator in insolvency or the creditor of the security is entitled to effect realisation. The issue has not yet been decided by the German Federal Court of Justice (*Bundesgerichtshof*). The meaning and purpose of the provision on the realisation of security interests set forth in the German Insolvency Code, indicate, however, pursuant to some legal scholars' views published in legal literature, that the administrator in insolvency is entitled to effect realisation (also through a private sale).

Even though a creditor is entitled to separate enforcement of a land charge, as described above, following the opening of insolvency proceedings, the insolvency administrator may request in certain circumstances a temporary suspension of the enforcement of the land charge. In the case of a compulsory sale, the reasons are as follows: (a) the insolvency administrator has not yet reported to the creditor's assembly in relation to the continuation of the insolvency proceeding (the reason being that the insolvency administrator should have the possibility to maintain the property as an asset of the insolvency estate so that the creditor's assembly may decide on the property); (b) the property is needed for the continuation of the business or for the preparation of the sale of the business; (c) the compulsory sale (*Zwangsversteigerung*) would jeopardise an insolvency plan which has been suggested by the insolvency administrator; or (d) the compulsory sale would hinder an appropriate liquidation of the insolvency estate.

For the decision to sustain or to reject the insolvency administrator's application, the court would consider the interest of the insolvency creditors, the value of having an undisturbed continuation of the business and the insolvency plan. It would not consider the interest of the debtor in such decision. In any event, taking into consideration its financial condition, such application would be rejected by the court responsible for the enforcement of the property if a temporary suspension would not be in the interests of the creditor. Furthermore, such request would only be accepted if, *inter alia*, ongoing interest payments or other creditor compensation for any losses in relation to the property value are insured during the time of suspension of the enforcement proceedings. The enforcing creditor must request a continuation of such enforcement proceedings within six months after the date of suspension, otherwise the enforcement proceedings will be terminated by the court.

In the case of a compulsory administration (*Zwangsverwaltung*), the insolvency administrator may require temporary suspension of the enforcement of the land charge if it can provide *prima facie* evidence that the continuation of the compulsory administration (*Zwangsverwaltung*) would considerably hinder the use of the insolvency estate. The insolvency administrator, however, must ensure that the enforcing creditor's losses arising out of the suspension of the compulsory administration (*Zwangsverwaltung*) are compensated by ongoing payments to the enforcing creditor from the insolvency estate.

For the costs relating to insolvency proceedings in Germany see "*Insolvency in Germany – Costs related to Insolvency in Germany*" below.

### *Preferred Creditors*

Under German law, the costs of the insolvency proceedings in Germany (*Kosten des Insolvenzverfahrens*) and the further insolvency estate liabilities (*sonstiges Masseverbindlichkeiten*), such as court costs, the remuneration earned and the expenses incurred by the insolvency administrator and liabilities resulting from mutual contracts in as far as fulfilment is required to the credit of the insolvency estate (*Insolvenzmasse*) or which must be fulfilled after institution of the insolvency proceedings, are satisfied before other unsecured creditors are satisfied.

### **German Environmental Laws**

Under current German law, rules on cleaning up contaminated sites are mainly to be found in the Federal Soil Protection Act (*Bundesbodenschutzgesetz*). The class of persons under a duty of rehabilitation is wide. Any party who caused a harmful change to the soil, its universal successor, the owner, the former owner and the party exercising actual control over the property (including the owner of a Heritable Building Right) can be held liable by the competent public authorities for investigation measures, clean-up works or for clean-up costs. The selection of the responsible party is in principle a matter for the discretion of the public authority. An obligation to investigate or clean up a site relies upon an order being made by the relevant authority. If no voluntary action is taken, the authority is empowered to compel the execution of measures subject to the aforementioned order.

Prior to the enforcement of a mortgage or a land charge, the mortgagee or land chargee who benefits from a mortgage or land charge over a contaminated property will not be found liable for any costs attached to investigations or clean-up of the property. Also upon enforcement, under current German law, the mortgagee or land chargee does not take possession of the property (unless it decides to participate in the foreclosure procedures and acquire ownership of the property) and it is generally considered unlikely that a mortgagee or land chargee would incur a liability. However, if the public authority has cleaned up the property instead of the related borrower and has unpaid expenses, such expenses, in enforcement, might rank ahead of the Issuer's claim. If the public authority decides to put the burden to clean up on the respective owner of the property, such obligation would negatively influence the realisation value in the public auction enforcement.

### **Compound Interest in Germany**

Pursuant to Sections 248 and 289 and the first sentence of the German Civil Code, a provision obliging the debtor in advance to pay compound interest (*Zinseszins*), i.e. interest on interest, is void. However, unless otherwise agreed, a debtor is liable to pay default interest (*Verzugszins*) at a rate of interest equal to the statutory default interest rate which is, pursuant to Section 288 (1) of the German Civil Code, five percentage points above the base interest rate published by Deutsche Bundesbank from time to time. In addition, a debtor may be liable for further damages incurred due to its late payment in accordance with Sections 286 and 280 of the German Civil Code. Such damages would have to be proven.

### **Planning, Zoning and Other Regulations Affecting Properties in Germany**

German law provides for detailed regulations on the procedures and circumstances under which land can be developed. The Federal Building Act (*Baugesetzbuch*) defines the competences on federal, state and municipal level to ensure the resourceful use of the land and a well-structured settlement policy. Among the key principles included in this statute are the conservative utilisation of the land and the limitation of an expansion of housing development areas.

In the context of municipal planning, the zoning activities are generally co-ordinated and harmonised. The utilisation planning is based on the municipal zoning law and lays down the utilisation of the land for everybody. A binding separation between a building zone and a non-building zone is made and

the possibilities of use are laid down in the utilisation or zoning plans. Construction activities are generally only allowed in construction zones and are subject to authorisation by the body designated by the respective state law. Depending on the type of building and depending on the relevant state law, it is a necessary requirement in order to obtain a construction permit that buildings and facilities are in accordance with the purpose of the utilisation plan and that the land is already developed as suitable and necessary for the building activities.

In the context of public building law, the German authorities at federal, state and municipal level are provided with legislative and regulatory competences. The actual building regulations are enacted by the 16 states and applied by municipal or district building authorities. This has resulted in 16 different state building statutes. The building law rules at federal level, which are supplemented by the state statutes, only focus on selected aspects.

The freedom to build, which is derived from the right of freedom of having property and other constitutional rights, is restricted by rules of public building law. The public building law contains on the one hand material construction rules, especially those about basic requirements of buildings and facilities, as well as admissible utilisations of land, and on the other hand formal rules which regulate the constructional procedures.

Any breach of zoning or building laws may lead to a prohibition to use the relevant building or an order to change the construction of a building or an order to destruct the building or other appropriate orders.

### **Compulsory Purchase**

In Germany, a property may be compulsorily acquired by, inter alios, the state or a local authority, in connection with the fulfilment of public tasks, e.g. redevelopment or infrastructure projects. If the owner does not agree to sell the property, a compulsory acquisition (*Enteignung*) would either be effected by a legal act on the basis of an act of parliament or, less frequently, by an act of parliament itself. A compulsory acquisition must be based on a specific aim and must be indispensable for the general public welfare (*Allgemeinwohl*). Reasons of usefulness or of fiscal reasons are not sufficient. The process of a compulsory acquisition is in any case lengthy.

In the case of a compulsory acquisition, compensation has to be paid to the owner of the property in the amount of the open market value (*Verkehrswert*). The adequate compensation will be equal to the amount that would be realisable in a sale of the relevant object in the ordinary course of business when the official acquisition request is made. The compensation must not be higher than the direct damages suffered by the owner of the property for the loss. Generally, the compensation must be paid in money. In some specific cases the owner can be provided with alternative property for compensation, e.g. if the former owner would rely on property for his profession and the authority could, at the same time, offer an adequate alternative piece of land.

### **Leases in Germany**

#### *Obligations and liabilities of commercial property landlords and tenants in Germany*

Lease agreements under German law constitute a mere contractual relationship between the landlord and tenant. They do not constitute an encumbrance on the land itself and, hence, cannot be registered in the land register. Leases nevertheless always remain in place in the case of a change in the ownership of the property. However, the initial landlord remains liable for the fulfilment of the landlord's obligations under the lease until the point in time at which the tenant has the right to terminate the lease.

### *Duration of commercial leases in Germany*

Leases may be entered into for either a fixed term or an unlimited period of time. Unlike most residential leases, commercial leases are typically arranged for a limited period of time, usually 10 or 15 years with: (a) an automatic extension period of one year, if the agreement is not terminated with 12 months' prior written notice; and (b) between one and three extension options for the tenant, typically of five years, as agreed between the parties. Lease agreements which are arranged for a limited period of time are required to be in writing. This requirement has been construed by German courts in an extensive way (e.g. with regard to references in amendments). Unlimited leases or those that are deemed to be unlimited due to defects in written form may be terminated, in the case of commercial leases, by either party, during the period from the third working day of one calendar quarter to the end of the next calendar quarter.

### *Rent adjustments in Germany*

Commercial lease agreements normally contain indexation clauses linked to the German consumer price index or comparable cost of living indices. An index change of more than 10 per cent. may lead to a change in the rent of 50, 60 or 70 per cent. of the index change. Such rent revision may be effected automatically or upon the request of either party depending on the contractual arrangement.

Public charges, such as property tax, cost for general maintenance of the property and decorative repairs (*Schönheitsreparaturen*) as well as all other operating costs, insurances and service charges may broadly be charged onto the tenant. However, recently, German courts have tended to limit leases that regard the maintenance duties of tenants to certain time periods or to the actual state of a lease object as general terms and conditions (*allgemeine Geschäftsbedingungen*). Usually the base rent is calculated net plus operating costs as statutorily defined in the German Operating Cost Regulation (*Betriebskostenverordnung*). In essence, commercial leases provide that only basic maintenance costs with respect to the roof and all carrying parts (*Dach und Fach*) are borne by the landlord.

### *Easements*

In German commercial lease agreements the parties sometimes agree upon a limited personal servitude (*beschränkt persönliche Dienstbarkeit*) in favour of the tenant which covers the tenant's business activities. In some instances, the tenant has the right of first refusal if the landlord afterwards re-lets (*Vormietrecht*) or sells (*Vorkaufsrecht*) the property after termination of the lease. Such rights protect the tenants against any third party acquiring a property as it is registered.

Further, in German commercial lease agreements the parties sometimes agree upon tenant easements (*Mieterdienstbarkeiten*). The tenant easements (*Mieterdienstbarkeiten*) may rank in priority to the land charge and have the purpose of protecting the tenant against statutory termination rights of the landlord in case ownership title to the property is transferred within an insolvency proceeding or a compulsory sale. From the mortgagee's or land chargee's perspective it is important that the tenant easements (*Mieterdienstbarkeiten*) follow certain criteria developed by the Association of German Pfandbrief Banks (*Verband Deutscher Pfandbriefbanken*) in order to avoid that they materially decrease the value of the land charge.

### *Subletting and assignment in Germany*

Under German law, any subletting requires the landlord's consent. With respect to commercial leases, the landlord may withhold its consent in its sole discretion. However, upon refusal of the landlord's consent, the tenant has the right to extraordinarily terminate the lease within the statutory period, unless there is good reason for the landlord to withhold such consent.

### *Landlord's remedies for breach in Germany*

Upon breach of contract by the tenant, the landlord may extraordinarily terminate the lease without notice. In addition, the landlord is entitled to damages that were caused by the tenant's breach. In the case of non-payment of the rent, statutory law imposes a number of restrictions on a landlord's termination rights.

### *Privity of contract in Germany*

The legal position of a tenant under a lease in Germany cannot be transferred (*Vertragsübernahme*) to a new tenant without the consent of the landlord. Neither the tenant nor the new tenant have any rights under law to require the landlord to provide such consent. An agreement among all the parties is required. Without the landlord's permission a tenant is not entitled to transfer the use of a mortgaged property to a third party or to sublet the mortgaged property. If a tenant transfers the use to a third party it is responsible for any fault committed by such third party in the use, even if the landlord has given permission for the transfer, and the tenant will remain liable to pay rent under the lease. If the landlord refuses permission to sublet (notwithstanding the tenant's continuing liability under the lease in such circumstances), the tenant may give extraordinary notice to terminate the lease with observance of the statutory period unless otherwise agreed. However, the right to receive rents is assignable in the absence of specific agreement to the contrary.

### *Termination of leases in Germany*

German statutory law and relevant case law provide for strict requirements of written form for commercial leases. In general, all parts of the lease have to be attached to each other; this also applies to a supplement agreement unless it can be clearly identified that it relates to an earlier agreement. Furthermore, an objective reader of a lease agreement must be able to identify without any doubt the main content of the agreement and the parties to it as well as who represented them when the document was executed. According to recent court decisions, a lack of written form may also result from too long a time difference (usually more than four weeks or sometimes, following individual decisions, even less than this) between a landlord's and a tenant's signatures being affixed to the lease agreement. Moreover, an unspecified commencement date of the lease – as is the case if the commencement date of the lease is agreed to be a handover date, that is either undefined or only defined within a certain time period or a latest date – has been held to violate written form requirements under certain circumstances.

If a lease agreement lacks written form, it is not invalid, but is deemed to be entered into for an indefinite period of time (instead of the term agreed by the parties). As a consequence, the lease may be terminated on relatively short notice pursuant to statutory provisions.

### *Frustration of contract in Germany*

The German Civil Code contains a provision which stipulates that a party to a contract (e.g. a lease contract) may under certain circumstances claim that there has been a modification of the contract on the basis of unforeseen circumstances. Such unforeseen circumstances must be of the nature that, for this party, according to criteria of reasonableness and fairness, legal risk allocation and other contractual circumstances, the adherence to the contract would be unreasonable or the substantial conceptions which form the basis of the contract were wrong. If such modification of the contract is impossible or unreasonable, then this party may terminate the contract.



## Insolvency in Germany

### *Shift of Centre of Main Interest*

The German Property Companies are incorporated in Luxembourg and have their registered seat in Luxembourg. Where an insolvent company or legal entity has its registered office in an EU Member State, the respective EU Member State shall be presumed to be its Centre of Main Interests (*Mittelpunkt der hauptsächlichen Interessen*) and therefore in the absence of proof to the contrary, the Luxembourg insolvency courts are competent. In the decision by the European Court of Justice (ECJ) in relation to Eurofood IFSC Limited, the ECJ restated the presumption in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings, that the place of a company's registered office is presumed to be the company's Centre of Main Interests and stated that the presumption can only be rebutted if "factors which are both objective and ascertainable by third parties enable it to be established that an actual situation exists which is different from that which locating it at the registered office is deemed to reflect". Therefore, insolvency proceedings may be governed by German law only if the Centre of Main Interests of a German Property Company is presumed to be located in Germany based on the restated presumptions as set out in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings. The following is a brief description of certain aspects of insolvency law in Germany. Please refer to the section entitled "*Certain Matters of German Law*" for further information on German insolvency law.

### *Insolvency Proceedings in Germany*

The insolvency procedure is initiated at the request of the debtor or at the request of a creditor, should there be grounds for insolvency (*Insolvenzeröffnungsgrund*). Such grounds are given if the debtor is unable to pay its debts when due (*Zahlungsunfähigkeit*) or if the debtor's cash-flow insolvency is imminent (*drohende Zahlungsunfähigkeit*) according to the German Insolvency Code. If the debtor is a legal entity, balance-sheet insolvency (*Überschuldung*) also constitutes grounds for initiation.

### *Commencement of Insolvency Proceedings in Germany*

In general, insolvency proceedings can be divided into the opening procedure, i.e. the procedure between the petition for insolvency proceedings and the decision by the insolvency court to open the proceedings, and the proper insolvency proceedings, i.e. after the opening procedure.

A creditor is entitled to file a petition if he has a legal interest in the commencement of the insolvency proceeding and can furnish prima facie evidence of his claim and of cash-flow insolvency (*Zahlungsunfähigkeit*) or balance-sheet insolvency (*Überschuldung*) being met. The petition has to be filed with the relevant insolvency court; this is the German local court (*Amtsgericht*) which has jurisdiction over the place of the debtors' seat of incorporation. The petition does not have to be in any special form. A creditor has a legal interest (*rechtliches Interesse*) in filing an insolvency petition if he has a valid claim and is not sufficiently secured. Creditors who claim that a certain asset does not belong to the insolvency estate (*Aussonderungsrecht*) have to satisfy their claims outside the insolvency proceedings.

During the opening procedure, there are no insolvency-specific restrictions on the realisation of collateral. Hence, creditors are entitled to pursue the realisation of their security collateral. However, this situation can change if, during the opening procedure, the insolvency court prohibits or temporarily suspends judicial enforcement measures on the debtor's movable property in order to secure the insolvency estate. In this case, the realisation is restricted in that possession of the collateral is a prerequisite for realisation.

The insolvency court will decide whether the insolvency petition is admissible or not. During this decision process, the court has to implement all necessary measures in order to protect the interests of

all the creditors until a decision with respect to the petition is made. This may result in the insolvency court appointing an interim insolvency administrator (*vorläufiger Insolvenzverwalter*). Additionally, the court may, *inter alia*, (a) prohibit or temporarily restrain the debtor from disposing of any of its assets (*allgemeines Verfügungsverbot*), in which case the right of administration and disposal of its assets is transferred to the insolvency administrator who then has to assess if the assets cover the costs of the insolvency proceedings or (b) prohibit or temporarily enjoin any acts of execution (such as enforcement of land charges or mortgages) on the debtors' assets, excluding immovables (*Vollstreckungsverbot*).

#### *Opening of Insolvency Proceedings*

If the conditions for opening the insolvency proceedings are met, the insolvency court will open the insolvency proceedings through a formal order and appoint an insolvency administrator (*Insolvenzverwalter*). If the conditions outlined above are not met, or if the remaining assets are not sufficient to cover the cost of the proceedings, then the insolvency court will deny the opening of proceedings by virtue of a formal order. The party filing for insolvency is always entitled to lodge an appeal against the order, and, in addition, the debtor (who has not filed for insolvency) is entitled to lodge an appeal against the denial following reasons of insufficient remaining assets.

The insolvency court then issues an order of commencement in which it requests that the creditors inform the insolvency administrator, without undue delay, about any rights of segregation or preferential rights which they wish to assert in respect to movables or the debtor's rights. The order of commencement also stipulates that the creditors must register their claims in writing with the insolvency administrator. Any undisputed claims shall be deemed to be determined and its registration in the insolvency table (*Insolvenztabelle*) will be subject to a final judgment and therefore serve as a basis for execution after termination of the insolvency procedure (*Aufhebung des Insolvenzverfahrens*).

With the commencement of the insolvency proceeding, the debtor loses the right to manage and to dispose of its assets. These rights pass to the appointed insolvency administrator. The insolvency administrator assumes the management, the administration and the possession of all assets. The insolvency administrator is required to prepare a list of the assets (*Verzeichnis der Massegegenstände*), a list of creditors (*Gläubigerverzeichnis*) and a summary of the assets and liabilities (*Vermögensübersicht*) which must be submitted to the insolvency court no later than one week prior to the information hearing at the creditor's assembly. In order to prepare the summary, the insolvency administrator shall use the business books and correspondence, as well as the information provided by the creditors. The insolvency court must supervise the insolvency administrator and if warranted, has the right to dismiss him from his position. In the first creditors' assembly (*Gläubigerversammlung*), the creditors in attendance may also, following the appointment of the insolvency administrator, elect a different insolvency administrator.

The insolvency administrator is liable for damages to all parties for wrongful violation of his statutory duties. He is obliged to be a prudent and conscientious insolvency administrator and is liable for damages to the creditors of the estate, in the event that a liability of the estate incurred by the insolvency administrator cannot be completely satisfied by the insolvency estate (*Massegläubiger*).

#### *Types of Insolvency Proceedings Relating to Companies in Germany*

Under the German Insolvency Code, the main insolvency proceedings relating to companies in Germany are: (a) liquidation (*Liquidation*); (b) insolvency plan (*Insolvenzplan*); and (c) self-administration (*Eigenverwaltung*).

Liquidation results in a compulsory distribution of the company's assets. After the opening of the insolvency proceedings, the creditors' assembly resolves either to liquidate the company or to

continue its business. The liquidation procedure involves selling either the assets of the company, the entire company or part of its business (*übertragende Sanierung*) in the interest of equal satisfaction of all creditors. The competent insolvency court (*Insolvenzgericht*) appoints the insolvency administrator (*Insolvenzverwalter*) who takes control of the company and collects, realises and distributes its assets.

An alternative liquidation procedure is to establish an insolvency plan. The model for the insolvency plan was the "Chapter 11" reorganisation plan under the US Bankruptcy Code. This legal structure offers the debtor, its shareholders and its creditors a legal instrument for mutually agreed management of the insolvency estate (*Insolvenzmasse*). Thus, the insolvency plan, in the shape of a reorganisation, transfer, liquidation or other plan, offers a comprehensive reorganisation procedure. Within a regulatory framework, i.e. preservation of the minority rights and compliance with certain procedural steps, the creditors may decide to reorganise, rescue or liquidate the insolvent company or may indeed choose a route lying somewhere between these alternatives.

In standard insolvency proceedings, the insolvency administrator takes possession of the insolvency assets and is entitled to dispose of them. The management of the insolvent company is prohibited from processing and disposing of the insolvency assets at this stage. There is one exception to this rule, which is the self-administration procedure (*Eigenverwaltung*) set out in the German Insolvency Code. This procedure was influenced by the U.S. model of "a debtor in possession". In practice, since the introduction of these provisions in 1999, this procedure has proven unsatisfactory and is rarely used.

#### *Claw back, suspect or hardening periods in Germany*

Pursuant to Section 129 (1) of the German Insolvency Code, an insolvency administrator (*Insolvenzverwalter*) is entitled to challenge and avoid any legal acts (*Rechtshandlungen*) effected prior to the institution of the insolvency proceeding (*Insolvenzeröffnung*) which adversely affect the position of the insolvent company's creditors (*Insolvenzgläubiger*). This includes any legal act which grants or enables the insolvent company's creditor to obtain or seek security (*Sicherung*) or satisfaction (*Befriedigung*), and which legal act has been effected: (a) within the three months immediately prior to the filing of the insolvency petition (*Antrag auf Eröffnung des Insolvenzverfahrens*), provided that the debtor was unable to pay (*zahlungsunfähig*) at the time of the relevant legal act and the creditor had knowledge of such inability to pay (Section 130 (1) no. 1 of the German Insolvency Code); or (b) subsequent to the filing of the insolvency petition and the creditor had knowledge of the inability to pay or of the insolvency petition (Section 130 (1) no. 2 of the German Insolvency Code). Pursuant to Section 130 (2) of the German Insolvency Code, knowledge of the inability to pay and of the filing of the insolvency petition shall include knowledge of relevant circumstances supporting a compelling conclusion with respect to such inability to pay or filing of the insolvency petition. The insolvency administrator may also challenge and avoid any legal acts effected prior to the institution of the insolvency proceedings which adversely affect the position of the insolvency creditor if such legal act grants or enables the insolvency creditor to obtain or seek security or satisfaction which the insolvency creditor is not entitled to in such a way or at such a time or at all, provided that the legal act has been effected: (i) within one month immediately prior to, or subsequent to, the filing of the insolvency petition (Section 131 (1) no. 1 of the German Insolvency Code); (ii) within the second or third month immediately prior to the filing of the insolvency petition and the debtor was unable to pay at the time of such legal act (Section 131 (1) no. 2 of the German Insolvency Code); or (iii) within the second or third month immediately prior to the filing of the insolvency petition and the creditor had knowledge at the time of the legal act that it had an adverse effect on the insolvency creditors (Section 131 (1) no. 3 of the German Insolvency Code). In this context, knowledge of the adverse effects on the position of the insolvency creditors also exists if knowledge of the relevant circumstances exists which support a compelling conclusion with respect to such adverse effects (Section 131 (2) of the German Insolvency Code).

Furthermore, the insolvency administrator may challenge and avoid any legal transaction (*Rechtsgeschäft*) entered into by the debtor prior to the institution of the insolvency proceedings which results in immediate adverse effects on the position of the insolvency creditors, if such transaction was effected: (i) within the three months immediately prior to the filing of the insolvency petition, provided that the debtor was unable to pay at the time of such legal transaction and the other party had knowledge of this inability to pay at the same time (Section 132 (1) no. 1 of the German Insolvency Code); or (ii) subsequent to the filing of the insolvency petition and the other party had knowledge of the inability to pay or of the filing of the insolvency petition (Section 132 (1) no. 2 of the German Insolvency Code). Pursuant to Section 132 (2) of the German Insolvency Code, a legal transaction resulting in immediate adverse effects on the position of the insolvency creditors includes legal acts effected by the debtor which result in the forfeiture or unenforceability of a right of the debtor or in the preservation or enforceability of a liability of the debtor. The insolvency administrator may also challenge and avoid any legal acts effected by the debtor prior to the institution of the insolvency proceeding which adversely affect the position of the insolvency creditors, if such legal act was effected within 10 years immediately prior to, or subsequent to, the filing of the insolvency petition, provided that the debtor had the intention to adversely affect the position of his creditors and the other party had knowledge of such intention at the time of such legal act (Section 133 (1) sentence 1 of the German Insolvency Code). This knowledge is presumed if the other party had knowledge of (a) the imminent inability of the debtor to pay its debts (*drohende Zahlungsunfähigkeit*) and (b) the adverse effects of such legal act on the position of the creditors (Section 133 (1) sentence 2 of the German Insolvency Code). As a general rule, everything sold, transferred, abandoned or waived by the voidable legal act from the insolvency estate must be returned to the insolvency estate. In accordance with the German Creditor's Avoidance of Transfer Act (*Anfechtungsgesetz*), any legal act in respect of the assets of an assignor can be challenged by any creditor of the assignor if certain criteria are met. However, according to Section 19 of the German Creditor's Avoidance of Transfer Act, the right to challenge a legal act is governed by the law of the jurisdiction which governs the effect of such legal act.

#### *Effect of German Proceedings on contracts and claims*

The insolvency administrator has the right to decide whether or not to perform agreements which have not been completely fulfilled by the debtor and the other party. With respect to such mutual agreements that are not performed, the other party may assert any claim arising from non-performance only as an insolvency creditor (*Insolvenzgläubiger*), subject to certain limitations.

With respect to financial services agreements (*Finanzleistungen*), e.g. agreements relating to cash benefits, financial derivatives or options, having a market or exchange price (*Marktpreis* or *Börsenpreis*) and being subject to a specific point in time after the commencement of the insolvency proceedings, the insolvency administrator has no such right to choose whether or not such agreements be performed. Instead, the creditors and/or the insolvent debtor of such financial services agreements only have a claim resulting from the non-performance (*Forderung wegen Nichterfüllung*). The amount of such compensation claims is based on the difference between the agreed price and the market or exchange price effective on the second business day after commencement of the insolvency proceedings. The creditors may pursue their claim resulting from the non-performance by registering their claims in writing with the insolvency administrator whereas the debtor's claim becomes a part of the insolvency estate (*Insolvenzmasse*).

A lease agreement does not automatically terminate upon the commencement of insolvency proceedings involving either party to a lease agreement. The insolvency administrator is entitled to terminate any lease agreements entered into by the debtor as a tenant during the statutory termination notice period applicable to leases, as the case may be, irrespective of any contractual provisions. On the other hand, the landlord's termination right is restricted as it is not permitted to terminate the lease agreement either on the grounds of: (a) failure to make rent payments prior to the submission of the

petition commencing the insolvency proceedings, (typically a payment default with two monthly rent instalments); or (b) adverse developments in the debtor's financial circumstances after the petition has been filed for the commencement of the insolvency proceedings (*Kündigungssperre*). An explicit agreement between the parties granting a termination right for insolvency of a tenant is therefore deemed ineffective.

On the other hand, the landlord is not prevented from terminating the lease agreement for the entire term of the insolvency proceedings for other reasons. The landlord must not exercise any pre-existing statutory or contractual termination rights only in so far as they result from a (consecutive) payment default or an adverse development in the debtor's financial circumstances prior to the petition for insolvency proceedings. Any other termination right on the grounds of a non-contractual use of the leased premises are not affected by the termination ban and remain exercisable even after filing of a petition for insolvency proceedings. Also, with respect to payment defaults, the landlord may terminate the lease agreement if the grounds for such termination re-emerge in the course of the insolvency proceedings.

Rental or lease obligations incurred by an (interim) insolvency administrator, to the extent that they constitute the assets administered by him, are privileged liabilities of the insolvency estate. The right to receive the privileged payments does not extend to: (a) rental payments that were already outstanding before the petition was filed; and (b) rental obligations if and to the extent that the interim insolvency administrator does not use the property any longer. Such outstanding rent amounts would be treated as non-privileged claims like any other creditor's claims concerning the insolvent company.

Unlike a material payment default, a further deterioration of the assets after the petition for the opening of the insolvency proceedings has been filed does not give the landlord the right to terminate the lease agreement.

In the event that a debtor, as landlord of immovable property or premises, transferred for security purposes prior to the commencement of the insolvency proceedings the right to receive rental payments, such transfer by way of a security assignment agreement is only effective to the extent that it relates to rental payments relating to the month during which the proceedings were commenced. If proceedings are commenced after the 15th day of the month, such transfer is also effective for the following calendar month. In such case, rents resulting from lettings of the property remain encumbered by a land charge and may be collected by way of a compulsory administration. For the protection of the tenants' position in insolvency proceedings opened in respect of the landlord by way of tenant easements (*Mieterdienstbarkeiten*), see "*Leases in Germany – Easements*" above.

#### *Out-of-court composition and settlement in Germany*

In the framework of insolvency proceedings German law also allows for out-of-court composition or liquidation (*außergerichtlicher Vergleich or Liquidation*). Out-of-court composition or liquidation is relatively common in practice. An out-of-court composition can be arranged as a reorganisation or a liquidation on agreement among the company, its shareholders and its creditors. This voluntary procedure will only be successful if no creditor files a petition for insolvency proceedings. However, if an insolvency court has denied a petition for the opening of insolvency proceedings as a result of insufficient assets (*Abweisung mangels Masse*), composition or liquidation are the only alternatives.

Prior to the opening of insolvency proceedings, out-of-court settlements between the creditor and the debtor are possible at any time. If negotiated and concluded by attorneys on behalf of the parties, an out-of-court settlement may be declared as immediately enforceable by the local court which would be competent for its enforcement. Moreover, every out-of-court settlement may be declared as immediately enforceable by a notary public with a business address in the district of the local court competent for its enforcement. Such declarations of enforceability are executory titles regarding the out-of-court settlement which are necessary for immediate enforcement. The local court and the

notary public in charge respectively will issue the declaration of immediate enforceability upon application by one party: (a) if the debtor submits himself expressly to immediate enforcement in the application; and (b) if the settlement document will be deposited in escrow at the local court/notary public. The court or the notary public, as the case may be, will reject the application if the settlement agreement is not valid and binding. A settlement is, in particular, not valid and binding if the parties are mistaken about the factual circumstances of the dispute settled by the compromise.

### *Borrowers formed in Foreign Jurisdictions under German Law*

Where an insolvent company has its Centre of Main Interests in the European Union, the jurisdiction of the German insolvency courts is governed exclusively by the Insolvency Regulation. This is regardless of whether the company is incorporated in the EU. The Insolvency Regulation also applies to company voluntary arrangements, but has no application to administrative receiverships.

Where an insolvent company or legal entity has its registered office (*satzungsmäßiger Sitz*) in the Federal Republic of Germany, Germany shall be presumed to be its Centre of Main Interests (*Mittelpunkt der hauptsächlichen Interessen*) and therefore German insolvency courts are competent (in the absence of proof to the contrary).

The Insolvency Regulation applies only to proceedings where the debtor's Centre of Main Interests is located in the EU and it recites that the debtor's Centre of Main Interests should correspond to the place where it conducts the administration of its interests on a regular basis and provides that, in the case of a company, the place of its registered office shall be presumed to be its Centre of Main Interests in the absence of proof to the contrary.

The Insolvency Regulation confers jurisdiction on the German insolvency courts to open "main" insolvency proceedings, including liquidation and administration proceedings, in respect of a company (including a foreign company) having its Centre of Main Interests in Germany. Pursuant to the Insolvency Regulation, "main" insolvency proceedings are intended to encompass the debtor's assets on a worldwide basis and to affect all creditors, wherever located, subject as described below. Where the debtor has an "establishment" in an EU Member State, "territorial" proceedings may be opened in that State, which are "secondary" proceedings (and liquidation proceedings only) where "main" proceedings have already been opened in another EU Member State.

The German insolvency courts have, in certain circumstances, jurisdiction to liquidate an insolvent foreign company that does not have its Centre of Main Interests in the EU (so that the Insolvency Regulation does not apply). Pursuant to Section 354 of the German Insolvency Code, German courts can open "partial" insolvency proceedings (*Partikularverfahren*) if assets of the debtor are located in Germany or the debtor has a branch office (*Niederlassung*) in Germany or if a creditor proves that it has a particular interest in insolvency proceedings being opened in Germany.

By contrast, save in limited circumstances (including those mentioned below), the German insolvency courts do not have jurisdiction to make an administration order in respect of an insolvent foreign company that does not have its Centre of Main Interests in the EU, as such a company does not fall within the definition of "company" for the purposes of Section 11 of the German Insolvency Code.

However, under Section 356 of the German Insolvency Code, the German insolvency courts may elect to exercise the powers and discretions they have with respect to an insolvent company incorporated in Germany in respect of a foreign company, provided that they receive a request for assistance from the courts of a "relevant country or territory" having jurisdiction over the foreign company.

### *Costs related to Insolvency in Germany*

Within the context of insolvency proceedings, so-called cost contributions of the security creditors are incurred where the administrator in insolvency is entitled to realise the security collateral. Where movable property is involved, a flat-rate fee of 4 per cent. is charged for assessment of the security collateral and 5 per cent. for the realisation. However, if the costs of the realisation are significantly higher or lower than the 5 per cent. threshold, then the actual costs incurred have to be taken into account. In addition, any VAT payable is also charged. Frequently the administrator in insolvency and the creditors of the security will agree on the cost contribution payable to the insolvency estate.

As regards the realisation of immovable property, the costs depend on the kind of realisation involved. Where the administrator in insolvency realises through a private sale, then as a rule he will agree with the creditors on a costs contribution that is considerably lower than 9 per cent. In case of realisation through a compulsory sale or receivership, the costs are payable pursuant to the statutory provisions.

### **Equitable Subordination in Germany in relation to Senior Obligors having their Centre of Main Interests in Germany**

Under certain circumstances a financing party, such as the Loan Sellers or the Issuer, may be excluded from demanding repayment of its claims against the Senior Obligors who (a) are German limited liability companies or limited partnerships as an ordinary creditor or (b) have their Centre of Main Interests in Germany, if they have a degree of control over the management of the company or partnership which brings it in a shareholder-like position. It is a matter of fact whether in performance and enforcement of the finance documents the financing parties are able to exercise rights granted to them in a manner which constitutes taking control. For example, the German Supreme Court held in 1992 that a financing bank which had been pledged the interest of the limited partner in a GmbH & Co. KG to which it had extended a loan, was subordinated with its claim for repayment due to a combination of restrictive covenants, consent requirements, performance-based interest payments and security over typical shareholder rights such as dividend rights, participation rights in liquidation proceeds and proceeds from the sale of the company. Further, indications in this respect can be deducted from a judgment of the *Bundesgerichtshof* (the **BGH**) of 2012 in relation to the position of an atypical silent shareholder (*atypisch stiller Gesellschafter*). In such judgment, the BGH has held that an atypical silent shareholder is subordinated in insolvency if its position under the participation agreement is, in the internal relationship, close to that of a shareholder. The BGH mentions as possible indications in this respect, among others, the participation, control and information rights and the determination of the profits. However, no case law on questions of control and subordination is available with respect to complex financing structures like commercial real estate finance transactions.

## CERTAIN MATTERS OF DUTCH LAW

*The following is an overview of certain aspects of Dutch law and practice in force at the date hereof. It is not a complete overview of currently applicable Dutch law and practice and should therefore not be treated as substitute for professional advice. Prospective Noteholders who are in any doubt as to any matter described in this Offering Circular should therefore consult their own professional advisers.*

### **Dutch law security and insolvency considerations**

#### *Security over real property*

Under Dutch law, security over real property is granted by means of a mortgage. A right of mortgage is vested by the registration of a certified copy of the relevant notarial deed executed before a Dutch civil law notary, in the Dutch Land Registry.

The mortgaged property must be specified in detail in the mortgage deed and a maximum secured amount must be stated for the total secured debt, including interest and costs.

A mortgage can include a pledge of movable assets which are designated to serve the real property on a lasting basis or which qualify as machinery and equipment and are designated to be used to operate a business in the property subject to the mortgage, but a mortgage does not include any other assets, such as lease rights and rentals.

A mortgage can also be granted over a long-lease (*erfpachtrecht*) or a right of superficies (*opstalrecht*).

#### *Security over shares*

The legal requirements for the creation of a security interest in shares in the capital of a company which has been incorporated under the laws of the Netherlands depend on the type of company and the type of shares concerned.

Security over shares in a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) under Dutch law needs to be taken in a form of a pledge executed as a notarial deed before a Dutch civil law notary. The right of pledge may be subject to pre-emption rights and other transfer restrictions. The pledge can cover dividends or other distributions in respect of the pledged shares, as long as this is sufficiently specified in the notarial deed.

The pledge needs to be notified to, but does not need to be acknowledged by, the company in the capital of which the shares are pledged to perfect the security. The pledge will normally be notified to the relevant company by including it as a party to the notarial deed and registration of the pledge in the shareholders' register of the company.

It is legally not necessary to register the pledge in the shareholders' register to secure validity against creditors but it is recommendable to register the pledge in the shareholders' register (mostly because this is a mandatory requirement for the managing directors to attend to).

A deed of pledge can provide that voting rights attaching to pledged shares in the company are (conditionally) transferred to the pledgee, provided that: (i) the articles of association of the company do not prohibit a (conditional) transfer of voting rights; (ii) the transfer is provided for at the creation of the right of pledge or agreed upon afterwards between the shareholder and the pledgee; and (iii) if the articles of association of the company contain a transfer limitation (*blokkeringsregeling*) or



otherwise require prior approval of a transfer of voting rights, the passing of the voting rights is approved by the corporate body that is designated to approve a transfer of shares in the articles of association of the company. The transfer of voting rights can be made subject to the condition precedent that an event of default or another event occurs.

#### *Security over contract rights and receivables*

The only security interest that can be created over contract rights and receivables is a right of pledge. The right of pledge can either be a disclosed pledge (*openbaar pandrecht*) in which case the debtor of the pledged receivable is notified of the pledge, or an undisclosed pledge (*stil pandrecht*) in which case notification does not take place in advance but the pledgee may notify the debtor of a pledged receivable if (i) there is a justified fear for an event of default or (ii) at any other time the pledgor and pledgee agree upon.

A right or receivable will only be subject to the non-disclosed pledge created by or pursuant to a Dutch security document if it exists or arises directly out of a legal relationship that exists at the time the relevant Dutch security document is registered. Supplemental deeds should be registered from time to time once the relevant right or receivable or the relevant legal relationship from which it arises comes into existence in order for the right or receivable to become subject to a pledge.

A non-disclosed pledge over rights and receivables will not be effective until registration with the "Belastingdienst Ondernemingen". This registration is effected by submission of a registration request together with a copy of the relevant Dutch security document (or, after its execution, the supplemental deed respectively).

As long as the pledge has not been notified to the debtor of the pledged contract rights and receivables, the debtor can still pay or perform its obligations in respect of the pledged contract rights and receivables towards the pledgor, and obtain a valid discharge for such payment or performance. In this case the pledge will cease to exist and the pledgee does not keep a priority right over the paid proceeds, unless the proceeds are paid into a bank account pledged to the pledgee (in which case the proceeds fall under this new pledge). In insolvency the pledge will keep a priority right over the paid proceeds, however it will need to contribute to the bankruptcy costs.

It should be noted that Dutch law allows parties to stipulate that contract rights and receivables are non-transferable. If such non-transferability clause affects property rights (*goederenrechtelijk effect hebben*), the contract rights and receivables concerned cannot be pledged.

In the event contractual restrictions apply to the pledging of contract rights and receivables, such restrictions need to be adhered to in order to avoid the risk of any claims for damages against the pledgor on the basis of breach of contract.

#### *Security over bank accounts*

Under Dutch law, a security right in a bank account is regarded as a security right in a contractual claim. Bank accounts are therefore pledged in the same way as receivables.

A disclosed right of pledge is strongly preferred as a non-disclosed right of pledge is, for technical legal reasons, limited to the balance standing to the credit of the pledged account on the date of creating the right of pledge. Credits received on that account after the date of the pledge will remain at the pledgor's free disposal and will not become subject to the pledge. A disclosed right of pledge does not have such limitation given that a disclosed pledge covers all existing and future receivables against the notified debtor.

In the case of a disclosed pledge, the relevant account banks are notified of the receivables pledge at the time of the granting of that pledge. The secured creditor generally authorises the security provider to receive payment from the relevant debtors and to operate the bank accounts.

In addition thereto, a Dutch account bank generally has a first right of pledge on the bank account and the possibility to set-off pursuant to its general conditions. An acknowledgement of the pledge by the account bank is required in order to make the account bank waive such rights, although in practice Dutch banks are not at all times willing to give such waiver. A (partial) waiver is usually granted in such a manner that the account bank's pledge is preserved to the extent it relates to fees and costs owing by the account holder to the account bank from time to time in connection with maintaining the relevant account.

We furthermore note that the issue described above regarding the non-transferability of claims equally applies to bank accounts, noting that most Dutch account banks have provided for the non-transferability in their general conditions.

#### *Security over rental income*

Under Dutch law, rental receivables can be pledged by way of a disclosed pledge or an undisclosed pledge.

Rental receivables are often pledged by way of an undisclosed pledge. Therefore the pledgor will have to enter into supplemental pledges on a regular basis pledging new contracts with existing debtors and/or new debtors. To enforce its right to receive rental payments in respect of an undisclosed pledge over rental receivables, a pledgee will first have to notify the debtor. Any payments made by the relevant debtor to the pledgor prior to such notification will have been validly made and the pledgee will not have any priority right in respect of such payments.

#### *Security over insurance policies*

A right of mortgage includes a right of pledge on all claims which may substitute the mortgaged asset, including certain insurance claims related to the asset. Despite this, usually a separate pledge of certain insurances is agreed as well. Usually insurance receivables are pledged by way of a disclosed pledge. In addition, the pledgee is sometimes named in the relevant policy as first loss payee or co-insured.

#### *Limitations on security over future assets*

In the case of a pledge on future assets (i.e. certain future receivables (excluding those that arise from a new contract or against a counterparty), shares and moveables), the pledge is perfected at the moment the pledgor acquires title to the pledged asset. Any asset acquired by the pledgor after bankruptcy will not be subject to the pledge but falls into the bankruptcy estate.

As a result of this, certain receivables such as regular rental payments arising under an existing rental agreement which become due and payable after bankruptcy of the pledgor will not be subject to the security right but will form part of the bankrupt estate which is available to all creditors. The same is true for any amounts paid into a pledged bank account after bankruptcy of the account holder.

No mortgage can be granted over future real property, i.e. real property that will only be acquired after the deed of mortgage by the security provider.

### *Priority over unsecured creditors*

On the debtor's insolvency, a secured creditor in principle ranks ahead of all unsecured creditors, including most preferential creditors, e.g. certain taxes, employee benefits, social security benefits, the costs of the insolvency administration, (probably) environmental liabilities and tort claims for personal injury or death. Taxes, enforcement and custodial costs applicable to the asset itself rank ahead. Also, in respect of claims for certain taxes only, the taxman will rank ahead of a pledge in respect of certain equipment and inventory (this does not apply for a mortgage in respect of real estate or land itself).

### *Dutch Insolvency Considerations*

The Dutch Senior Borrowers are incorporated under the laws of the Netherlands. Consequently, in the event of a bankruptcy or insolvency event in relation to the Dutch Senior Borrowers, primary proceedings would likely be initiated in the Netherlands (assuming that the centre of main interests (within the meaning of the Insolvency Regulation) sits in the Netherlands). Dutch insolvency laws may make it difficult or impossible to effect a restructuring. The following is a brief description of certain aspects of Dutch insolvency law.

There are two primary insolvency regimes under Dutch law for companies: the first, moratorium of payments (*surseance van betaling*), is intended to facilitate the reorganisation of a debtor and enable it to continue as a going concern. The second, bankruptcy (*faillissement*), is primarily designed to liquidate and distribute the proceeds of the assets of a debtor to its creditors. In practice however, a moratorium of payments often serves as a gateway to bankruptcy proceedings, and in a bankruptcy, the receiver (*curator*) may continue the activities of the company before selling the company or parts of it. Both insolvency regimes are set forth in the Dutch Bankruptcy Act. A general description of the principles of both insolvency regimes is set out below.

An application for a moratorium of payments can only be made by the debtor itself. Once the request for a moratorium of payments is filed, the court will immediately grant a provisional moratorium and appoint an administrator (*bewindvoerder*); it may (and in practice will) also appoint a delegated judge (*rechter-commissaris*). A meeting of creditors is required to decide on the definitive moratorium. If a draft composition (*ontwerp akkoord*) is filed simultaneously with the application for a moratorium of payments, the court can order that the composition will be dealt with before a decision about a definitive moratorium. If the composition is accepted by the creditors and subsequently confirmed by the court (*gehomologeerd*), the provisional moratorium ends as soon as the court's decision becomes final. The definitive moratorium will generally be granted unless a qualified minority (more than one-quarter in amount of claims held by creditors represented at the creditors' meeting or more than one-third in number of creditors represented at such creditors' meeting) of the unsecured non-preferential creditors withhold their consent. The moratorium of payments can, at any time, be withdrawn by the court, on its own volition, at the request of a creditor or the administrator or on submission of the delegated judge on certain grounds concerning the behaviour of the debtor and the state and prospects of the estate. The moratorium of payments is only effective with regard to unsecured non-preferential creditors. Under Dutch law, secured and preferential creditors (including tax and social security authorities) may enforce their rights against assets of the company in moratorium of payments to satisfy their claims as if there were no moratorium of payments. The court may order a stay (*afkoelingsperiode*) for a maximum period of four months during which enforcement actions by secured or preferential creditors are barred. Also in a definitive moratorium of payments, a composition (*akkoord*) may be offered to creditors. A composition will generally be binding on all unsecured and non-preferential creditors if it is: (a) approved by a majority in number of the creditors recognised and admitted at the creditors' meeting, representing at least 50 per cent. of the amount of the claims that are admitted for voting purposes; and (b) subsequently ratified (*gehomologeerd*) by the court. Under certain conditions, the court or the delegated judge (as the case may be) may derogate from these requirements. Consequently, Dutch insolvency laws could preclude or inhibit the ability

of the holders of the Notes to effectuate a restructuring. Interest payments that fall due after the date on which a moratorium of payments is granted cannot be taken into account in a composition.

Under Dutch law, a debtor can be declared bankrupt when it has ceased to pay its debts. The bankruptcy can be requested by a creditor of a claim that is due and payable but left unpaid when there is at least one other creditor (whose claim does not have to be due and payable). Under Dutch bankruptcy proceedings, the assets of a debtor are generally liquidated and the proceeds distributed to the debtor's creditors in accordance with the respective rank and priority of their claims. With its order opening the bankruptcy, the court will appoint one or more receivers (*curator*) and a delegated judge (*rechter-commissaris*). With the exclusion of the debtor, the receiver will be authorised to administer and dispose of (*beheer en beschikking*) all assets that are part of the bankruptcy estate. As soon as a debtor is declared bankrupt, all pending executions of judgments against such debtor, as well as all attachments on the debtor's assets (other than summary executions with respect to secured creditors), will be terminated by operation of law. Litigation pending on the date of the bankruptcy order is automatically stayed.

The general principle of Dutch bankruptcy law is the so-called *paritas creditorum* (principle of equal treatment of creditors) which means that all creditors have an equal right to payment and that the proceeds of bankruptcy proceedings shall be distributed in proportion to the size of their claims in accordance with their rank. Certain creditors (such as estate, secured and preference creditors such as tax and social security authorities) will have priority over other creditors. The claim of a creditor may be limited depending on the date the claim becomes due and payable in accordance with its terms. Generally, claims of the holders of the Notes that were not due and payable by their terms on the date of a bankruptcy of a Dutch Senior Borrower will be accelerated and become due and payable as of that date. Each of these claims will have to be submitted to the receiver to be verified. "Verification" under Dutch law means that the receiver determines the value of the claim and whether and to what extent it will be admitted in the bankruptcy proceedings for the purpose of the distribution of the proceeds. The valuation of claims that otherwise would not have been payable at the time of the bankruptcy proceedings may be based on a net present value analysis. Interest payments that fall due after the date of the bankruptcy cannot be verified. The existence, value and ranking of any claims submitted by the holders of the Notes may be challenged in the Dutch bankruptcy proceedings. Generally, in a creditors' meeting (*verificatievergadering*), the receiver, the insolvent debtor and all creditors who have submitted claims may dispute the claims of other creditors. Creditors whose claims or value thereof are disputed in the creditors' meeting may be referred to separate court proceedings (*renvooi*-procedure). These court procedures could cause holders of the Notes to recover less than the principal amount of their Notes. Moreover, such procedures could also cause payments to the holders of the Notes to be delayed compared with holders of undisputed claims. As in moratorium of payments proceedings, in a bankruptcy a composition may be offered to creditors, which shall be binding on unsecured non-preferential creditors if it is: (a) approved by a majority in number of the creditors recognised and admitted at the creditors' meeting, representing at least 50 per cent. of the amount of the claims that are admitted for voting purposes; and (b) subsequently ratified (*gehomologeerd*) by the court. Under certain conditions, the delegated judge may derogate from this procedure. The Dutch Bankruptcy Act does not in itself recognise the concept of classes of creditors for purposes of voting on a composition: all unsecured creditors will be in one class. Amounts, if any, available to the estate after recourse by the secured creditors and satisfaction of the estate and preferential creditors are distributed among the unsecured non-preferential creditors, who will be satisfied on a *pro rata* basis. Contractual subordination may to a certain extent be given effect in Dutch insolvency proceedings. The actual effect depends largely on the way such subordination is construed.

Secured creditors may enforce their rights against assets of the debtor to satisfy their claims under a Dutch bankruptcy as if there were no bankruptcy. As in moratorium of payments proceedings, the court may order a stay for a maximum of four months during which enforcement actions by secured

creditors are barred unless such creditors obtain leave for enforcement from the delegated judge. Further, a receiver in bankruptcy can force a secured creditor to enforce its security interest within a specified reasonable period of time, failing which the receiver will be entitled to sell the secured assets or collect the secured claims, if any, and the secured creditor will have to share in the bankruptcy costs and will have to await distribution by the receiver of any remaining proceeds. Excess proceeds of enforcement must be returned to the bankrupt estate; they may not be set-off against an unsecured claim of the secured creditor in the bankruptcy. Set-off of amounts owed to the debtor against claims against him is also allowed in the bankruptcy, provided that both the claim and the debt arose before the bankruptcy or directly from acts performed prior to the bankruptcy. A set-off in bankruptcy may be prohibited in case of bad faith if and when the claim or the debt used for set-off was obtained from a third party prior to bankruptcy.

Moreover, to the extent that Dutch law applies, a legal act performed by a debtor (including, without limitation: (a) an agreement pursuant to which it guarantees the performance of the obligations of a third party or pursuant to which it agrees to provide or provides security for any of its or a third party's obligations; (b) additional agreements entered into by it and which then benefit from existing security; and (c) any other legal act having a similar effect) can be challenged and may be nullified (i) outside of bankruptcy, by any of its creditors and (ii) in bankruptcy by its receiver, if (A) the debtor performed such acts without an obligation to do so (*onverplicht*), (B) one or more of its creditors was prejudiced as a consequence of the act and (C) at the time the act was performed both the debtor and (unless the act was for no consideration (*om niet*)) the party with or towards which it acted, knew or should have known that one or more of its creditors (existing or future) would be prejudiced as a result. In addition, in the case of such a bankruptcy, the receiver may nullify the debtor's performance of any due and payable obligation (including (without limitation) an obligation to provide security for any of its or a third party's obligations) if (I) the payee (*hij die betaling ontving*) knew that a request for bankruptcy had been filed at the moment of payment or (II) the performance of the obligation was the result of consultation between the debtor and the payee with a view to give preference to the latter over the debtor's other creditors.

The proceeds resulting from the liquidation of the bankrupt estate may not be sufficient to satisfy the unsecured creditors of a bankrupt debtor, including creditors under guarantees granted by a bankrupt guarantor after the secured and the preferential creditors have been satisfied. It is not uncommon in Dutch bankruptcy proceedings that the proceeds are even insufficient to discharge the claims of preferential and secured creditors.

Foreign creditors are, in general, not treated differently in a Dutch bankruptcy from creditors that are incorporated or residing in the Netherlands.

#### *Dutch restrictions on the enforceability of security interests in the collateral*

Under Dutch law, the enforcement of the security interests in the collateral may, in whole or in part, also be limited to the extent that the obligations of a Dutch Senior Obligor under the security are not within the scope of its objects and the counterparty under the security was aware or ought to have been aware (without inquiry) of this fact. The articles of association of each Dutch Senior Obligor permit the provision of security for, among others, group companies. However, the determination of whether a legal act is within the objects of a company may not be based solely on the description of the articles of association, but must take into account all relevant circumstances, including, in particular, the question whether the interests of such company are served by the relevant legal act. If the granting of the security under the Dutch Law Security Agreements in the Senior Loan, in the light of the benefits, if any, derived by the Dutch Senior Borrowers from creating such interests, would have an adverse effect on the interests of the Dutch Senior Borrowers, the Dutch Law Security Agreements or the security interest in the Senior Loan may be found to be voidable or unenforceable upon the request of a Dutch Senior Obligor or its administrator in bankruptcy. As a result, notwithstanding the foregoing provisions of each of the Dutch Senior Obligor's articles of association,

and notwithstanding that the board of directors of the Dutch Senior Obligors have resolved that the granting of the security under the Dutch Law Security Agreements and the security interest in the Senior Loan are within the objects of and in the interest of the Dutch Senior Obligors, no assurance can be given that a court would conclude that the granting of the security under the Dutch Law Security Agreements or the security interest in the Senior Loan is within the objects of the Dutch Senior Obligors. To the extent a Dutch Senior Obligor or its administrator successfully invokes the voidability or non-enforceability of the Dutch Law Security Agreements or the security interest in the Senior Loan, such security would be limited to the extent any portion of it is not nullified and remains enforceable.

## CERTAIN MATTERS OF LUXEMBOURG LAW

*The following is an overview of certain aspects of Luxembourg law and practice in force at the date hereof. It is not a complete overview of currently applicable Luxembourg law and practice and should therefore not be treated as substitute for professional advice. Prospective Noteholders who are in any doubt as to any matter described in this Offering Circular should therefore consult their own professional advisers.*

### **Insolvency proceedings**

Under Luxembourg insolvency laws, the following types of proceedings (together referred to as **Luxembourg Insolvency Proceedings**) may be opened against the Senior Obligors to the extent that the Senior Obligors have their registered office or their Centre of Main Interests in Luxembourg:

- (a) bankruptcy proceedings (*faillite*);
- (b) controlled management proceedings (*gestion contrôlée*); and
- (c) composition proceedings (*concordat préventif de la faillite*).

In addition to these proceedings, the ability of the Noteholders to receive payments due under the Notes may be affected by a decision of the commercial district court (*Tribunal d'arrondissement siégeant en matière commerciale*) granting suspension of payments (*sursis de paiements*) or putting the Senior Obligors into judicial liquidation (*liquidation judiciaire*).

### **Bankruptcy (faillite)**

#### *General Administration of a Bankruptcy Proceeding*

If a Senior Obligor ceases to make payments, is unable to meet its commitments (*cessation des paiements*) and has lost its creditworthiness (e.g. loss of ability to obtain credit or new monies) (*ébranlement du crédit*), the court in the district in which the Senior Obligor has its principal place of business may declare the company bankrupt either (a) upon acknowledgement by the company, (b) at the request of a creditor or (c) upon its own initiative.

#### *Effects of a Bankruptcy Proceeding*

The main effect of bankruptcy proceedings is the suspension of all measures of enforcement against the Senior Obligors, except, subject to certain limited exceptions, for secured creditors, and the payment of creditors in accordance with their rank upon the realisation of assets.

In principle, contracts of the bankrupt company are not automatically terminated on commencement of bankruptcy proceedings, save for contracts for which the identity or solvency of the company was crucial (*intuitu personae* agreements). However, certain contracts are terminated automatically by law (such as employment contracts) unless expressly confirmed by the receiver. The receiver may choose to terminate contracts of the company subject to the rule of "*exceptio non adimpleti contractus*" and the creditors' interest.

Unsecured claims will only rank after the cost of liquidation (including any debt incurred for the purpose of such liquidation) and certain preferential debts.

During Luxembourg Insolvency Proceedings, all enforcement measures by unsecured creditors are suspended.

Luxembourg insolvency laws may also affect transactions entered into or payments made by the Senior Obligors during the pre-bankruptcy hardening period (*période suspecte*) which is a period of a maximum of six months preceding the judgment declaring bankruptcy, except that in certain specific situations the commercial district court may set the start of the suspect period at an earlier date. In particular:

- (a) pursuant to Article 445 of the Luxembourg code of commerce, some transactions (in particular, the granting of a security interest for antecedent debts; the payment of debts which have not fallen due, whether payment is made in cash or by way of assignment, sale, set-off or by any other means; the payment of debts which have fallen due by any means other than in cash or by bill of exchange (unless, arguably, that method of payment was agreed from inception); transactions without consideration or with substantially inadequate consideration entered into during the suspect period (or the 10 days preceding it)) must be set aside, if so requested by the bankruptcy receiver;
- (b) pursuant to Article 446 of the Luxembourg code of commerce, payments made for matured debts as well as other transactions concluded for consideration during the suspect period are subject to setting aside by the commercial district court upon proceedings initiated by the bankruptcy receiver, if they were concluded with the knowledge of the bankrupt's cessation of payments; and
- (c) pursuant to Article 448 of the Luxembourg code of commerce and Article 1167 of the Luxembourg civil code (*action paulienne*), the bankruptcy receiver (acting on behalf of the creditors) has the right to challenge any fraudulent payments and transactions, including the granting of security with an intent to defraud, made prior to the bankruptcy, without any time limit.

### **Controlled Management Proceedings (*gestion contrôlée*)**

#### *General Administration of Controlled Management Proceedings*

If a Senior Obligor loses its commercial creditworthiness (*ébranlement de crédit*) or is not in a position to completely fulfil its obligations, it can apply for the regime of controlled management in order to either (a) restructure their business or (b) realise their assets in good condition.

Controlled management proceedings are rarely used as they are often not successful and generally lead to bankruptcy proceedings. They are occasionally applied to companies, in particular holding or finance companies, which are part of an international group and whose inability to meet obligations results from a default of group companies.

#### *Effects of a Controlled Management Proceeding*

As from the day of the appointment of the investigating judge and up to the final decision on the application for controlled management, any subsequent enforcement proceedings or acts, even if initiated by privileged creditors (including creditors who have the benefit of pledges (*gages*) and mortgages (*hypothèques*)) are stayed, save as provided for by the law of 5 August 2005 on collateral arrangements, as amended, the **Luxembourg Collateral Act**. The company may not enter into any act of disposition, mortgage, contract or accept any movable asset without the authorisation of the investigating judge.

Once the administrators have been appointed, the company may not carry out any act (including receiving funds, lending money, granting any security or making any payment) without the prior authorisation of the administrators. The administrators may bring any action before the commercial district court in order to have any act made in violation of the legislation governing the controlled



management or in fraud of the creditors' rights be set aside. Subject to the prior authorisation of the commercial district court, they may bring an action: (a) to have the directors, managers or the statutory auditor be held liable; or (b) if the commercial district court has declared the company to be in cessation of payments, to have certain payments, compensations or security interests be set aside (under certain conditions set forth in Articles 445 *et seq.* of the Luxembourg code of commerce).

### **Preventive Composition Proceedings (*concordat préventif de la faillite*)**

#### *General Administration of Preventive Composition Proceedings*

A Senior Obligor may enter into preventive composition proceedings (*concordat préventif de la faillite*) in order to resolve its financial difficulties by entering into an agreement with its creditors, the purpose of which is to avoid bankruptcy.

#### *Effects of Preventive Composition Proceedings*

The company's business activities continue during preventive composition proceedings. While the composition is being negotiated, the company may not dispose of, or grant any security over, any assets without the approval of the delegated judge. Once the composition has been agreed by the commercial district court, this restriction is lifted. However, the company's business activities will still be supervised by the delegated judge.

While the composition is being negotiated, creditors may not take action against the company to recover their claims. Secured creditors (including secured creditors benefitting from a financial collateral arrangement governed by the Luxembourg Collateral Act) who do not participate in the composition proceedings may take action against the company to recover their claims and to enforce their security. Fraudulent transactions which took place before the date on which the commercial district court commenced preventive composition proceedings may be set aside (please see the "*Bankruptcy (faillite) – Effects of a Bankruptcy Proceeding*" section above).

### **Effects of opening of Luxembourg Insolvency Proceedings on security interests governed by the Luxembourg Collateral Act**

The Luxembourg Collateral Act expressly provides that financial collateral arrangements governed by the Luxembourg Collateral Act (such as the pledges created under the Luxembourg law governed security documents entered into on or about the date of and in connection with the French Facility Agreement) including enforcement measures are valid and enforceable even if entered into during the pre-bankruptcy period, against third parties including supervisors, receivers, liquidators and any other similar persons or bodies irrespective of any bankruptcy, liquidation or other situation, national or foreign, of composition with creditors or reorganisation affecting any one of the parties.

### **Limitation on enforcement of security interests**

According to Luxembourg conflict of laws rules, the courts in Luxembourg will generally apply the *lex rei sitae* or *lex situs* (the law of the place where the assets or subject matter of the pledge or security interest is situated) in relation to the creation, perfection and enforcement of security interests over such assets. As a consequence, Luxembourg law will apply in relation to the creation, perfection and enforcement of security interests over assets located or deemed to be located in Luxembourg.

The Luxembourg Collateral Act governs the creation, validity, perfection and enforcement of pledges over financial instruments including, among others: (a) shares in private limited liability companies; (b) bank accounts; and (c) receivables located or deemed to be located in Luxembourg, granted to secure financial obligations. Under the Luxembourg Collateral Act, the perfection of security interests depends on certain registration, notification and acceptance requirements. Article 11 of the

Luxembourg Collateral Act sets out enforcement remedies available upon the occurrence of an enforcement event, including, but not limited to:

- (a) appropriation by the pledgee or appropriation by a third party of the pledged assets at a value determined in accordance with a valuation method agreed upon by the parties;
- (b) selling or causing the sale of the pledged assets: (i) in a private transaction (*vente de gré à gré*) on normal commercial terms (*conditions commerciales normales*); (ii) by a public sale at the stock exchange (if listed shares); or (iii) by way of a public auction;
- (c) court allocation of the pledged assets to the pledgee in discharge of the secured obligations following a valuation made by a court-appointed expert; or
- (d) set-off between the secured obligations and the pledged assets.

As the Luxembourg Collateral Act does not provide any specific time periods and depending on: (a) the method chosen; (b) the valuation of the pledged assets; (c) any possible recourses; and (d) the possible need to involve third parties, such as, e.g. courts, stock exchanges and appraisers, the enforcement of the security interests might be substantially delayed.

The Luxembourg Collateral Act expressly provides that financial collateral arrangements (including pledges) including enforcement measures are valid and enforceable, even if entered into during the hardening period, against third parties including supervisory, receivers, liquidators and any other similar persons or bodies irrespective of any bankruptcy, liquidation or other situation, national or foreign, of composition with creditors or reorganisation affecting any one of the parties.

The perfection of the security interests created pursuant to pledge agreements does not prevent any third party creditor from seeking attachment or execution against the assets, which are subject to the security interests created under the pledge agreements, to satisfy their unpaid claims against the pledgor. Such creditor may seek the forced sale of the assets of the pledgors through court proceedings, although the beneficiaries of the pledges will in principle remain entitled to priority over the proceeds of such sale (subject to preferred rights by operation of law).

### **Luxembourg third party security interests and guarantee considerations**

A Luxembourg company may only encumber its assets or provide guarantees in accordance with its corporate objects and for its corporate benefit. A company may hence, in principle, not encumber its assets or provide guarantees in favour of group companies in general (at least as far as parent companies and fellow subsidiaries of its parent companies are concerned). In this respect it should be noted that there is no Luxembourg legislation governing group companies which specifically regulates the establishment, organisation and liability of groups of companies. Consequently, the concept of group interest as opposed to the interest of the individual corporate entity is not expressly recognised. However, based on relevant French and Belgian case law and legal literature (to which Luxembourg courts are likely to refer in this context), the view can be taken that a Luxembourg company may, in principle, validly assist other group companies if:

- (a) they are part of an integrated group;
- (b) it can be established that the company derives a benefit from granting such assistance or that at least, there is no disruption of the balance of interests in the group to the detriment of the Luxembourg company; and
- (c) the assistance is not in terms of the amounts involved disproportionate to the company's financial means and the benefits derived from granting such assistance.

If the assistance is deemed contrary to the interest of the company by the courts, its directors may be held liable for action taken in that context.

To mitigate the above risks, it is market practice in Luxembourg to limit personal guarantees, but not *in rem* security, granted by Luxembourg obligors to parent companies and fellow subsidiaries of its parent companies. In the matter at hand, the obligations of each Luxembourg Senior Obligor under the guarantee in the Common Terms Agreement for the obligations of any other guarantor in which the relevant Luxembourg Senior Obligor has no direct or indirect equity interest is limited to 95 per cent. of the aggregate amount of the own funds and subordinated debt of such Luxembourg Senior Obligor as per the provisions of the Common Terms Agreement. Such limitation does not apply to amounts borrowed pursuant to the Common Terms Agreement and which are made available to the relevant Luxembourg Senior Obligor or any of its direct or indirect subsidiaries. Spear Bidco SCA and its parent companies hold equity and subordinated debt in the holding and property companies investing into the French and Dutch real estate holding group. Spear German 2018 Holdco S.à r.l. and Spear Investment 2018 Holdco S.à r.l. and their respective parent companies hold equity and subordinated debt in the holding and property companies investing into the German real estate holding group. The above personal guarantee limitation applies in particular to the guarantees granted by Luxembourg obligors that are part of the French and Dutch real estate holding group for the obligations of obligors that are part of the German real estate holding group to the extent that the relevant Senior Obligors do not hold any direct or indirect equity interest in the Senior Obligors of that other group and vice versa.

### **Considerations regarding Article 8 of the Insolvency Regulation**

Under Article 8 of the Insolvency Regulation, the opening of insolvency proceedings in a particular EU Member State will not affect the rights *in rem* (such as security rights) of a creditor in respect of assets belonging to the debtor which are situated in another member state at the time of opening of the proceedings. The implication of this provision in the context of the insolvency of any of the Senior Obligors is that any stay on creditor action may not prevent secured creditors from taking enforcement action in respect of secured assets of the Senior Obligors located in Germany or France.

## CERTAIN MATTERS OF FRENCH LAW

*The following is an overview of certain aspects of French law and practice in force at the date hereof. It is not a complete overview of currently applicable French law and practice and should therefore not be treated as substitute for professional advice. Prospective Noteholders who are in any doubt as to any matter described in this Offering Circular should therefore consult their own professional advisers.*

### **Environmental regulations**

Property located in France is subject to regulations relating to the environment and public health. The environmental and occupational health and safety obligations and liabilities of real property landlords under the applicable French laws and regulations essentially include the following:

#### *Land investigation and monitoring*

Landlords have no direct obligations as regards land investigation and monitoring but must inform a potential purchaser of (a) the current or prior operation of authorised regulated activities on the site and (b) of any environmental damage, risk or inconvenience such activities may have generated or generate. Responsibilities with respect to land remediation and monitoring lie with the title operator of the regulated activities and installations located thereon. Since a 30 July 2003 amendment of applicable laws, municipal authorities may also under certain circumstances require not only the operator but also the landlord to carry out clean-up works of a polluted site. For contractual responsibility reasons, it is now customary but not mandatory for landlords to assess the environmental condition of the land in order to determine whether past activities are likely to have been a source of environmental conditions which may eventually require soil and/or groundwater investigation, monitoring or cleanup.

#### *Classified facilities*

Industrial facilities that are likely to present a risk to human health and safety, the protection of the natural environment or other legally protected interests, are listed in a schedule of classified facilities (*nomenclature des installations classées*). The operation of such classified facilities is subject to the granting of an operating permit by the local authority (*Préfet*). The granting of the permit may be subject to either a declaration or an authorisation procedure, depending on the level of risks for the environment the facility may represent. The administrative authority may require specific prescriptions and inform the operator of the general rules applying to the concerned facility. Failure of the title operator of the above installations to comply with applicable prescriptions may result in administrative sanctions (see articles L. 514-4 *et seq.* of the French *Code de l'environnement*) and/or criminal prosecution (see *id.*, article L. 514-6 *et seq.* of the French *Code de l'environnement*).

It should be noted that the seller of a classified facility must inform the purchaser of any danger or nuisance resulting from previous operations on the site, to the extent that he is aware thereof. If the seller fails to provide this information, the purchaser can rescind the sale or obtain the reimbursement of a part of the purchase price. The purchaser may also require that the site be cleaned up at the seller's expense, provided such cost is not disproportionate to the purchase price (article L. 514-20 of the French *Code de l'environnement*). Also, when a classified facility ceases its activity, the local authority (*Préfet*) orders the last operator to clean up the site.

Pursuant to a law dated 30 July 2003 known as the "Bachelot Law", a seller which operates a classified facility must provide the purchaser with an information memorandum if, during the facility's activity, chemical or radioactive products were handled or stored.

## *Asbestos*

Domestic laws and regulations further require that the borrower, as the owner of a property, check the premises for the presence of asbestos-containing materials (ACMs). The owner must check the state of preservation and carry out any protective measures and, if necessary, removal of or isolation works on these materials and products. Article L. 1334-13 of the French *Code de la santé publique* requires that an asbestos investigation report (*Dossier technique amiante*) detailing the presence or absence of ACMs and, as the case may be, information relating to the exact location of the materials and products containing ACMs, be appended by the seller to any promise or deed of sale of a building. In the absence of such documentation, no liability waiver may validly be stipulated to the benefit of the seller.

## *Legionella*

Standard occupational health and safety regulations also require that water-cooling and heating systems be checked for the presence of legionella (the bacteria causing legionnaire's disease – a form of pulmonary infection).

### **Legal issues related to commercial leases – regulations**

In respect of the French Properties, the Leases are commercial leases, subject to articles L. 145-1 *et seq.* of the French Commercial Code.

The Leases which have been and will be entered into as part of each French Senior Borrower's development strategy are and will therefore be subject to a set of restrictive and mandatory rules and the interpretation thereof by the French courts. The breach of such rules might result in the nullity of the relevant lease or the calling into question of certain clauses contained therein. Despite the procedures implemented by the French Senior Borrowers at the time of execution of the relevant leases, it is possible that the contracts which are executed or that all/some of the clauses of the relevant leases do not comply with the applicable laws and regulations or the interpretation thereof by the courts, in particular concerning the formalities which apply to the execution of the contracts, the rent, the terms of indexation of the rent or the term of such leases.

Furthermore, it cannot be ruled out that, during or on the expiration of such Leases, the French Senior Borrowers may be faced with amendments to the laws, regulations or case law which impose new or more restrictive constraints, in particular with regard to rent reviews, or which are unfavourable to the lessors. Amendments to the applicable rules on leases, the interpretation or application thereof by the proper authorities, in particular with regard to the term, the indexation and capping of rents and the calculation of any eviction indemnities owed to the tenants might have a material adverse effect on any French Senior Borrower's activities, financial position, results or prospects.

### **Legal issues related to commercial leases – security of tenure**

The aim of French law relating to commercial leases (leases where the tenant is a corporate duly registered at the relevant commercial and company registry and duly carrying out a commercial undertaking in the premises) is to grant tenants security of tenure (*propriété commerciale*) so that they may ensure the continuation of their businesses and the retention of clientele. At the end of the term of a lease (generally at the end of a nine-year period), the commercial tenant is entitled either to have his lease renewed on the same terms and conditions for a term of at least nine years or to receive compensation if the landlord refuses to renew the lease.

Such an eviction compensation is based, mainly, on the value of the business undertaking or of the lease if its value is greater than the value of the business undertaking (which may be the case in particular if the business is in deficit), increased by moving and reinstallation costs, unless the

landlord can show that the actual damage suffered by the tenant corresponds to a lesser amount. This compensation is more or less important depending on whether or not the non-renewal of the lease will result in the loss of the tenant's clientele. For this reason, eviction compensation for the non-renewal of office leases are generally less important.

The benefit of the security of tenure is subject to certain conditions. In principle, the tenant must have carried on the same business in the rented premises during the three years preceding the expiry of the lease and this business must have been registered with the relevant commercial and company registry.

#### *Duration and tenant's right to terminate the lease*

Commercial leases are entered into for a statutory minimum period of nine years. If the term provided for in the lease exceeds 12 years, the lease must (i) be published at the land registry office (*Service de publicité foncière*) and (ii) be in the form of a notarial deed.

Unless the parties provide otherwise, the tenant has a three-yearly right to terminate the lease provided he gives the owner at least six months prior notice by means of a process server. In practice, the tenant often waives this right, at least for the first triennial period, and is bound to stay in the premises for six years.

#### *Rent review*

Under French law, the provisions regarding the rent review during the course of a commercial lease are of public interest and cannot be contracted out. They thus limit the flexibility of the owners to increase the rent so that it corresponds to the market rent.

Most of the leases provide for a contractual annual indexation of rent which is usually based on the variation in the National Cost of Construction Index (*Indice du Coût de la Construction*).

#### *Rent on renewal of a lease*

Upon renewal of a lease, the new rent must be fixed in accordance with the current rental value of the rented premises. Various criteria are to be taken into account in fixing the market rent on renewal. Rules applicable to the fixation of the new rent have been recently modified pursuant to a law dated 18 June 2014 known as the "Pinel law". This new legislation applies to leases entered into or renewed on or after 1 September 2014.

The increase in rent may, however, be limited, depending upon the activity carried out in the premises and the duration of the lease. If the initial duration of the lease as stipulated in the initial contract does not exceed nine years and the actual duration of the lease does not exceed 12 years, then the rent will be subject to an upper limit. The maximum rent which the landlord may apply for is based on the basis of variation in the National Cost of Construction Index (*Indice du Coût de la Construction*) over the same period as the period of the lease. Regarding leases entered into or renewed on or after 1 September 2014, the maximum rent variation shall be determined according to the variation of the Commercial rent index (*Indice des Loyers Commerciaux*) or the Tertiary activity rent index (*Indice des loyers des activités tertiaires*).

This upper limit can be excluded, in particular, where (i) a party to the lease can produce evidence of a substantial change in local commercial factors (for leases entered into or renewed on or after 1 September 2014, the rent increase will however still be capped at 10 per cent. of the rent paid over the past year in this case), (ii) the premises are used exclusively for office use, (iii) the premises can only be used for a specific activity (*locaux monovalents*) such as premises used for hotels or cinemas, or (iv) the lease has a term of more than nine years or has continued uninterrupted beyond 12 years due to the inaction of the parties.

In these cases, the rent for the renewed lease must correspond to the rental value of the premises upon the date of the renewal of the lease.

#### *Statutory rights of tenants*

A number of statutory rights of tenants under the leases may affect the net cashflow realised from a property or cause delay in the payment of the rental income.

Such rights may include in particular (but without limitation) the following:

- (a) where a borrower as landlord is in default of its obligations under a lease, the tenant may have the right under general principles of French law (*principe d'exception d'inexécution*) to retain its rental payments until the default is cured or refrain from performing its other obligations thereunder, if the breach results in an impossibility for the tenant to use the premises;
- (b) a legal right of set-off (*droit de compensation légale*) could be exercised by a tenant of a property in respect of its rental obligations under the relevant lease if a reciprocal debt is owed to this tenant by the borrower as landlord or otherwise;
- (c) French courts may in some circumstances grant time to the tenants in respect of their payment obligations under the leases, taking into account their financial standing and the needs of the relevant borrower as landlord or may reschedule the debt of the tenants (in both cases not in excess of two years), treating the extension of time as a matter of procedural law governed by articles 1244-1, 1244-2 and 1244-3 of the French Civil Code, thus disregarding any provision of the leases to the contrary; and
- (d) a tenant who owns a going concern (*fonds de commerce*) which has been legitimately carried out in a property for the three years preceding the expiry of the relevant lease acquires a protected leasehold right, subject to certain other conditions, and is entitled to the renewal of the lease (*droit au renouvellement*) upon its expiry or to compensation for eviction (*indemnité d'éviction*) should the landlord elect not to renew the lease. The compensation for eviction must compensate the tenant for any losses and costs incurred by it. As long as the parties have not agreed this compensation or the court has not fixed it, the tenant is entitled to stay in the rental premises in consideration for the payment of an occupation compensation. It should be borne in mind that the landlord has only two years as from the termination of the lease to claim for occupation compensation from the tenant.

It must be noted that in case of offices, the current French case law considers that the tenant will not lose its clients and, therefore, its ongoing concern, if it has to move into new premises, so that the eviction compensation amounts to the costs incurred in connection with the removal of the tenant and its installation into new premises. Compensation is not payable, however, if the tenant is in serious breach of its obligations under the lease.

The exercise of any such rights may affect the ability of the borrower to meet its obligations under the mortgage loan.

#### *Compulsory purchase and expropriation*

Property in France may at any time be compulsorily acquired by, among others, a local or public authority or a governmental department on public interest grounds, for example, a proposed redevelopment or infrastructure project.

In the absence of exceptional circumstances (such as war), the expropriation proceedings that would apply in the case of the French Properties would be the standard expropriation proceedings provided for by the French *Code de l'expropriation pour cause d'utilité publique*.

French administrative authorities ascertain and assert the existence of a public interest in order to justify the expropriation of the contemplated property. The notion of public interest is objectively determined and may not be constituted by the purely economic interests of a specific local authority. The law provides that public interest shall apply to various projects pertaining to public health, education, transport and town planning – in France, most compulsory acquisition proceedings concern motorway or zone development projects. In any case, the notion of public interest is subject to the control of the administrative courts.

The decision to deprive a private owner of its property may only be taken by the judicial courts (as opposed to the administrative courts mentioned in the paragraph above). Such judicial court will also determine the amount of the compensation payable to the owner of the relevant property. There is no time limit for this judicial procedure. The judgment so rendered can be challenged before a court of appeal and then the French supreme judicial court (*Cour de cassation*).

The expropriated owner must receive fair compensation for the loss of its property. Fair compensation is compensation for the full direct loss suffered by the expropriated owner, including the fair market value of the property as at the date of the first instance judicial decision relating to the expropriation based on all relevant circumstances as at one year prior to the beginning of the preliminary public enquiry. With respect to any compulsory purchase of any of the French Properties there can be no assurance that the relevant Senior Borrowers will receive an amount related to their French Property or that the compulsory purchase price would be paid prior to the termination date of the French Loans. This could undermine the ability of the French Senior Borrowers to repay the French Loans.

#### *Force Majeure*

The laws of France recognise the doctrine of force majeure, permitting a party to a contractual obligation to be freed from it upon the occurrence of an event which renders impossible the performance of such contractual obligation. There can be no assurance that the tenants of a property will not be subject to a force majeure event leading to their being freed from their obligations under their leases. This could undermine the generation of rental income and hence the ability of the relevant borrower to pay interest on or repay the principal of the relevant mortgage loan or its portion of the relevant mortgage loan.

#### *Planning permissions and work declarations*

As a general rule, construction works of a real estate asset require that appropriate planning permissions be obtained or that the requisite works declarations be filed. Should these permissions or this filing not be completed, the following sanctions shall apply.

Any third party who objects to the granting of planning permissions has to bring an action before the administrative courts within two months from the first day of the publication of such a permit on the site.

If, at the expiry of this time period, no objection has been raised by any interested third party, the permit becomes definitive and cannot (in most cases) be attacked (subject to the administrative control which expires two months after the decision to grant the planning permission was transmitted to the appropriate authority and subject to the right of withdrawal of such decision by the administrative authority having delivered the permit, which right expires three months after the permit was delivered).



In the event that the planning authorisation is in breach of a planning rule or a public easement, third parties (or the *Préfet*) may have the possibility to require the demolition of the works if the following conditions are met: (i) the planning permission breached a planning rule or a public easement; and (ii) the planning permission is annulled or declared illegal by a definitive decision from the administrative court. Any action on these grounds for forced demolition of the works against the owner is statute-barred after a two-year period as from the date of the decision of the administrative court cancelling the planning permission. The forced demolition of the works is rare.

During a time period of three years from the completion of the works, criminal sanctions may be taken against the user of the property (*utilisateur du sol*), the beneficiary of the works, the architect, the building contractors and any other people in charge of the carrying out of the works (fine and/or imprisonment) together with other sanctions such as demolition of the erected building, restoration of the initial use, if (i) works have been carried out or a change in the use initially authorised has been made without obtaining the relevant authorisation and (ii) the works carried out do not comply with the relevant authorisation. Imprisonment is rare and will only be considered in cases of repeated offences. Likewise, the demolition of the building is also rare.

Where works are carried out without planning permission or a work declaration and in the case of a change of use without the above mentioned authorisation, third parties may obtain damages and may ask for the demolition or the restoration of the initial use if the claiming third party has suffered a prejudice and there is a direct link between the prejudice and the breach invoked (i.e. absence of the relevant authorisation or the failure of the works or the use to comply with the relevant authorisation). This risk is statute-barred after a 10-year period as from the date the works have been completed. Again, the forced demolition of the works is rare.

In the case of breach of the above regulations, the successive owners of the properties could be held liable. The consequence of such breach could entail the payment of a substantial fine as well as demolition of the relevant property.

## **Security over Property**

### *Lender's liens (Privilège du prêteur de deniers)*

A lender's lien (*privilège de prêteur de deniers*) is conferred on a creditor who lends a sum of money for the financing of the purchase of real property in accordance with articles 2324 and 2374-2 of the French Civil Code.

A lender's lien is subject to the specific rules of article 2374-2 of the French Civil Code. In the context of a refinancing of a loan, a lender's lien granted in favour of the lender whose loan is being refinanced can be transferred to the new lender by way of subrogation up to the principal amount of the loan.

A lender's lien can only be conferred on a lender as security to the loan made available to finance the purchase price of the real property, therefore the secured debt is limited to the obligations of the borrower under such loan. Any further obligations can be secured by a second ranking mortgage.

In order for a lender's lien to be validly created, the following two conditions must be satisfied: (a) the loan must be granted for the purchase of real property and the deed evidencing the loan (*acte d'emprunt*) must expressly stipulate the purpose for which the loan was intended; and (b) the discharge receipt (*quittance*) given by the vendor of the relevant real property must certify that, up to the principal amount of the relevant loan, the payment was made out of the monies borrowed. Both the deed evidencing the loan and the discharge receipt must be in a notarised form (*acte authentique*).

### *Mortgages (Hypothèques)*

A mortgage (*hypothèque*) is a right to real property granted to a creditor, known as a mortgagee (*créancier hypothécaire*), by a debtor, known as the mortgagor (*constituant*), relating to real property which the latter owns or in which it has a right *in rem*, in order to secure payment of a debt owed by the mortgagor to the mortgagee.

### *Effect of lender's liens and mortgages*

A lender's lien and a mortgage have similar effects. The beneficiary of a lender's lien or mortgage will rank ahead of all unsecured creditors (*créanciers chirographaires*) of the grantor of the security but will rank after the prior ranking creditors in the context of a bankruptcy. Secured amounts comprise the principal amount of the loan in question as well as its accessories. It should be noted that under a lender's lien or a mortgage only three years of interest at the contractual rate can be secured on an equal rank basis as the principal.

### *Registration of lender's lien and mortgages*

In order to be enforceable against third parties, pursuant to the provisions of articles 2377 and 2426 of the French Civil Code, lender's liens (and subrogation into existing lenders' liens) and mortgages must be registered at the French Land and Charges Registry, having jurisdiction in the district where the relevant property is located.

The registration of lender's liens (and subrogation into existing lenders' liens) or a mortgage in France is only valid for a limited period of time. As a general rule, a lender's lien or a mortgage is valid until the date of validity specified in the registration (under article 2434 of the French Civil Code). Where the registration of the lender's lien or the mortgage occurs on one or several fixed dates, the last date for registration occurring prior to the due date of the debt secured by the lender's lien or the mortgage may run for more than one year beyond such due date, but may not exceed 50 years. If the due date of the debt secured by the lender's lien or the mortgage is not expressly fixed, or takes place prior to or simultaneously with the registration, the validity of the registration of the lender's lien or of the mortgage is limited to 10 years.

The registration of a lender's lien or a mortgage ceases to be effective if it is not renewed on or before the last day of its current period of effectiveness.

A notary has registered (i) subrogation into the first ranking lender's liens (*privilèges de prêteur de deniers de premier rang*) over the French Properties granted to secure the French Loans and (ii) mortgages (*hypothèques conventionnelles*) over the French Properties (such registration will be valid until 15 November 2024). If the term of the French Loans is extended, the registration date of (i) the subrogation into the first ranking lender's liens (*privilèges de prêteur de deniers de premier rang*) and (ii) mortgages (*hypothèque conventionnelle*) may be extended accordingly.

### *Enforcement of lender's liens and mortgages prior to French Insolvency Proceedings*

The French legal procedures to be followed in relation to the enforcement of security interests over real property situated in France and related expenses may affect the Issuer's ability to liquidate the French Properties efficiently and in a timely fashion. An outline of these procedures is set out below.

Foreclosure on property situated in France by secured creditors (*saisie immobilière*) may require the sale of the property at a public auction (*vente aux enchères*) if the sale cannot be made voluntarily by the debtor (*conversion en vente volontaire or à l'amiable*). The foreclosure procedure may take up to a year and a half in normal circumstances. The beneficiary of a lender's lien or a mortgage will thus rank in respect of the sale proceeds in the order of priority of registration of the lender's liens and

mortgages (*droits de préférence*) encumbering such seized property (Article 2461 of the French Civil Code). The first step in the foreclosure procedure consists of delivering a foreclosure notice to the debtor by a bailiff or *huissier* (a process server or *commandement de saisie immobilière*). This notice should be filed at the French Land and Charges Registry having jurisdiction in the district where the relevant property is located. The next step is to instruct a local lawyer (*avocat*) to prepare the terms of the sale of the property at auction, including the reserve price of the relevant property. Finally, a number of legal notices are required to be given prior to the sale. The debtor may file objections against such foreclosure (including the reserve price), the validity of which will be decided by a competent court. If no bid is made at the public auction, and provided there is only one foreclosing creditor, such foreclosing creditor is declared the highest bidder and is thus obliged to purchase the property at a reserve price specified in the terms of the sale. Rules applicable to the *saisie immobilière* procedure are codified in the French *Code des procédures civiles d'exécution*. The purpose of the legislation is to simplify the foreclosure process by encouraging voluntary sales (*ventes à l'amiable*) and to reduce the length and complexity of the process.

In accordance with article 2461 of the French Civil Code, secured creditors will continue to benefit from the lender's privilege or mortgage, even if the property is transferred, by the debtor to a third party without the lenders' consent. This right is known as *droit de suite*. If the secured creditor wishes to exercise this right, an order to pay is required to be served on the debtor by a bailiff and notice is required to be served on the third party to whom the relevant secured property was transferred (*tiers détenteur de l'immeuble hypothéqué*) with a view either to pay the debt secured over the property or to surrender such property at an auction.

The exercise of such *droit de suite* is often paralysed due to an "advanced clearing" of the privileges and mortgages granted over the relevant property (*purge des privilèges et hypothèques*). If the debtor and all secured creditors agree, in accordance with article 2475 of the French Civil Code, for the sale proceeds to be allocated (*affecté*) to them, the secured creditors exercise their preferential rights (*droits de préférence*) over the sale proceeds, the payment of which will discharge all privileges and mortgages granted over the property (*purge amiable*). If no agreement is reached (for instance if the sale price of the property is substantially below the amount of the secured debt), the third party will still be entitled to offer to pay the sale price to the secured creditors in order to clear all privileges and mortgages granted over the relevant property (*purge judiciaire*, article 2478 *et seq.* of the French Civil Code). Secured creditors may refuse this offer if they consider that the sale price has been underestimated by the debtor and the third party. In this case, an auction will be ordered with a minimum bid exceeding 10 per cent of the price offered by the relevant third party being made to the secured creditor.

The unpaid secured creditor benefitting of a mortgage may, in accordance with article 2458 of the French Civil Code, request the court for the judicial attribution of the property as payment of its claim (except if the property is the main residence of the debtor). In such case, an expert appointed either amicably or by the court determines the value of the property. If the value of the property exceeds the secured amount, the secured creditor must return to the debtor an amount equal to the difference between such amounts. The amount must be divided if there are several secured creditors who have been granted a mortgage on such property.

## **Other Security**

### *Pledge over shares (nantissement de parts sociales)*

A pledge over the shares (*parts sociales*) may be granted in accordance with articles 2334 and 2355 *et seq.* of the French Civil Code as well as article 1866 *et seq.* of the French Civil Code for any French Senior Obligor incorporated as a *société civile immobilière*.

The pledge agreement must be notified by the bailiff (*huissier*) to the issuer of the relevant shares, or accepted by it in a notarial deed (for any French Senior Obligor incorporated as a *société civile immobilière*) and recorded on the special registry created for pledges over shares (*nantissements de parts sociales*) in accordance with (i) article 2338 of the French Civil Code and decree no. 2006-1804 dated 23 December 2006 for any pledge over shares issued by a *société en responsabilité limitée* and (ii) article 1866 of the French Civil Code and decree no. 78-704 dated 3 July 1978. Such registration is to be renewed every five years. The security takes priority according to the date of registration.

There are three options available for the enforcement of the pledge: (i) request the public sale (*vente publique*) of the shares; (ii) request the attribution by a court of the shares (*attribution judiciaire*); or (iii) if it has been expressly provided for in the pledge agreement, appropriate the pledged shares without a court order on the date on which the secured creditor exercises its rights in satisfaction of its claim against the debtor.

The enforcement of the pledge of shares requires the approval (*agrément*) of the shareholders of the issuer of the shares to the assignee of the shares becoming the new shareholder in the company. However, in the case of companies formed as *société en responsabilité limitée* such approval is deemed granted if the company has agreed to the pledge of shares in the form provided in article L. 223-14 of the French Commercial Code (article L. 223-15 of the French Commercial Code).

The enforcement of the pledge of shares requires the approval (*agrément*) of the shareholders of issuer of the shares to the assignee of the shares becoming the new shareholder in the company. However, in the case of companies formed as *société en responsabilité limitée* such approval is deemed granted if the company has agreed to the pledge of shares in the form provided in article L. 223-14 of the French Commercial Code (article L. 223-15 of the French Commercial Code).

#### *Pledge of financial securities account (nantissement de comptes de compte-titres)*

Shares issued by a *Société Anonyme* or a *Société par Action Simplifiée* may be pledged in accordance with article L. 211-20 of the Financial Code. The pledge gives the pledgee the right to enforce the pledge by giving the pledgee the right to realise the shares credited on the securities account and the sums held on the securities account or specific bank account.

A pledge of financial securities account is validly created when (i) the pledgor executes a statement of pledge (*déclaration de nantissement de compte-titres*), (ii) the specific bank account (*compte spécial*) mentioned in article L. 211-20 III of the Financial Code is opened in the name of the pledgor and (iii) the pledged shares are transferred to a special account held in the books of the company (*registre des mouvements de titres*) in the name of the pledgor and is granted in accordance with article L. 431-4 of the Financial Code.

There are three options available for the enforcement of the pledge: (i) request the public sale (*vente publique*) of the shares; (ii) request the attribution by a court of the shares (*attribution judiciaire*); or (iii) if it has been expressly provided for in the pledge agreement, appropriate or repurchase (in the case of appropriation of pledged shares issued by an OPCI) the pledged shares without a court order on the date on which the secured creditor exercises its rights in satisfaction of its claim against the debtor. In the case of appropriation of pledged shares issued by an OPCI, the appropriation and repurchase will be made in accordance with the provisions of articles L. 211-20-V and D.211-12 3° of the Financial Code.

#### *Pledge over bank account (nantissement de compte bancaire)*

A pledge over a bank account (*nantissement de compte bancaire*) is a pledge over a receivable (consisting of the claim which the pledgor has against the bank which holds the account in the name of the pledgor) which, under French law, does not confer a right of retention in favour of the pledgee.

Under a pledge over a bank account, the pledged account is opened in the name of the pledgor and the pledgor retains title to the amounts standing to the credit of the pledged bank account. What is deemed pledged is the credit balance of the account, temporary or permanent, at the date of enforcement of the security interest, subject to the regularisation of the ongoing operations.

A pledge over a bank account may be granted in accordance with article L. 521-1 of the French Commercial Code and article 2355 *et seq.* of the French Civil Code. Pursuant to articles 2361 and 2362 of the French Civil Code, a pledge over a bank account is enforceable against third parties (except the bank which is the account holder) as of the date of the pledge agreement and is enforceable against the bank as of the date on which the bank is notified of the pledge when the bank is party to the pledge agreement.

In practice, according to the enforcement regime applicable to pledges over bank accounts, the enforcement of a pledge over a bank account should be made by the appropriation of the assets subject to the pledge, either ordered by the competent court (*attribution judiciaire*) or made pursuant to the conditions provided in the pledge agreement itself and the application of the proceeds in satisfaction of the secured debt (articles 2365 *et seq.* of the French Civil Code).

#### *Assignment of receivables by way of security (Dailly law assignments)*

The assignment of receivables by way of security (a **Dailly law assignment**) in accordance with articles L.313-23 *et seq.* of the French Monetary and Financial Code (*Code monétaire et financier*, or the **Financial Code**), provides for the assignment of receivables (together with any security interests, guarantees and accessory rights relating thereto, the **French Receivables**) through the remittance to the assignee of a deed of assignment (**Bordereau**). The assignment comes into effect as between the assignee and the assignor and is binding upon third parties as from the date of the deed of assignment. Pursuant to article L. 313-23 of the Financial Code, the assignee of a Dailly law assignment must be a credit institution (*établissement de crédit*) or finance company (*société de financement*) or any other FIA as set out in article L. 313-23 of the Financial Code (an **Eligible Dailly Institution**) and the assignment must be given in consideration of a credit granted to that assignor by the assignee.

The assignee (secured creditor) may notify the respective debtor of the assignment of French Receivables to direct it to pay its corresponding debts directly to the assignee (secured creditor), instead of the assignor. Unless the relevant assigned debtor duly and formally accepts the assignment in the form provided in article L. 313-29 of the Financial Code, such debtor will be entitled to raise against the secured creditor all the defences it could invoke against the assignor.

Upon and pursuant to the entry into a master agreement for the assignment of receivables by way of security (*Cession de créances professionnelles à titre de garantie*) (the **French Master Receivables Security Assignment Agreement**), the French Senior Borrowers have agreed to assign to the Senior Lenders, represented by the Common Security Agent, by way of security (*cession à titre de garantie*) pursuant to articles L. 313-23 *et seq.* of the Financial Code (i) insurance receivables: any receivable that the French Senior Borrowers hold or may come to hold in respect of insurance proceeds that are not the subject matter of a payment objection under article L.121-13 of the French Insurance Code and which may be due to the French Senior Borrowers, and any multi-risk insurance policies (and in particular any proceeds under insurance for loss of rents for a period of 36 months), subscribed by or on behalf of the French Senior Borrowers in respect of the French Properties and (ii) any receivables that the French Senior Borrowers hold or may come to hold (a) under any Lease Document and (b) under any guarantee granted or to be granted to their benefit as security for the payment of all or part of any amount due by a tenant under any Lease Document against the grantor of such guarantee. In accordance with the French Master Receivables Security Assignment Agreement, the Common Security Agent, acting for and on behalf of the applicable Senior Lenders shall have the right, on the instructions of the Senior Majority Lenders, to notify the assigned debtors upon the occurrence of a Senior Loan Event of Default.

Recent court decisions have clarified the scope of Dailly law assignments, in particular that:

- (a) enforcement is not prejudiced by the stay on enforcement during French insolvency proceedings, including protective safeguard proceedings. In the *Coeur Défense* case, the French supreme judicial court (*Cour de cassation, chambre commerciale*, 8 March 2011) confirmed that French law Dailly law assignments over existing and future rents arising under property leases are enforceable vis-à-vis the assigned debtors (the lessees) notwithstanding that a mandatory moratorium is imposed in respect of the assignor (the lessor) under French insolvency law (opening of a safeguard proceeding against the assignor). Accordingly, the effectiveness of Dailly law assignments vis-à-vis the assigned debtors would not be prejudiced by the stay of enforcement resulting from the commencement of French insolvency proceedings (including safeguard proceedings), which may be opened against a French Senior Borrower; and
- (b) to an entity which is not an Eligible Dailly Institution having acquired a loan receivable secured by, *inter alia*, a Dailly law assignment, can benefit from such Dailly law as an accessory to the extent the relevant Bordereau was originally remitted to an Eligible Dailly Institution. In an appeal arising from the *Coeur Défense* case (*Versailles, 13<sup>ème</sup> Ch., 28 Feb. 2013, R.G. no. 12/06573*), the Versailles Court of Appeal held that further to the assignment of a loan receivable to a French securitisation fund (*fonds de titrisation*) (which was, at the time the decision was rendered, a Non Eligible Dailly Institution), the benefit of the Dailly law assignments securing such loan receivable was validly transferred to the assignee of such loan receivable as an accessory to the assignment loan receivable. However, in the absence of recent court decisions in respect of the transfer by way of accessory of Dailly law assignments and considering that the above decisions were rendered in the context of an assignment of a secured loan to a French securitisation fund (which has lately become an Eligible Dailly Institution pursuant to French ordonnance no. 2017-1432 dated 4 October 2017), there can be no assurance that French courts will render the same decision in instances where an assignment of loan receivables is made to other types of Non Eligible Dailly Institutions, such as the Issuer.

### *Insurance delegation*

Pursuant to the provisions of article L.121–13 of the French Insurance Code, the benefit of certain insurance proceeds in relation to the property may be transferred automatically to the lender under a loan agreement as beneficiary of the lender's lien or mortgage. With respect to the French Facility Agreement, the notary before which the lender's lien and mortgage deed was executed was given all powers to notify the insurance delegation to the insurer for acknowledgement. Following the service of such notification, the Senior Lenders under the French Facility Agreement will benefit from the undertaking of the relevant insurer to pay it directly.

### *Limitations on enforcement*

Security interests governed by French law may only secure payment obligations and may only be enforced following a payment default (including following acceleration) and up to the secured amount that is due and remaining unpaid.

Under French law, generally speaking, pledges over assets may be enforced at the option of the secured creditors either (i) before a court (a) by way of a sale of the pledged assets in a public auction (the proceeds of the sale being paid to the secured creditors) or (b) by way of the judicial foreclosure (*attribution judiciaire*) of the pledged assets; or (ii) by way of contractual foreclosure (*attribution conventionnelle or pacte comissoire*) of the pledged assets to the secured creditors, following which the secured creditors become the legal owner of the pledged assets; it being noted that security interests may not be enforced during the observation period (see below). Enforcement by way of

contractual foreclosure may not be agreed at the time of the granting of the security or subsequently or may not be available for pledge over certain assets and, therefore, the secured creditors will not benefit from such enforcement method.

If the secured creditors choose enforcement by way of foreclosure (whether judicial foreclosure or contractual foreclosure), the secured liabilities will be deemed extinguished up to the value of the attributed assets. Such value is determined either by the judge in the context of a judicial foreclosure (*attribution judiciaire*) or by an expert (pre contractually agreed or appointed by a judge) in the context of a contractual foreclosure (*pacte comissoire*). In case of enforcement by way of attribution (whether judicial foreclosure or contractual foreclosure), if the value of the pledged assets exceeds the amount of the secured liabilities, the secured creditors will be required to pay the relevant pledgor a "soulte" equal to the difference between the value of the pledged assets and the amount of the secured liabilities. This is true regardless of the actual amount of proceeds ultimately received by the secured creditor from a subsequent sale of the pledged assets. On the contrary, if the value of such pledged assets is less than the amount of the secured debt, the relevant amount owed to the relevant creditors will be reduced by an amount equal to the value of such pledged assets, and the remaining amount owed to such creditors will be unsecured (being noted that the security interest cannot be enforced during the observation period (please see below)).

#### *Limitations on guarantees*

The liabilities and obligations of a French guarantor are subject to applicable French corporate benefit rules. Under French corporate benefit rules, a court could declare any guarantee unenforceable and void, and, if payment had already been made under the relevant guarantee, require that the recipient return the payment to the relevant guarantor, if the court found that the French guarantor did not receive some real and adequate corporate benefit from the transaction involving the grant of the guarantee as a whole. Existence of corporate benefit is a factual matter which must be determined on a case-by-case basis.

The existence of a real and adequate benefit to the guarantor and whether the amounts guaranteed are commensurate with the benefit received are matters of fact as to which French case law provides no clear guidance.

However, based on current case law certain inter-group transactions (including upstream guarantees) can be in the corporate interest of the relevant company, in particular, where the following five criteria are fulfilled:

- (a) the existence of a genuine group of companies, to which the guarantor and the person whose obligations are being guaranteed belong, operating under a common strategy aimed at a common objective and the guarantee or security documents, and the transaction, to which they relate, must be entered into in furtherance of the common economic interest of the group as a whole and the liability under the guarantee should be commensurate with such group benefit;
- (b) the risk assumed by a French guarantor must be proportionate to the benefit;
- (c) the transaction must maintain a balance between the financial commitments of the relevant affiliates;
- (d) the French guarantor must receive an actual and adequate benefit, consideration or advantage from the transaction involving the granting by it of the guarantee or security interest which is commensurate with the liability which it takes on under the guarantee or security interest; and

- (e) the obligations of the French guarantor under the guarantee or security interest must not exceed its financial capability.

However, such criteria being subject to interpretation and depending on factual matters, the prudent approach prevailing in the French market is to create a strict correlation between the risk assumed and the benefit received by a French guarantor without relying on the corporate benefit of the group (*intérêt social de groupe*) and applying the conditions listed above and therefore, limiting the amounts of the guarantee to either the (i) amounts on-lent to the French Senior Guarantors or (ii) agreed percentage (usually corresponding to the loan to value on closing) of the value of the property assets owned by the relevant French Senior Obligor (less any sums due by it as borrower). In addition, it is also market practice to further limit cross-collateralisation as between obligors for companies which are subsidiaries of the same OPCI group so that a French guarantor which is a member of an OPCI group will not be liable for any obligations of an obligor that is not a member of the same OPCI group.

Each guarantee provided by a French Senior Guarantor will apply only insofar as required to guarantee the payment obligations of other Senior Guarantors, provided that in each such case such guarantee shall be limited to (i) in respect of the obligations under the Senior Finance Documents of any other Obligor which is not its subsidiary of that French Senior Guarantor, at any time to an amount not exceeding 60 per cent. of the amount resulting from the difference between (x) the total value of the Property(ies) such French Senior Guarantor holds evaluated pursuant to the most recent valuation and (y) the outstanding amount under any Senior Loan owed by such French Senior Guarantor as Senior Borrower.

In addition, no Subsidiary of an OPCI (the **Relevant OPCI**) nor the Relevant OPCI as French Senior Obligor shall have any obligations under the Senior Finance Documents for the obligations under the Senior Finance Documents of any Senior Obligor that is not directly or indirectly controlled (within the meaning of article L. 233.3 of the French Commercial Code) by the Relevant OPCI.

No French Non-OPCI Borrower, as French Senior Obligor, shall have any obligations under the Senior Finance Documents for the obligations under the Senior Finance Documents of any Obligor which is not a French Non-OPCI Borrower.

No French Senior Guarantor will secure liabilities under Senior Finance Documents which would constitute a breach of the provision of financial assistance within the meaning of article L. 225-216 of the French Commercial Code.

## **Insolvency**

The French Senior Obligor (like any other Senior Obligor having its Centre of Main Interests located in France, within the meaning of the Insolvency Regulation or, if not applicable, its main centre of interests within the meaning of article R.600-1 of the French Commercial Code) are subject to French insolvency proceedings affecting creditors, including court-assisted proceedings (*mandat ad hoc* or *conciliation proceedings*) and court-administered proceedings (*sauvegarde* or *sauvegarde accélérée* or *sauvegarde financière accélérée*) (safeguard or accelerated safeguard proceedings or accelerated financial safeguard proceedings), judicial reorganisation or judicial liquidation proceedings (*redressement judiciaire* or *liquidation judiciaire*). In general, French insolvency legislation favours the continuation of a business and the protection of employment over the payment of creditors and may affect the ability of the Issuer to liquidate the assets of the French Senior Obligor efficiently and in a timely fashion.

The following is a general discussion of pre-insolvency and insolvency proceedings governed by French law for informational purposes only and does not address all the French legal considerations that may be relevant to the Issuer.



Please note that a reform of the French Civil Code was introduced by Ordinance no. 2016-131 dated February 10, 2016 and has been effective since October 1, 2016. Absent any practical application yet, the potential impacts of certain provisions of such reform (such as the doctrine of hardship (*imprévision*)) on the rights of the parties to French-law contracts (including French law security documents) entered into as from such date are being discussed among certain academics notably within the context of insolvency proceedings.

### *Grace periods*

In addition to the specific provisions of French insolvency law discussed below, you could, like any other creditors, be subject to article 1343-5 of the French Civil Code.

Pursuant to the provisions of article 1343-5 of the French Civil Code, French courts may, in any civil or commercial proceedings involving the debtor, taking into account the debtor's financial position and the creditor's needs defer or otherwise reschedule over a maximum period of two years the payment dates of payment obligations and decide that any amounts, the payment date of which is thus deferred or rescheduled, will bear interest at a rate that is lower than the contractual rate (but not lower than the legal rate as published twice a year by order of the Ministry of Economy) or that payments made shall first be allocated to repayment of principal. A court order made under article 1343-5 of the French Civil Code will suspend any pending enforcement measures, and no contractual interest or penalty for late payment will accrue or be due during the grace periods ordered by the relevant judge. A creditor cannot contract out of such grace periods.

When the debtor benefits from the opening of conciliation proceedings, the provisions of article 1343-5 of the French Civil Code relating to grace periods shall be read in combination with article L. 611-7 of the French Commercial Code (see below).

### *Warning procedure (procédure d'alerte)*

In order to anticipate a debtor's difficulties to the extent possible, French law provides for warning procedures. When there are elements which they believe put the company's existence as a going concern in jeopardy, the statutory auditors of a company must request the management to provide an explanation. Failing satisfactory explanation or appropriate corrective measures, the auditors must request that a board of directors (or the equivalent body), and as the case may be at a later stage the shareholders' meeting be convened. Depending on the answers provided to them (and the type of company), the auditors must inform the President of the relevant commercial or civil court of the warning procedure and may request to be heard by the President of such court. Employees' representatives (if any) may be informed of such warning proceeding depending on the answers provided to the auditors.

Shareholders representing at least 5 per cent. of the share capital and the workers' committee (or in their absence the employees' representatives) have similar rights.

The President of the relevant commercial or civil court can also himself summon the management to provide explanations on elements which the President of the relevant commercial or civil court believes put the company's existence as a going concern in jeopardy (or when the company has not filed its annual financial statements within the statutory time frame, despite his/her injunction).

### *Cash-flow insolvency test*

Under French law, a company is considered to be cash-flow insolvent (*en état de cessation des paiements*) when it is unable to pay its debts as they fall due with its available assets (taking into account available credit lines, existing debt rescheduling agreements and moratoria).

The date of cash flow-insolvency is generally deemed to be the date of the court ruling opening the insolvency proceedings, unless the court sets an earlier date, which may be carried back up to 18 months before the date of such opening ruling. Except for fraud, the date of cash-flow insolvency may not be fixed at an earlier date than the date of the final court decision that sanctioned an agreement (*homologation*) in the context of conciliation proceedings. The date of cash-flow insolvency marks the beginning of the suspect period (see below).

### *Court-assisted pre-insolvency proceedings*

A French company facing difficulties without being cash-flow insolvent (or for less than 45 days in the case of conciliation proceedings) may request the opening of court-assisted pre-insolvency proceedings (*mandat ad hoc* or *conciliation*), the aim of which is to reach an agreement with the debtor's main creditors and stakeholders e.g. agreement to reduce or reschedule its indebtedness. These proceedings may only be initiated by the debtor company itself, in its sole discretion. *Mandat ad hoc* and conciliation proceedings are informal and confidential (subject to the below) proceedings carried out under the aegis of a court-appointed officer (*mandataire ad hoc* or *conciliateur*, whose name can be suggested by the debtor itself) under the supervision of the President of the relevant court (usually the Commercial Court), which do not involve any stay of the claims nor pending proceedings. As a consequence, creditors are not barred from taking legal action against the company to recover their claims, but, in practice, they usually accept not to take any such legal action for the duration of the proceedings. In any event, the debtor retains the right to petition the President of the court having opened the proceedings, for grace periods, either during such proceedings, or once an agreement was reached by the parties, as set forth above and below. In conciliation proceedings, the decision would be taken by the President of the court having opened the proceedings after having heard the conciliator (article L. 611-7 of the French Commercial Code).

*Mandat ad hoc* and conciliation proceedings may also be used at the request of the debtor and after the opinion of the participating creditors has been sought to prepare the sale of all or part of the business of the debtor with a view to implement such sale (*plan de cession*) in subsequent court-administered proceedings. To ensure transparency, the Public Prosecutor must be consulted on any offer formalised in the context of such conciliation proceedings before the relevant court orders the sale in the subsequent court-administrated proceeding.

Contractual provisions amending the terms of an ongoing contract, by decreasing the rights or increasing the obligations of the debtor solely by reason of the appointment of a *mandataire ad hoc* or the opening of conciliation proceedings, or any request made to this end are deemed null and void.

Equally, contractual provisions that would, as the sole result of the opening of *mandat ad hoc* proceedings or the opening of conciliation proceedings, make the debtor bear the fees of the creditor's counsel relating to such proceedings for the portion that would exceed three quarters of the total fee of the relevant counsel are deemed null and void.

### *Mandat ad hoc proceedings*

French law does not provide for any specific rule in respect of *mandat ad hoc* proceedings. In practice, *mandat ad hoc* proceedings are used by debtors that are facing difficulties of an economic or financial nature but are not cash-flow insolvent (*en état de cessation de paiements*). Such proceedings are confidential (save for their disclosure to statutory auditors if any) and are not limited in time. The mission of the *mandataire ad hoc* is determined by the president of the competent court that appoints him or her. The restructuring agreement between the company and its main creditors will be negotiated on a purely consensual and voluntary basis; those creditors not willing to take part cannot be bound by the arrangement. The *mandataire ad hoc* is appointed in order to facilitate negotiations with creditors but cannot coerce the latter into accepting any proposal. The agreement reached by the parties (if any) with the help of the court-appointed officer (*mandataire ad hoc*, whose name can be

suggested by the debtor) can be reported by the latter to the President of the court but is not sanctioned by the court.

### *Conciliation proceedings*

Conciliation proceedings are available to debtors that face current or foreseeable difficulties of a legal, economic or financial nature but which have not been cash-flow insolvent for more than 45 days. The debtor petitions the President of the relevant court for the appointment of a conciliator (whose name the debtor can suggest) in charge of assisting the debtor in negotiating with all or part of its creditors and/or trade partners an agreement, that puts an end to its difficulties, providing e.g. for the restructuring of its indebtedness. Conciliation proceedings are confidential (save for their disclosure to statutory auditors, if any, and subject to the below regarding the agreement sanctioned by the court) and may last up to five months. During the proceedings, no general stay is imposed on creditors that may continue to sue individually for payment of their claims but (i) in practice, creditors accept not to do so for the duration of conciliation proceedings and (ii) the debtor retains the right to petition the President of the court who opened conciliation proceedings for grace periods as set forth above, in which case the decision would be taken after having heard the conciliator.

The restructuring agreement reached by the parties becomes binding upon them only, and the creditors party thereto may not take action against the company in respect of claims governed by the agreement. The agreement can be either:

- (a) upon all parties' requests, acknowledged (*constaté*) by the President of the relevant court, which gives the agreement the legal force of a final judgment, which means that it constitutes a judicial title that can be enforced by the parties without further recourse to a judge (*force exécutoire*). It ensures the confidentiality of the proceedings; or
- (b) upon the debtor's request, sanctioned (*homologué*) by the court if (i) the debtor is not cash-flow insolvent or the restructuring agreement has the effect of putting an end to the debtor's cash-flow insolvency, (ii) the rescheduling agreement effectively ensures that the company will survive as a going concern and (iii) the agreement does not impair the rights of the non-signatory creditors. The sanctioning judgment does not make public the entire agreement (save for the information of the works council or the employees representatives, if any, on the content of the agreement) but discloses the existence of the proceedings, the main terms of the agreement and the guarantees and priorities (*privilèges*) as well as the amount of "new money" granted to the creditors (see below).

Sanction by the court entails several consequences in addition to giving the agreement the legal force of a final judgment, including: (i) new money privilege, if any, i.e. priority of payment over all pre-petition and post-petition claims (except in regard to certain employment claims and post-petition procedural costs) in the event of subsequent safeguard proceedings, accelerated safeguard proceedings, accelerated financial safeguard proceedings, judicial reorganisation or liquidation proceedings, granted in favour of creditors who provide new money, goods or services designed to ensure the continuation of the business of the distressed company during the conciliation proceedings or as part of the agreement (other than shareholders providing new equity in the context of a capital increase); (ii) in the event of subsequent safeguard proceedings, accelerated safeguard proceedings, accelerated financial safeguard proceedings, judicial reorganisation or judicial liquidation proceedings, the payment date of claims benefitting from the new money privilege may not be rescheduled or written off without their holders' consent (neither by a creditors' committee decision or by court's decision it); and (iii) in the event of subsequent judicial reorganisation proceedings or judicial liquidation proceedings, the date of cash-flow insolvency (*date de cessation des paiements*), and therefore the commencement date of the "Suspect Period" (see below), cannot be set by the courts at a date earlier than the date on which the sanction of the agreement has become final, except in case of fraud.

While the agreement (whether acknowledged or sanctioned) is being implemented, by law (i) any individual proceedings by creditors with respect to the claims included in the agreement are suspended, (ii) accrued interests of the claims governed by the restructuring agreement cannot themselves bear interests (notwithstanding article 1343-2 of the French Civil Code) and (iii) the debtor retains the right to petition the President of the court who opened conciliation proceedings for debt rescheduling (pursuant to article 1343-5 of the French Civil Code mentioned above) in relation to claims of non-consenting creditors (other than public creditors) who were called to the conciliation, in which case the decision would be taken after having heard the conciliator appointed to supervise the implementation of the restructuring agreement, if the conciliator has been appointed in such capacity (*mandataire à l'exécution de l'accord*), and taking into account the actual implementation of the restructuring agreement by the debtor.

A third party having granted a guarantee (*sûreté personnelle*) or a security interest (*sûreté réelle*) can benefit from the grace periods granted to the debtor during conciliation proceedings as well as from the provisions of the acknowledged or sanctioned agreement (article L. 611-10-2 of the French Commercial Code).

In the event of a breach of the agreement, any party to the agreement can petition the court for its termination. The commencement of subsequent insolvency proceedings will automatically put an end to the conciliation agreement, in which case the creditors will recover their claims and security interests, to the exception of those amounts already paid to them. In any event, the debtor retains the right to petition for debt rescheduling pursuant to article 1343-5 of the French Civil Code mentioned above.

Finally conciliation proceedings, in the context of which a draft plan has been negotiated and is supported by the majority of creditors which is likely to meet the thresholds required for creditors' consent in safeguard, will be a mandatory preliminary step of the accelerated safeguard proceedings or accelerated financial safeguard proceedings as described below.

Court-administered pre-insolvency and insolvency proceedings – safeguard, accelerated safeguard proceedings, accelerated financial safeguard proceedings, judicial reorganisation and judicial liquidation proceedings, and court-administered insolvency proceedings may be initiated:

- (a) in the event of safeguard proceedings, upon petition by the debtor only (for accelerated safeguard proceedings and accelerated financial safeguard proceedings, as described below); and
- (b) in the event of judicial reorganisation or judicial liquidation, upon petition by the debtor, any creditor or the Public Prosecutor.

### *Opening*

The debtor may file for safeguard, accelerated safeguard or accelerated financial safeguard proceedings at any time it is facing difficulties that it cannot overcome. Regular safeguard proceedings can only be opened, if the debtor is not cash-flow insolvent (*en état de cessation des paiements*) whereas accelerated safeguard proceedings or accelerated financial safeguard proceedings may be opened as long as it was not cash-flow insolvent for more than 45 days when it initially requested the opening of conciliation proceedings.

The debtor is required to petition for the opening of judicial reorganisation proceedings (if recovery is possible) or judicial liquidation proceedings (if recovery is manifestly not possible) within 45 days of the date upon which the cash-flow insolvency (*date de cessation des paiements*) occurred unless the debtor has requested the opening of conciliation proceedings during this period. If it fails to do so (or if it fails to file for conciliation alternatively), its directors and officers can be subject to civil liability.

Creditors of the company do not attend the hearing before the court at which the opening of safeguard, accelerated safeguard or accelerated financial safeguard proceedings is requested. The same applies for the hearing before the court at which the opening of reorganisation or liquidation proceedings is requested, save for the creditor having requested it, as the case may be.

#### *Observation period – judicial bodies*

The period from the date of the court decision commencing the proceedings (whether a safeguard or a judicial reorganisation) to the date on which the court takes a decision on the outcome of the proceedings is called the "observation period" and may last up to 18 months. During the observation period, a court-appointed administrator, whose name can be suggested by the debtor (or the Public Prosecutor) in safeguard proceedings, investigates the business of the company. In safeguard proceedings, the administrator's mission is limited to either supervising or assisting the debtor's management and assisting it in preparing a safeguard plan for the company. In judicial reorganisation proceedings, the administrator's mission is usually to assist the management and to make proposals for the reorganisation of the company, which may include a business continuation plan (equivalent to a safeguard plan) and/or the sale of all or part of the company's business to a third party. In judicial reorganisation, the court may also decide that the administrator will manage the company alone by replacing the debtor's management whereas judicial liquidation proceedings entail the relief of the debtor's management. There is no observation period in the case of judicial liquidation proceedings being opened against the debtor.

#### *End of proceedings*

At the end of the observation period, if the court considers that the company can survive as a going concern, it will adopt a safeguard or reorganisation plan which will entail a restructuring and/or rescheduling of debts and may entail the divestiture of some or all of the debtor's assets and businesses (a sale of the entire business is not possible in a safeguard plan).

At any time during safeguard proceedings, the court may convert such proceedings into judicial reorganisation proceedings (i) at the debtor's request, or upon request of the administrator, the creditors' representative or the Public Prosecutor, if the debtor appears to have been insolvent (*en état de cessation des paiements*) before the opening of the proceedings, or (ii) upon its own initiative, at the debtor's request or upon request of the judicial administrator, the creditors' representative or the Public Prosecutor in the case where the debtor is cash-flow insolvent or (iii) at the debtors' request, or upon request of the administrator, the creditors' representative or the Public Prosecutor in case no plan has been adopted by the relevant creditors' committee and, if any, bondholders' assembly (as described below) if the approval of a safeguard plan is manifestly impossible and if the company would shortly become insolvent should safeguard proceedings be closed. At any time during safeguard or reorganisation proceedings, the court may also convert such proceedings into liquidation proceedings if the debtor is cash-flow insolvent and its recovery is manifestly impossible. The outcome of these proceedings, which is decided by court without a vote of the creditors, may be a sale of the business through a disposal plan and/or isolated sales of the debtor's assets in order to discharge the debtor's liabilities. In case a sale of the business is considered, the court can authorise a temporary continuation of the business for a maximum period of three months (renewable once for a period of three months at the Public Prosecutor's request), whose effects are similar to an observation period.

#### *Creditors' committees and adoption of the safeguard or reorganisation plan*

During the observation period, in the case of large companies (whose accounts are certified by a statutory auditor or established by a chartered accountant, and with more than 150 employees or turnover greater than €20 million) or where authorised by the supervising judge for smaller companies, two creditors' committees have to be established, respectively:

- (a) one committee for credit institutions and other assimilated financial institutions for the purpose of this provision, having a claim against the debtor (or, any assignees of such claim or of a claim acquired from a supplier); and
- (b) one committee for suppliers having a claim that represents more than 3 per cent. of the total amount of the claims (of all the debtor's suppliers). To be eligible to vote, suppliers must have their claims set forth in the list provided by the debtor to the judicial administrator as certified by the debtor's statutory auditor (or, in their absence, its accountant).

If there are any outstanding debt securities in the form of obligations (such as bonds or notes), a general meeting gathering all holders of such debt securities will be established whether or not there are different issuances and no matter what the applicable law of those obligations is (the bondholders' general assembly).

As a general matter, only the legal owner of the debt claim (i.e. the Issuer in respect of the French Loans) will be invited onto the committee. Accordingly, a person holding only an economic interest therein will not itself be a member of the committee.

These two committees will be consulted on the safeguard or reorganisation plan and the bondholders' general assembly, if any, will be consulted on the plan voted by the committees.

The debtor's management, together with the judicial administrator, is in charge of drafting the plan which will be voted by the committee(s) and the bondholders' assembly as the case may be. Additionally, each member of the credit institution's committee and each member of the trade creditors' committee may also propose an alternative safeguard or reorganisation plan. It should be noted that bondholders may not do so. Each such plan will have to obtain the support of all committees and the bondholders' assembly (as described below).

A safeguard or reorganisation plan may notably include debt rescheduling and debt write-offs as well as debt-to-equity swaps. In that respect it should be noted that (i) if the plan provides for a share capital increase, the shareholders may subscribe to such share capital increase by way of a set-off with their claims against the debtor, as reduced, as the case may be, according to the provisions of the plan, (ii) the Court may decide to apply different quorum and majority rules than those provided in the debtor's by-laws where the plan provides for an amendment of such by-laws and (iii) if the plan provides for a share capital modification to the benefit of any third party undertaking to comply with the recovery plan, in judicial reorganisation, in case the shareholders' equity has not been restored, the judicial administrator may request the court to appoint a trustee (*mandataire de justice*) to convene the shareholders' meeting and to vote in place of the shareholders if they are refusing to vote to restore the shareholders' equity.

In addition, article L.631-19-2 of the French Commercial Code, applicable to judicial reorganization proceedings opened as from August 7, 2015, in the cases where (i) a debtor (a) employs at least 150 employees or (b) is a dominant company (within the meaning of article L.2331-1 of the French Labour Code) of one or more companies with at least 150 employees in aggregate, (ii) the disappearance of such debtor is likely to cause serious disturbance to the national or local economy and to local employment, and (iii) a share capital modification appears – after review of total or partial disposal plan solutions – the only credible solution to avoid such a disturbance and to allow the debtor's business activities to continue. In summary, if, in such event, a reorganisation plan provides for a modification of the share capital in favour of one or more person(s) who undertake to implement the plan and the existing shareholders refuse to vote such share capital modification, the court may, under certain procedural and substantial conditions (e.g. the payment to the evicted shareholders of an amount corresponding to the value of their shares, as determined by a court appointed expert if no agreement as to such value is reached among the parties) and upon request of the court-appointed administrator or the Public Prosecutor, either (a) appoint a trustee (*mandataire*) to vote in favour of a

share capital increase in lieu of the dissenting shareholders up to the amount provided for in the plan or (b) order, in favour of the person(s) who have undertaken to implement the plan, the transfer of all or part of the shares owned by the dissenting shareholders who own (directly or indirectly) a majority of voting rights (including pursuant to any arrangement to that effect with any other shareholder that is not contradictory to the debtor's interest) or hold a blocking minority in the company. Any approval clause is deemed null and void.

The plan may provide for a different treatment of creditors if the differences in their situations so justify. The plan submitted to the creditors' committees and the bondholders' general assembly also takes into account intercreditor subordination agreements entered into prior to the opening of the proceedings. In particular, provisions regarding the calculation of the voting rights in committees must be disclosed to the administrator (see below).

In the first instance, the plan must be approved by each of the two creditors' committees. Each committee must announce whether its members approve or reject such plan within 20 to 30 days of its proposal by the debtor (this time period can be reduced or extended by the supervising judge, at the request of the debtor or the judicial administrator, but cannot be less than 15 days). Such approval requires the affirmative vote of creditors holding at least two-thirds of the amounts of the claims held by the members of such committee that participated in such vote.

Following the approval of the plan by the two creditors' committees, the plan will be submitted for approval to the bondholders' general assembly. The approval of the plan at such meeting requires the affirmative vote of bondholders representing at least two-thirds of the total amount of the obligations held by creditors who voted in the bondholders' general assembly.

In respect of voting rights in both committees and the bondholders' general assembly, each creditor member of a creditors' committee and each bondholder must, if applicable, inform the judicial administrator of the existence of any agreement relating to the exercise of its vote or providing for the full or partial payment of its claim by a third party, as well as of any subordination agreement. The judicial administrator shall then submit to the concerned creditor/bondholder a proposal for the computation of its voting rights in the relevant creditors' committee/bondholders' general assembly. In the event of a disagreement, the concerned creditor/bondholder or the judicial administrator may request that the matter be decided by the president of the relevant court in summary proceedings. However, although the law does provide details regarding the computation methods for the calculation of these rights, we are not aware of any case law in this issue, and the application of such rule is debated in practice.

Those creditors whose repayment terms are not affected by the draft plan or for which the draft plan provides for full repayment in cash upon approval of the plan or admission of their claims will not vote in the framework of the creditors' committees and the bondholders' general assembly as applicable, and may not be consulted by the creditors' representative in the event where they are not members of a committee or where no such committees have been convened.

Following approval by the creditors' committees and the bondholders' general assembly, and individual consultation of creditors who are not members of the creditors' committees or, of the bondholders' general assembly, the plan has to be approved (*arrêté*) by the court. In considering such approval, the court has to verify that the interests of all creditors are sufficiently protected. Once approved by the relevant court, the safeguard or reorganisation plan accepted by the committees and the bondholders' general assembly will be binding on all the members of the committees and all bondholders (including those who voted against the adoption of the plan), as well as those creditors outside such creditors' committees/bondholders' general assembly (it being noted that they can only be imposed with uniform debt rescheduling by the court as detailed below).

With respect to creditors who are not members of the creditors' committees or of the bondholders' general assembly, or in the event that no creditors' committee or the bondholders' general assembly is established, or otherwise in the event that any of the creditors' committees or the bondholders' general assembly has not voted or refused to give its consent to the plan, within six months of the opening of the proceedings (a period which may be extended by the court at the request of the judicial administrator, to the extent that it does not exceed the duration of the observation period), a consultation of the creditors on an individual basis will take place. They will be asked whether they accept debt deferrals, write-offs and/or debt-for-equity swaps provided for in the draft plan. Where the consultation is in writing, the creditor is deemed to have accepted the debt rescheduling and/or write-offs proposal if he or she fails to respond within 30 days of the receipt of the creditors' representative's letter. However, with respect to debt-to-equity swap proposals, the creditors' representative must obtain the agreement of each individual creditor in writing. Those creditors whose repayment terms are not impacted by the draft plan or for whom a repayment in full in cash is provided upon sanctioning of the plan by the court or upon admission of their claims may not be consulted.

The court has the right to impose uniform debt deferrals for a maximum period of 10 years (it being noted that debts the maturity dates of which exceed the duration of the plan are not concerned and their maturity dates shall remain the same), but the court may not impose debt write-offs or debt-to-equity swaps. The first payment must be made within a year of judgment adopting the plan (in the third and subsequent years, the amount of each annual instalment must be at least 5 per cent. of the total amount of the admitted debt claims).

#### *Accelerated safeguard proceedings and accelerated financial safeguard proceedings*

A debtor in the course of conciliation proceedings may request the commencement of accelerated safeguard or accelerated financial safeguard proceedings. The accelerated safeguard or accelerated financial safeguard proceedings have been designed to "fast-track" the regular safeguard proceedings relating to large companies. The regime applicable to accelerated safeguard or accelerated financial safeguard proceedings is roughly the regime applicable to the regular safeguard proceeding to the extent compatible with the accelerated timing in accelerated safeguard or accelerated financial safeguard proceedings, therefore some provisions relating in particular to ongoing contracts and restitution claims formed by an owner benefitting from retention of title clauses are excluded by law.

The accelerated financial safeguard proceedings relate only to debt owed to financial institutions and, as the case may be, bondholders (i.e. debts towards credit institutions that are eligible to the credit institutions' committee and debts towards bondholders, which are eligible to the bondholders' general assembly described above) which are subject to an automatic stay and dealt with under the safeguard plan. The company continues to trade normally while the proceedings are pending, thus reducing significantly the impact of an accelerated financial safeguard on operational companies. Other classes of creditors, such as trade creditors or suppliers, are therefore not affected by the proceedings.

The accelerated safeguard proceedings have effect against pre-insolvency creditors that have to file a proof of claim (see below) and co-contracting parties, trade creditors will be involved as a consequence in the accelerated safeguard proceedings, whereas accelerated financial safeguard proceedings only involve members of the credit institutions committee, as the case may be, and the bondholders' general assembly, with no impact on suppliers or public creditors.

To be eligible to access the accelerated safeguard or accelerated financial safeguard proceedings, the debtor must fulfil the following conditions:

- (a) the debtor must not be cash-flow insolvent for more than 45 days from when it initially requested the opening of conciliation;



- (b) as is the case for regular safeguard proceedings, the debtor must face difficulties that it is not in a position to overcome;
- (c) the debtor must be subject to ongoing conciliation proceedings when it files for the accelerated safeguard proceedings or accelerated financial safeguard proceedings;
- (d) in the context of conciliation proceedings, the debtor must have prepared a draft safeguard plan that aims to protect its operations in the long run and which is likely to be supported, within the group of those creditors who will be affected by the accelerated (or financial accelerated) safeguard proceedings, by a sufficiently large majority of them to allow a likely adoption of the plan by the relevant creditors' committees (credit institutions' committee only for the financial accelerated safeguard proceedings) and the bondholders' general assembly if any within the duration of the procedure i.e. three months for accelerated safeguard proceedings or a maximum of two months for accelerated financial safeguard proceedings;
- (e) the debtor must (i) have its accounts certified by a statutory auditor or be established by an accounting expert and must have: (x) more than 20 employees; or (y) a turnover greater than €3,000,000 excluding any applicable taxes; or (z) total assets in its balance sheet greater than €1,500,000 or (ii) establish consolidated financial statements in accordance with article L. 233-16 of the French Commercial Code; and
- (f) the debtor must exceed the thresholds provided in order to constitute a creditors' committee (see above) or the court shall have authorised such constitution in the opening decision.

Where accelerated safeguard proceedings are opened, the creditors' committees (only the credit institutions committee in accelerated financial safeguard proceedings and, as the case may be, the bondholders' general assembly) and the bondholders' general assembly are convened and are required to vote on the proposed accelerated safeguard plan within the minimum period of 15 days of delivery of the proposed plan (applicable in safeguard proceedings) or eight days in accelerated financial safeguard proceedings.

The plan is adopted following the same majority rules as in regular safeguard proceedings and it may notably provide for a debt rescheduling and/or debt cancellation and/or conversion of debt into equity (requiring the relevant shareholder consent).

The total duration of the accelerated safeguard proceedings is three months, while the duration of the accelerated financial safeguard proceedings is one month, unless the court decides to extend it by one additional month. If no plan is adopted by the creditors' committee(s) and, as the case may be, the bondholders' general assembly at the relevant majority rules within such time frame, the court shall terminate the accelerated safeguard or accelerated financial safeguard proceedings and may not impose any uniform debt rescheduling.

#### *Status of creditors during safeguard, judicial reorganisation or judicial liquidation proceedings*

Contractual provisions pursuant to which the opening of the proceedings triggers the acceleration of the debt (for safeguard or judicial reorganisation proceedings) or the termination or cancellation of an ongoing contract are not enforceable against the debtor, as well as, according to a decision of the French supreme judicial court (*Cour de cassation*) dated 14 January 2014, n°12-22.909, "contractual provisions modifying the conditions of continuation of an ongoing contract, diminishing the rights or increasing the obligations of the debtor solely upon the opening of reorganization proceedings" (case law which is likely to be extended to safeguard, accelerated safeguard or accelerated financial safeguard proceedings).

In any event, the court-appointed administrator can request the termination of ongoing contracts (*contrats en cours*) which it believes the debtor will not be able to continue to perform. The court-appointed administrator can, on the contrary, require that other parties to a contract continue to perform their obligations even though the debtor may have been in default, but on the condition that it fully performs its post-petition contractual obligations (in the case of reorganisation proceedings, any payment by the debtor during the observation period with respect to continued contracts shall be made immediately (*paiement au comptant*), unless the court-appointed administrator obtained extended payment deadlines from the contractual partner of the debtor). In any event, upon opening of the proceedings immediate payment of the unpaid amount of the share capital will be demanded from the shareholders.

In addition, during the observation period:

- (a) accrual of interest is suspended (except in respect of loans providing for a term of at least one year, or contracts providing for a payment that is deferred by at least one year); and accrued interests of pre-insolvency claims cannot bear themselves interests (despite article 1343-2 of the French Civil Code);
- (b) the debtor is prohibited from paying debts arising prior to the date of the court decision commencing the proceedings, subject to specified exceptions which essentially cover the set-off of related debts (*compensation pour dettes connexes*) and payments authorised by the supervising judge (*juge-commissaire*) appointed by the court to recover assets for which recovery is justified by the continued operation of the business. The debtor is also prohibited from paying debts incurred after the opening judgment of the proceedings if not incurred for the purposes of the proceedings or the observation period or in consideration of services rendered/goods delivered to the debtor; and
- (c) creditors may not initiate or pursue any individual legal action against the debtor (or, in safeguard or reorganisation proceedings, against a guarantor of the debtor provided such guarantor is an individual) with respect to any claim arising prior to the court decision commencing the proceedings, if the objective of such legal action is:
  - (i) to obtain an order for payment of a sum of money by the debtor to the creditor (however, the creditor may require that a court determine the amount due in order to admit the claim);
  - (ii) to terminate a contract for non-payment of pre-petition amounts owed to the creditor; or
  - (iii) to enforce the creditor's rights against any assets of the debtor except where such asset – whether tangible or intangible, movable or immovable – is located in another EU Member State, in which case the rights *in rem* of creditors thereon would not be affected by the insolvency proceedings, in accordance with the terms of the Insolvency Regulation. In addition, the rights of a creditor on the debtor's assets located outside France (and the EU) would only be affected by the French insolvency proceedings if they were to be recognised by the local courts where the assets at stake are located.

In accelerated safeguard and accelerated financial safeguard proceedings, the above rules only apply to the creditors that are subject to the accelerated safeguard proceedings and the accelerated financial safeguard proceedings respectively (see above).

As a general rule, creditors domiciled in France whose debts arose prior to the commencement of proceedings must file a proof of claim (*déclaration de créances*) with the court-appointed creditors'

representative within two months of the publication of the court decision in the *Bulletin Officiel des annonces civiles et commerciales* (by exception, the deadline starts upon receipt of an individual notification for those creditors whose claim arose out of a published contract or who benefit from a published security interest); this period is extended to four months for creditors domiciled outside France. Where the debtor has informed the creditors' representative of the existence of claim and no proof of claim has been filed yet, such claim is deemed filed with the creditors' representative. Creditors are allowed to confirm a proof of claim made on their behalf until the judge rules on the admission of their claims.

Creditors who have not submitted their claims during the relevant period or whose claims are not deemed filed with the creditors' representative, save for a ratification by the creditor of a proof of claim made on its behalf, are, except with respect to limited exceptions, barred from receiving distributions made in connection with the proceedings. Employees are not subject to limitations and are preferential creditors under French law.

In accelerated safeguard and accelerated financial safeguard proceedings, the debts held by creditors affected by the opening of the relevant proceedings that took part in the conciliation negotiation are listed by the debtor and certified by its statutory auditor (or, in its absence, its accountant) and are thus deemed to have been filed. Although such creditors can file proofs of claim pursuant to the regular process, they may also avail themselves of this simplified alternative and merely adjust the amounts of their claims as set forth on the list prepared by the debtor (within the two-months or four-months time limit). Those creditors who did not take part in the conciliation proceedings (even though they would be party to the creditors' committee or the bondholders' general assembly) would have to file their proofs of claim within the aforementioned legal time limit.

If the court adopts a safeguard plan, accelerated safeguard plan, accelerated financial safeguard plan or reorganisation plan, claims of creditors included in the plan will be paid according to the terms of the plan. The court can also set a time period during which the assets that it deems to be essential to the continued business of the debtor may not be sold without its consent.

If the court adopts a disposal plan (*plan de cession*) in judicial reorganisation or judicial liquidation proceedings, the proceeds of the sale will be allocated for the repayment of the creditors according to the ranking of their claims. If the court decides to order the judicial liquidation of the debtor, the court will appoint a liquidator (usually the former creditors' representative) in charge of liquidating the company, i.e. selling the assets of the company and settling the relevant debts in accordance with their ranking. However, in practice, where the sale of the business is considered, the court will usually appoint a judicial administrator to manage the company during the temporary continuation of the business operations (see above) and organise the sale of the business process.

French insolvency law assigns priority to the payment of certain preferred creditors, including certain employee claims, post-petition legal costs (essentially, fees of the officials appointed by the insolvency court), creditors who, as part of the sanctioned conciliation agreement, have provided new money, goods or services (the **new money privilege**), certain pre-petition secured creditors in judicial liquidation proceedings only, post-petition creditors, the French state (taxes and social charges), other pre-petition secured creditors and pre-petition unsecured creditors.

#### *The "Suspect Period" in judicial reorganisation and judicial liquidation proceedings*

The cashflow insolvency date is generally deemed to be the date on which the judicial reorganisation or liquidation proceedings are commenced, but the court may declare that a debtor's insolvency date occurred up to 18 months prior to the commencement date of such proceedings. This marks the beginning of the suspect period (*période suspecte*). Certain transactions entered into by the debtor during the suspect period are automatically void or voidable by the court.

Automatically void transactions include transactions or payments entered into during the suspect period that may constitute voluntary preferences for the benefit of some creditors to the detriment of other creditors. These include, notably, transfers of assets for no consideration, contracts under which the reciprocal obligations of the debtor significantly exceed those of the other party, payments of debts not due at the time of payment, payments made in a manner that is not commonly used in the ordinary course of business, security granted for debts (including a security granted to secure a guarantee obligation such as the guarantees) previously incurred and provisional measures (unless the right of attachment or seizure predates the date of cash-flow insolvency), the transfer of any assets or rights to a trust arrangement (*fiducie*) (unless such transfer is made as a security for debt incurred at the same time), any amendment to a trust arrangement (*fiducie*) that dedicates assets or rights as a guarantee of pre-existing debts, and a declaration of non-seizability (*déclaration d'insaisissabilité*) applying to any assets of the debtor during the suspect period.

Transactions declared voidable by the court, depending on its findings, include payments made on due debts, transfers of assets for consideration and notices of attachments made to third parties (*avis à tiers détenteur*), seizures (*saisie attribution*) and oppositions made during the suspect period, if such actions are taken after the debtor was cashflow insolvent and if the court determines that the creditor knew of the cashflow insolvency of the debtor at that time. Transactions relating to the transfer of assets for no consideration are also voidable when made during the six-month period preceding the suspect period.

There is no suspect period prior to the opening of safeguard proceedings or accelerated safeguard or accelerated financial safeguard proceedings to the extent that the debtor was not cash-flow insolvent when such proceedings were opened.

#### *Creditors' liability*

Pursuant to article L. 650-1 of the French Commercial Code, where insolvency proceedings or safeguard proceedings (including accelerated safeguard proceedings and accelerated financial safeguard proceedings) have been commenced, creditors may not be held liable for the losses suffered as a result of facilities granted to the debtor unless in three limited exceptions: (i) fraud; (ii) wrongful interference (*immixtion caractérisée dans la gestion*) with the management of the debtor; and (iii) the security or guarantees taken to support the facilities are disproportionate to such facilities. In addition, any security or guarantees taken to support facilities in respect of which a creditor is found liable on any of these grounds can be cancelled or reduced by the court. Case law has recently set out that this liability would also require that the granting of the facility be deemed to be wrongful.

If a creditor has repeatedly interfered in the company's management, it can be deemed a de facto manager of such company (*dirigeant de fait*). In such a case, article L. 651-2 of the French Commercial Code provides that, if judicial liquidation proceedings (*liquidation judiciaire*) have been commenced against the debtor, the creditor being a de facto manager may be liable for the insufficiency of assets (*insuffisance d'actifs*) of the company, along with the other managers (whether *de jure* or *de facto*), as the case may be, if it is established that their mismanagement has contributed to the company's shortfall of assets. If such conditions are met, French courts will decide whether the managers should bear all or part of the shortfall amount.

#### *Fraudulent conveyance*

French law contains specific provisions dealing with fraudulent conveyance both in and outside of insolvency proceedings, called *action paulienne* provisions. The *action paulienne* offers creditors protection against a decrease in their means of recovery. A legal act performed by a person (including, without limitation, an agreement pursuant to which such person guarantees the performance of the obligations of a third party or agrees to provide or provides security for any of such person's or a third party's obligations, enters into additional agreements benefitting from

existing security and any other legal act having similar effect) can be challenged in or outside of the insolvency proceedings of the relevant person: outside of the insolvency proceedings, by creditors whose rights are prejudiced, in the event of an insolvency proceedings, by the creditors' representative (*mandataire judiciaire*), the commissioner of the safeguard or recovery plan (*commissaire à l'exécution du plan*) in the insolvency proceedings of the relevant person or by any of the creditors of the relevant person whose rights are prejudiced outside of the insolvency proceedings, and may be declared unenforceable against third parties if: (i) the person performed such acts without an obligation to do so; (ii) the creditor concerned or, in the case of the person's insolvency proceedings, any creditor, was prejudiced in its means of recovery as a consequence of the act; and (iii) at the time the act was performed both the person and the counterparty to the transaction knew or should have known that one or more of such person's creditors (existing or future) would be prejudiced in their means of recovery, unless the act was entered into for no consideration (*à titre gratuit*), in which case such knowledge of the counterparty is not necessary for a successful challenge on grounds of fraudulent conveyance. If a court found that the French Loans, the granting of the security interests by the French Senior Obligors or the granting of a guarantee involved a fraudulent conveyance that did not qualify for any defence under applicable law, then the French Loans, the granting of the security interests or the granting of such guarantee could be declared unenforceable against third parties or declared unenforceable against the creditor that lodged the claim in relation to the relevant act. As a result of such successful challenges, the Issuer may not enforce its rights under the French Loans, the guarantees or the security interests. In addition, under such circumstances, the Issuer might be held liable for any damages incurred by prejudiced creditors of the French Senior Obligors as a result of the fraudulent conveyance.

## **CERTAIN MATTERS OF IRISH LAW**

*The following is an overview of certain aspects of Irish law and practice in force at the date hereof. It is not a complete overview of currently applicable Irish law and practice and should therefore not be treated as a substitute for professional advice. Prospective Noteholders who are in any doubt as to any matter described in this Offering Circular should therefore consult their own professional advisers.*

### **Tax Residence**

The Issuer believes that it is tax resident in Ireland and does not have a permanent establishment for tax purposes outside of Ireland. However, there is no guarantee that the Irish Revenue Commissioners, or any other tax authorities in another jurisdiction, will not take a different view. If the Issuer is found to be tax resident in a jurisdiction other than Ireland, or to have a permanent establishment in any other jurisdiction, this could result in additional tax liabilities of the Issuer which could have adverse consequences for the Noteholders.

### **Preferred creditors and floating charges under Irish law**

Under Irish law, upon the insolvency of an Irish incorporated company (such as the Issuer), 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 an examiner of the company (which may include any borrowing made by any 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 incorporated company (which would include the money standing to the credit of the accounts of the Issuer) may be required by the Irish Revenue Commissioners, by notice in writing from the Irish Revenue Commissioners, to pay to them sums equivalent to those which the holder of the fixed security thereafter receives in payment of debts due to it by the company. Where the holder of the security has given notice to the Irish Revenue Commissioners 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 a notice by the Irish Revenue Commissioners to the holder of fixed security.

The Irish Revenue Commissioners 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 Irish Revenue Commissioners 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.

In relation to the disposal of assets of an 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.

The essence of a fixed charge is that the person creating the charge does not have liberty to deal with the assets which are the subject matter of the security in the sense of disposing of such assets or expending or appropriating the monies or claims constituting such assets and, accordingly, if and to the extent that such liberty is given to the Issuer, any security constituted by the Issuer Security Documents may operate as a floating, rather than a fixed charge.

Depending on the level of control actually exercised by the chargor, it is possible that security created by the Issuer pursuant to the Issuer Security Documents would be regarded by the Irish courts as creating a floating charge. Under Irish law, 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 chargees of the assets concerned and against lien holders, execution creditors and creditors with rights of set-off;
- (b) 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 floating charges; and
- (e) they rank after fixed charges.

### **Examinership**

Examinership is a court procedure available under the Companies Act 2014 to facilitate the survival of Irish companies in financial difficulties.

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, the examiner may sell assets which are the subject of a fixed charge. However, if such power is exercised, the examiner must account to the holders of the fixed charge for the amount realised and discharge the amount due to the holders of the fixed charge out of the proceeds of the sale.

During the period of protection, the examiner will formulate 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 the 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 Issuer Security Trustee represented the majority in number and value of claims within the secured creditor class, the Issuer Security Trustee would be in a position to reject any proposal not in favour of the Noteholders. The Issuer Security Trustee would also be entitled to argue at the Irish High Court, being the relevant court for the purposes of the Companies Act 2014, hearing at which the proposed scheme of arrangement is considered that the proposals are unfair and inequitable in relation to the creditors of the Issuer, especially if such proposals included a writing down of the value of amounts due from the Issuer to the creditors or resulted in the creditors receiving less than they would have if the Issuer were to be wound up. The primary risks to the holders of Notes if an examiner were appointed to the Issuer are as follows:

- (a) the potential for a compromise or scheme of arrangement being approved involving the writing down or rescheduling of the debt due from the Issuer to the Noteholders as secured by the Issuer Security Documents;
- (b) the potential for the examiner to seek to set aside any negative pledge in the Issuer Transaction Documents 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
- (c) 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 to each of the Noteholders under the Notes or the other Issuer Transaction Documents and which are secured by the security granted pursuant to the Issuer Security Documents.

### **Centre of Main Interest**

Pursuant to the Insolvency Regulation, which came into force on 26 June 2017, the COMI shall be the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties. In the case of a company or legal person, the place of the registered office shall be presumed to be the centre of main interests in the absence of proof to the contrary. That presumption shall only apply if the registered office has not been moved to another EU Member State within the three-month period prior to the request for the opening of insolvency proceedings. The Issuer has its registered office in Ireland. As a result, in accordance with the Insolvency Regulation, there is a rebuttable presumption that its COMI is in Ireland and consequently that any main insolvency proceedings applicable to it would be governed by Irish law. In the decision by the ECJ in relation to Eurofood IFSC Limited, the ECJ restated the presumption in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings, that the place of a company's registered office is presumed to be the company's COMI and stated that the presumption can only be rebutted if "factors which are both objective and ascertainable by third parties enable it to be established that an actual situation exists which is different from that which locating it at the registered office is deemed to reflect". As the Issuer has its registered office in Ireland, has Irish directors, is registered for tax in Ireland and has an Irish corporate services provider, the Issuer does not believe that factors exist that would rebut this presumption, although this would ultimately be a matter for the relevant court to decide, based on the circumstances existing at the time when it was asked to make that decision. If the Issuer's COMI is not located in Ireland and is held to be in a different jurisdiction within the European Union, main insolvency proceedings may not be opened in Ireland.



## IRISH TAXATION

*The following is a summary of the principal Irish tax consequences for individuals and companies of ownership of the Notes based on the laws and practice of the Irish Revenue Commissioners currently in force in Ireland and may be subject to change. It deals with Noteholders who beneficially own their Notes as an investment. Particular rules not discussed below may apply to certain classes of taxpayers holding Notes, such as dealers in securities, trusts etc. The summary does not constitute tax or legal advice and the comments below are of a general nature only. Prospective investors in the Notes should consult their professional advisers on the tax implications of the purchase, holding, redemption or sale of the Notes and the receipt of interest thereon under the laws of their country of residence, citizenship or domicile.*

### **Taxation of Noteholders**

#### *Persons Subject to Irish Income or Corporation Tax*

In general, persons who are resident in Ireland are liable to Irish taxation on their world-wide income whereas persons who are not resident in Ireland are only liable to Irish taxation on their Irish source income. All persons are under a statutory obligation to account for Irish tax on a self-assessment basis and there is no requirement for the Irish Revenue Commissioners to issue or raise an assessment.

Interest paid and discounts realised on the Notes have an Irish source and therefore interest earned and discounts realised on such Notes will be regarded as Irish source income. Accordingly, pursuant to general Irish tax rules, a non-Irish resident person in receipt of such income would be technically liable to Irish income tax (and the universal social charge if received by an individual) subject to the provisions of any applicable double tax treaty.

Ireland has currently 74 double tax treaties of which 73 are in effect and the majority of them exempt interest (which sometimes includes discounts) from Irish tax when received by a resident of the other jurisdiction. Credit is available for any Irish tax withheld from income on account of the related income tax liability. Non-Irish resident companies, where the income is not attributable to a branch or agency of the company in Ireland, are subject to income tax at the standard rate. Therefore any withholding tax suffered should be equal to and in satisfaction of the full income tax liability. (Non-Irish resident companies operating in Ireland through a branch or agency of the company in Ireland to which the income is attributable would be subject to Irish corporation tax).

There is an exemption from Irish income tax under Section 198 TCA in certain circumstances. These circumstances include:

- (a) where the interest is paid by a company in the ordinary course of business carried on by it to a company (i) which, by virtue of the law of a relevant territory, is resident in the relevant territory for the purposes of tax, and that relevant territory imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory, or (ii) where the interest is either (A) exempted from the charge to income tax under arrangements made with the government of a territory outside Ireland having the force of law under procedures set out in Section 826(1) TCA, or (B) would be exempted from the charge to income tax if arrangements made, on or before the date of payment of the interest with the government of a territory outside Ireland that do not have force of law under procedures set out in Section 826(1) TCA, had the force of law when the interest was paid;
- (b) where the interest is paid by a qualifying company within the meaning of Section 110 TCA out of the assets of that qualifying company to a person who is resident in a relevant territory (residence to be determined under the laws of that relevant territory);

- (c) where the interest is payable on a quoted Eurobond (see "*Withholding Tax*" below) and is paid by a company to a person who is resident in a relevant territory (residence to be determined under the laws of that relevant territory) or to a company controlled, either directly or indirectly by a person or persons who are resident in a relevant territory and are not controlled, either directly or indirectly by persons who are not so resident; or
- (d) where discounts arise to a person in respect of securities issued by a company in the ordinary course of a trade or business, where that person is resident in a relevant territory (residence to be determined under the laws of that relevant territory).
- (e) Interest on the Notes and discounts realised which do not fall within the exemptions in Section 198 TCA are within the charge to Irish income tax to the extent that a double tax treaty does not exempt the interest or discount as the case may be. However, it is understood that the Irish Revenue Commissioners have, in the past, operated a practice (as a consequence of the absence of a collection mechanism rather than adopted policy) whereby no action will be taken to pursue any liability to such Irish tax in respect of persons who are regarded as not being resident in Ireland except where such persons:
  - (i) are chargeable in the name of a person (including a trustee) or in the name of an agent or branch in Ireland having the management or control of the interest; or
  - (ii) seek to claim relief and/or repayment of tax deducted at source in respect of taxed income from Irish sources; or
  - (iii) are chargeable to Irish corporation tax on the income of an Irish branch or agency or to income tax on the profits of a trade carried on in Ireland to which the interest is attributable.

There can be no assurance that the Irish Revenue Commissioners will apply this practice in the case of the holders of Notes and, as mentioned above, there is a statutory obligation to account for Irish tax on a self-assessment basis and there is no requirement for the Irish Revenue Commissioners to issue or raise an assessment.

### *Withholding Tax*

In general, withholding tax (unless exempted) at the current rate of 20 per cent. must be deducted from interest payments made by an Irish resident company. However, there is an exemption from withholding tax under Irish domestic law in respect of, *inter alia*, interest payments made by a qualifying company (within the meaning of Section 110 TCA) to a person resident for the purposes of tax in a relevant territory except where the person is a company and the interest is received in connection with a trade carried out by that company through a branch or agency in Ireland. There is a further exemption from withholding tax under Irish domestic law in respect of interest on "quoted Eurobonds" in certain circumstances, which is expected to apply to the interest payments on the Notes.

A **quoted Eurobond** is defined as a security which:

- (a) is issued by a company;
- (b) is quoted on a recognised stock exchange; and
- (c) carries a right to interest.

There is no obligation to withhold tax on quoted Eurobonds where:

- (i) the person by or through whom the payment is made is not in Ireland, or
- (ii) the payment is made by or through a person in Ireland, and either:
  - (1) the quoted Eurobond is held in a recognised clearing system; or
  - (2) 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 an appropriate written declaration to this effect to a relevant person (such as a paying agent located in Ireland).

### **Deductibility of interest by qualifying companies holding specified mortgages**

As a result of changes to Section 110 TCA introduced in the Finance Act 2016, a restriction on the deductibility of interest which represents more than a reasonable commercial return on the principal outstanding or is dependent on the results of the business of the "qualifying company" can apply from 6 September 2016 to the extent that the "qualifying company" holds and/or manages one or more "specified mortgages" (as defined in Section 110(5A) TCA), being, *inter alia*, a loan which is secured on, and which derives its value from, or the greater part of its value from, directly or indirectly, Irish land.

The Finance Act 2017 (which was signed into law on 25 December 2017) has extended the interest restriction introduced in the Finance Act 2016 to profit participating or excessive interest payable on or after 19 October 2017 by a "qualifying company" which holds and/or manages shares that derive their value, or the greater part of their value, directly or indirectly from Irish land. Shares that derive their value from, or the greater part of their value from, directly or indirectly, land in Ireland are to be included in the definition of "specified property business" (as defined in Section 110(5A) TCA) to which the interest restriction can apply.

However, on the basis that the Issuer does not and will not carry on a "specified property business" for the purposes of Section 110 TCA, the interest restriction should not apply to the calculation of the profits of the Issuer for Irish tax purposes.

### *Encashment tax*

Irish tax will be required to be withheld at the standard rate of income tax (currently 20 per cent.) from interest on any Note, where such interest is collected or realised by a bank or encashment agent in Ireland on behalf of any Noteholder. There is an exemption from encashment tax where the beneficial owner of the interest is not resident in Ireland and has made a declaration to this effect in the prescribed form to the encashment agent or bank.

### *Capital gains tax*

Persons who are resident in Ireland or companies which carry on a trade in Ireland through a branch or agency to which the Notes are attributable and who realise a gain on the disposal of a Note may be liable to Irish taxation on capital gains at a rate of 33 per cent. of the amount of the chargeable capital gain. Individuals who are neither resident nor ordinarily resident in Ireland and companies that are not resident in Ireland and do not carry on a trade in Ireland through a branch or agency to which the Notes are attributable will not be subject to Irish capital gains tax on the disposal of Notes.

### *Capital acquisitions tax*

A gift or inheritance of Notes will be within the charge to capital acquisitions tax (which, subject to available exemptions and reliefs, is currently levied at 33 per cent.) 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 disponer is domiciled in Ireland irrespective of his residence or that of the donee/successor) on the relevant date or (ii) if the Notes are regarded as property situate in Ireland (i.e. if the Notes are physically located in Ireland or if the register of the Notes is maintained in Ireland).

#### *Stamp duty*

For so long as the Issuer is a "qualifying company" within the meaning of Section 110 TCA, Irish stamp duty will not be imposed on the issue or transfer of the Notes provided the money raised on the issue of the Notes is used in the course of the Issuer's business.

## GERMAN TAXATION

*The following is a general discussion of certain German tax consequences of the acquisition, holding and disposal of Notes. It does not purport to be a comprehensive description of all German tax considerations that may be relevant to a decision to purchase Notes, and, in particular, does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the tax laws of Germany currently in force and as applied on the date of this Offering Circular, which are subject to change, possibly with retroactive or retrospective effect.*

*The law as currently in effect provides for a reduced tax rate for certain investment income. The coalition agreement between the German Christdemocratic Party and the German Socialdemocratic Party for the formation of a new German federal government provides that the flat tax regime shall be partially abolished. The coalition agreement further specifies that the solidarity surcharge shall be abolished in stages provided that the individual income does not exceed certain thresholds. There is however no draft bill available yet and a lot of details are hence still unclear.*

*Prospective purchasers of Notes are advised to consult their own tax advisers as to the tax consequences of the purchase, ownership and disposal of Notes, including the effect of any state, local or church taxes under the tax laws of Germany and any country in which they are resident or whose tax laws apply to them for other reasons.*

*The Issuer does not assume any responsibility for the withholding of German taxes at source.*

### **German Tax Residents**

This section "German Tax Residents" refers to persons who are tax residents of Germany (i.e. persons whose residence, habitual abode, statutory seat, or place of effective management and control is located in Germany).

#### *Withholding tax on ongoing payments and capital gains*

Ongoing payments received by a non-business Noteholder will be subject to German withholding tax if the Notes are kept or administered in a custodial account with a German branch of a German or non-German bank or financial services institution, a German securities trading company or a German securities trading bank (each, a **Disbursing Agent**, *auszahlende Stelle*). The tax rate is 25 per cent. (plus solidarity surcharge at a rate of 5.5 per cent. thereon, the total withholding being 26.375 per cent.). For individual Noteholders who are subject to church tax an electronic information system for church withholding tax purposes applies in relation to investment income, with the effect that church tax will be collected by the Disbursing Agent by way of withholding unless the investor has filed a blocking notice (*Sperrvermerk*) with the German Federal Central Tax Office (*Bundeszentralamt für Steuern*) in which case the investor will be assessed on church tax.

The same treatment applies to capital gains (i.e. the difference between the proceeds from the disposal, redemption, repayment or assignment after deduction of expenses directly related to the disposal, redemption, repayment or assignment and the cost of acquisition) derived by a non-business Noteholder provided the Notes have been kept or administered in a custodial account with the same Disbursing Agent since the time of their acquisition. If similar Notes kept or administered in the same custodial account were acquired at different points in time, the Notes first acquired will be deemed to have been sold first for the purposes of determining the capital gains. Where Notes are acquired and/or sold or redeemed in a currency other than Euro, the sales/redemption price and the acquisition costs have to be converted into Euro on the basis of the foreign exchange rates prevailing on the sale or redemption date and the acquisition date, respectively with the result that any currency gains or losses are part of the capital gains. If the Issuer exercises the right to substitute the Issuer of the

Notes, the substitution might, for German tax purposes, be treated as an exchange of the Notes for new notes issued by the new Issuer. Such a substitution could result in the recognition of a taxable gain or loss for the respective investors.

To the extent the Notes have not been kept or administered in a custodial account with the same Disbursing Agent since the time of their acquisition, upon the disposal, redemption, repayment or assignment, withholding tax applies at a rate of 26.375 per cent. (including solidarity surcharge, plus church tax, if applicable) on 30 per cent. of the disposal proceeds (plus interest accrued on the Notes (**Accrued Interest**, *Stückzinsen*), if any), unless the current Disbursing Agent has been notified of the actual acquisition costs of the Notes by the previous Disbursing Agent or by a statement of a bank or financial services institution from another EU Member State or member state of the European Economic Area or from certain other countries (e.g. Switzerland or Andorra).

Pursuant to administrative guidance, losses incurred by a Noteholder from bad debt (*Forderungsausfall*) or a waiver of a receivable (*Forderungsverzicht*) are generally not tax-deductible. The same rules should apply if the Notes expire worthless or if the proceeds from the sale of Notes do not exceed the usual transaction costs. However, in recent case law, the Federal Tax Court (*Bundesfinanzhof*) did not follow these rules. It still needs to be seen whether the tax authorities will follow this new case law.

In computing any German tax to be withheld, the Disbursing Agent generally deducts from the basis of the withholding tax negative investment income realised by a non-business Noteholder of the Notes via the Disbursing Agent (e.g. losses from the sale of other securities with the exception of shares). The Disbursing Agent also deducts Accrued Interest on the Notes or other securities paid separately upon the acquisition of the respective security by a non-business Noteholder via the Disbursing Agent. In addition, subject to certain requirements and restrictions, the Disbursing Agent credits foreign withholding taxes levied on investment income in a given year regarding securities held by a non-business Noteholder in the custodial account with the Disbursing Agent.

Non-business Noteholders are entitled to an annual allowance (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 for couples and partners filing jointly) for all investment income received in a given year. Upon the non-business Noteholder filing an exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent, the Disbursing Agent will take the allowance into account when computing the amount of tax to be withheld. No withholding tax will be deducted if the Noteholder of the Notes has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungs-Bescheinigung*) issued by the competent local tax office.

German withholding tax will not apply to gains from the disposal, redemption, repayment or assignment of Notes held by a corporation while ongoing payments, such as interest payments, are subject to withholding tax (irrespective of any deductions of foreign tax and capital losses incurred). The same may apply where the Notes form part of a trade or business, subject to further requirements being met.

#### *Taxation of current income and capital gains*

The personal income tax liability of a non-business Noteholder deriving income from capital investments under the Notes is, in principle, settled by the tax withheld. To the extent withholding tax has not been levied, such as in the case of Notes kept in custody abroad or if no Disbursing Agent is involved in the payment process, the non-business Noteholder must report his or her income and capital gains derived from the Notes on his or her tax return and then will also be taxed at a rate of 25 per cent. (plus solidarity surcharge and church tax thereon, where applicable). If the withholding tax on a disposal, redemption, repayment or assignment has been calculated from 30 per cent. of the disposal proceeds (rather than from the actual gain), a non-business Noteholder may and in case the actual gain is higher than 30 per cent. of the disposal proceeds must also apply for an assessment on

the basis of his or her actual acquisition costs. Further, a non-business Noteholder may request that all investment income of a given year is taxed at his or her lower individual tax rate based upon an assessment to tax with any amounts over withheld being refunded. In each case, the deduction of expenses (other than transaction costs) on an itemised basis is not permitted. Losses incurred with respect to the Notes can only be offset against investment income of the non-business Noteholder realised in the same or the following years.

Where Notes form part of a trade or business, the withholding tax, if any, will not settle the personal or corporate income tax liability. Where Notes form part of a trade or business, interest (accrued) must be taken into account as income. The respective Noteholder will have to report income and related (business) expenses on the tax return and the balance will be taxed at the Noteholder's applicable tax rate. Withholding tax levied, if any, will be credited against the personal or corporate income tax of the Noteholder. Where Notes form part of a German trade or business, the current income and gains from the disposal, redemption, repayment or assignment of the Notes may also be subject to German trade tax. Where, according to an applicable accounting standard, securities include an embedded derivative, the Noteholder may have to account for a receivable and a derivative. The deduction of losses from derivatives may be ring-fenced as discussed below.

### **Non-German Tax Residents**

Interest and capital gains are not subject to German taxation, unless (i) the Notes form part of the business property of a permanent establishment, including a permanent representative or a fixed base maintained in Germany by the Noteholder or (ii) the income otherwise constitutes German-source income (such as income from the letting and leasing of certain German-*situs* property or income from certain capital investments directly or indirectly secured by German-*situs* real estate). In cases (i) and (ii), a tax regime similar to that explained above in the section "*German Tax Residents*" applies.

As the Notes benefit from security over the Properties, each non-resident Noteholder would in principle be subject to German (corporate) income tax (plus solidarity surcharge thereon) with respect to its interest income under the Notes unless the Notes are registered in a public registry (*öffentliches Schuldbuch*), are represented by a global note (*Sammelurkunde*) within the meaning of Section 9a of the German Custody Act or qualify as partial debenture notes (*Teilschuldverschreibungen*). If the non-resident Noteholder is entitled to the benefits of a double taxation treaty entered into between Germany and the jurisdiction in which the Noteholder is tax-resident which makes provision for full exemption from tax imposed by Germany on interest, the interest should not be subject to tax in Germany despite the real estate security.

Non-residents of Germany are, in general, exempt from German withholding tax on interest and capital gains. However, where the income is subject to German taxation as set forth in the preceding paragraphs and the Notes are kept or administered in a custodial account with a Disbursing Agent, withholding tax may be levied under certain circumstances. The withholding tax may be refunded based on an assessment to tax or under an applicable tax treaty.

### **Inheritance and Gift Tax**

No inheritance or gift taxes with respect to any Notes will arise under the laws of Germany, if, in the case of inheritance tax, neither the deceased nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a resident of Germany and such Note is not attributable to a German trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in Germany. Exceptions from this rule apply to certain German expatriates.

## **Other Taxes**

No stamp, issue or registration taxes or such duties will be payable in Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax (*Vermögensteuer*) is not levied in Germany.

The European Commission and certain EU member states (including Germany) are currently intending to introduce a FTT (presumably on secondary market transactions involving at least one financial intermediary). It is currently uncertain when the proposed FTT will be enacted by the participating member states and when the FTT will enter into force with regard to dealings with the Notes.



## LUXEMBOURG TAXATION

*The following information is of a general nature only and is based on the laws presently in force in Luxembourg, though it is not intended to be, nor should it be construed to be, legal or tax advice. The information contained within this section is limited to Luxembourg withholding tax issues, and prospective investors in the Notes should therefore consult their own professional advisers as to the effects of state, local or foreign laws, including Luxembourg tax law, to which they may be subject.*

*Please be aware that the residence concept used under the respective headings below applies for Luxembourg income tax assessment purposes only. Any reference in the present section to a withholding tax or a tax of a similar nature, or to any other concepts, refers to Luxembourg tax law and/or concepts only.*

### **Withholding Tax**

#### ***Non-resident holders of Notes***

Under Luxembourg general tax laws currently in force, there is no withholding tax on payments of principal, premium or interest made to non-resident holders of Notes, nor on accrued but unpaid interest in respect of the Notes, nor is any Luxembourg withholding tax payable upon redemption or repurchase of the Notes held by non-resident holders of Notes.

#### ***Resident holders of Notes***

Under Luxembourg general tax laws currently in force and subject to the law of 23 December 2005, as amended (the **Relibi Law**), there is no withholding tax on payments of principal, premium or interest made to Luxembourg resident holders of Notes, nor on accrued but unpaid interest in respect of Notes, nor is any Luxembourg withholding tax payable upon redemption or repurchase of Notes held by Luxembourg resident holders of Notes.

Under the Relibi Law, payments of interest or similar income made or ascribed by a paying agent established in Luxembourg to an individual beneficial owner who is a resident of Luxembourg will be subject to a withholding tax of currently 20 per cent.. Such withholding tax will be in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth. Responsibility for the withholding of the tax will be assumed by the Luxembourg paying agent. Payments of interest under the Notes coming within the scope of the Relibi Law will be subject to a withholding tax at a rate of currently 20 per cent..

## UNITED KINGDOM TAXATION

*The following is a summary of the Issuer's understanding of current United Kingdom law and published HM Revenue and Customs' practice relating only to the United Kingdom withholding tax treatment of payments of interest (as that term is understood for United Kingdom tax purposes) in respect of Notes. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Notes. The United Kingdom tax treatment of prospective Noteholders depends on their individual circumstances and may be subject to change in the future. Prospective Noteholders who may be subject to tax in a jurisdiction other than the United Kingdom or who may be unsure as to their tax position should seek their own professional advice.*

Payments of interest on the Notes that do not have a United Kingdom source may be made without deduction or withholding on account of United Kingdom income tax.

## **FOREIGN ACCOUNT TAX COMPLIANCE ACT**

### **FATCA implementation in Ireland**

On 21 December 2012, the Governments of Ireland and the United States signed the Ireland IGA. In July 2014, Ireland enacted Financial Accounts Reporting (United States of America) Regulations 2014 (the **Irish FATCA Regulations**).

The Ireland IGA and Irish FATCA Regulations increased the amount of tax information automatically exchanged between Ireland and the United States. They provide 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.

The Issuer intends to carry on its business in such a way as to ensure that it is treated as complying with FATCA pursuant to the terms of the Ireland IGA and the Irish FATCA Regulations. The Issuer expects to be treated as a "financial institution". The Issuer is required to register with the US Internal Revenue Service as a "reporting financial institution" for FATCA purposes. In order for the Issuer to comply with its FATCA obligations, it is required to report certain information to the Irish Revenue Commissioners relating to Noteholders who, for FATCA purposes, are specified US persons, non-participating financial institutions or passive non-financial foreign entities that are controlled by specified US persons. Any information reported by the Issuer to the Irish Revenue Commissioners will be communicated to the US Internal Revenue Service pursuant to the Ireland IGA. It is possible that the Irish Revenue Commissioners may also communicate this information to other tax authorities pursuant to the terms of any applicable double tax treaty, intergovernmental agreement or exchange of information regime.

The Issuer shall be entitled to require Noteholders to provide any information regarding their FATCA status, identity or residency required by the Issuer to satisfy its FATCA obligations. Noteholders will be deemed, by their subscription for or holding of the Notes to have authorised the automatic disclosure of such information by the Issuer or any other authorised person to the relevant tax authorities.

The Issuer should not generally be subject to FATCA withholding tax in respect of its US source income for so long as it complies with its FATCA obligations. However, FATCA withholding tax may arise on US source payments to the Issuer if the Issuer does not comply with its FATCA registration and reporting obligations and the US Internal Revenue Service has specifically identified the Issuer as being a 'non-participating financial institution' for FATCA purposes. In addition, the Issuer may be unable to comply with its FATCA obligations if Noteholders do not provide the required certifications or information. Noteholders should consult their own tax advisers as to the potential implication of the reporting requirements imposed on the Issuer by FATCA before investing.

### **The Common Reporting Standard in Ireland**

On 21 July 2014, the Standard for Automatic Exchange of Financial Account Information in Tax Matters was published by the OECD and this includes the Common Reporting Standard (**CRS**). The CRS provides that certain entities (known as Financial Institutions) shall identify "Accounts" (as broadly defined, equity and debt interests in the Financial Institution) held by persons who are tax resident in another CRS participating jurisdiction. That information is then subject to annual automatic exchange between governments in CRS participating jurisdictions.

Directive 2014/107/EU on Administrative Co-operation in the Field of Taxation (**DAC II**) implements CRS in a European context and creates a mandatory obligation for all EU Member States to exchange financial account information in respect of residents in other EU Member States on an

annual basis. Ireland has provided for the implementation of CRS through Section 891F TCA and the enactment of the Returns of Certain Information by Reporting Financial Institutions Regulations 2015 (the **CRS Regulations**). Irish Financial Institutions are obliged to make a single return in respect of CRS and DAC II.

The Issuer is expected to constitute a Financial Institution for CRS purposes. In order to comply with its obligations under CRS and DAC II, the Issuer shall be entitled to require Noteholders to provide certain information in respect of the Noteholders and, in certain circumstances, their controlling persons' tax status, identity or residence. Noteholders will be deemed, by their holding of the Notes, to have authorised the automatic disclosure of such information by the Issuer (or any nominated service provider) to the Irish Revenue Commissioners. The information will be reported by the Issuer to the Irish Revenue Commissioners who will then exchange the information with the tax or governmental authorities of other participating jurisdictions, as applicable. To the extent that the Notes are held within a recognised clearing system, the Issuer should have no reportable accounts in a tax year.

Provided the Issuer complies with these obligations, it should be deemed compliant for CRS and DAC II purposes. Failure by the Issuer to comply with its CRS and DAC II obligations may result in it being deemed to be non-compliant in respect of its CRS obligations, and monetary penalties may be imposed pursuant to the Irish implementing legislation.

## SUBSCRIPTION AND SALE

Société Générale, London Branch and Deutsche Bank AG, London Branch in their capacity as Lead Managers, have agreed, on a several basis, pursuant to the Subscription Agreement, subject to certain conditions, to procure subscribers, failing which they will subscribe and pay, for agreed amounts of each Class of Notes at, in respect of the Class A1 Notes, 100 per cent. of their respective principal amount, in respect of the Class A2 Notes, 100 per cent. of their respective principal amount, in respect of the Class B Notes, 100 per cent. of their respective principal amount, in respect of the Class C Notes, 100 per cent. of their respective principal amount, in respect of the Class D Notes, 100 per cent. of their respective principal amount, in respect of the Class E Notes, 100 per cent. of their respective principal amount, in respect of the Class F Notes, 100 per cent. of their respective principal amount and in respect of the Class X Notes at 100 per cent. of their respective principal amount.

Pursuant to the Securitised Senior Loan Sale Agreement, Société Générale, London Branch and Deutsche Bank AG, London Branch as originators, have covenanted that they will retain a material net economic interest of not less than 5 per cent. in the securitisation in accordance with the text of each of Article 405(1) of the Capital Requirements Regulation, Article 51(1) of the AIFM Regulation and Article 254(2) of the Solvency II Regulation (in each case, as such articles are interpreted and applied on the date hereof and not taking into account any relevant national measures). As at the Closing Date, such interest will comprise not less than 5 per cent. of the nominal value of the Senior Loan in accordance with Article 5(1)(a) of the Retention Technical Standards. It should be noted that it is not clear that the Retention Technical Standards apply for the purposes of interpreting the requirements which apply under the Solvency II Regulation. Any change to the manner in which such interest is held will be notified to Noteholders.

### United States of America

Each of the Lead Managers has acknowledged to the Issuer that the Notes have not been and will not be registered under the Securities Act or the securities laws or "blue sky" laws of any state or any other relevant jurisdiction of the United States and therefore may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (as defined under Regulation S of the Securities Act) except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state securities laws and exceptions to the United States tax requirements. The Notes are not transferable except in accordance with the restrictions described herein. Accordingly, the Notes are being offered outside the United States to persons other than U.S. persons in accordance with Regulation S.

Each of the Lead Managers has agreed that, except as permitted by the Subscription Agreement, it will not offer or sell the Notes as part of its distribution at any time or otherwise until 40 days after the later of the commencement of the offering of the Notes and the Closing Date (the **Distribution Compliance Period**) within the United States or to, or for the account or benefit of, U.S. persons (as defined under Regulation S the Securities Act). Each of the Lead Managers has further agreed that it will have sent to each affiliate or other person receiving a selling commission, fee or other remunerations that purchases the Notes from it during the Distribution Compliance Period a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account of, U.S. persons (as defined under Regulation S of the Securities Act).

In addition, until the expiration of the period made up of the 40 days following the commencement of the offering of the Notes, an offer or sale of the Notes within the United States by the Lead Manager, or any other manager or dealer that is not participating in the offering, may violate the registration requirements of the Securities Act. Terms used in this section that are defined in Regulation S of the Securities Act are used herein as defined therein.

Except with the prior written consent of the Loan Sellers via a U.S. Risk Retention Consent and where such sale falls within the exemption provided by Section 20 of the U.S. Risk Retention Rules, the Notes offered and sold in the initial distribution of the Notes may not be purchased by, or for the account or benefit of, any Risk Retention U.S. Persons. Each purchaser of the Notes or a beneficial interest therein acquired in the initial distribution of the Notes, by its acquisition of the Notes or a beneficial interest therein will be deemed, and in certain circumstances will be required, to make certain representations and agreements set out in "*Restrictions of Sales to U.S. Persons (as defined by the U.S. Risk Retention Rules)*".

### **Prohibition of Sales to EEA Retail Investors**

Each of the Lead Managers has also represented and agreed that it has not offered, sold or otherwise made available and will not offer, sell or otherwise make available any Notes to any retail investor in the EEA. For the purposes of this provision, the expression **retail investor** means a person who is one (or more) of the following:

- (a) a retail client as defined in point (11) of Article 4(1) of MiFID II; and/or
- (b) a customer within the meaning of the Insurance Mediation Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II.

### **United Kingdom**

Each of the Lead Managers has further represented and agreed that except as permitted by the Subscription Agreement:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the 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 in, from or otherwise involving the United Kingdom.

### **Ireland**

Each of the Lead Managers has further represented and agreed that:

- (a) it will not underwrite the issue of, or place, the Notes otherwise than in conformity with the provisions of the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017), including, without limitation, Parts 2, 3, 4 and 7 thereof and any codes of conduct issued in connection therewith, and the provisions of the Investor Compensation Act 1998 and the Investment Intermediaries Act 1995, and they will conduct themselves in accordance with any codes and rules of conduct, conditions, requirements and any other enactment, imposed or approved by the Central Bank with respect to anything done by them in relation to the Notes;
- (b) it will not underwrite the issue of, or place, the Notes otherwise than in conformity with the provisions of the Central Bank Acts 1942-2017 and any codes of conduct rules made under Section 117(1) of the Central Bank Act 1989 and any regulations issued pursuant to Part 8 of the Central Bank (Supervision and Enforcement) Act 2013;

- (c) it will not underwrite the issue of, or place, or do anything in respect of the Notes otherwise than in conformity with the provisions of the Prospectus (Directive 2003/71/EC) Regulations 2005 and any rules issued under Section 1363 of the Irish Companies Act by the Central Bank;
- (d) it will not underwrite the issue of, or place, or do anything in respect of the Notes otherwise than in compliance with the provisions of: (A) the Market Abuse Regulation (Regulation EU 596/2014); (B) the Market Abuse Directive on criminal sanctions for market abuse (Directive 2014/57/EU); (C) the European Union (Market Abuse) Regulations 2016 (S.I. No. 349 of 2016); and (D) any rules issued by the Central Bank pursuant thereto or under Section 1370 of the Irish Companies Act;
- (e) to the extent applicable it has complied with, and it will not underwrite the issue of, or place, or do anything in respect of the Notes otherwise than in compliance with the provisions of the Irish Companies Act; and
- (f) in connection with offers or sales of the Notes, it has only issued or passed on, and will only issue or pass on, any document received by it in connection with the issue of the Notes to persons who are persons to whom the documents may otherwise lawfully be issued or passed on.

## **General**

No action is being taken in any jurisdiction that would or is intended to permit a public offering of the Notes, or the possession, circulation or distribution of this Offering Circular or any other material relating to the Issuer or the Notes in any jurisdiction where action for that purpose is required. This Offering Circular does not constitute, and may not be used for the purpose of, an offer or solicitation in or from any jurisdiction where such an offer or solicitation is not authorised. Accordingly, the Notes may not be offered or sold, directly or indirectly, and neither this Offering Circular nor any other offering material or advertisement in connection with the Notes may be distributed or published in or from any country or jurisdiction, except under circumstances that will result in compliance with any applicable rules and regulations of any such country or jurisdiction.

Each of the Lead Managers has undertaken not to offer or sell any of the Notes, or to distribute this document or any other material relating to the Notes, in or from any jurisdiction except under circumstances that will result in compliance with applicable laws and regulations.

## **Interests of natural and legal persons involved in the issue/offer**

Each of the Lead Managers and their affiliates (including parent companies) have engaged, and may in the future engage, in investment banking and/or commercial banking transactions and may perform services for the Issuer, the Obligors and their respective shareholders and affiliates in the ordinary course of business for which they have received and will receive compensation.

## TRANSFER RESTRICTIONS

Because of the following restrictions, purchasers are advised to consult legal counsel prior to making any offer, resale, pledge or transfer of the Notes.

The Notes have not been and will not be registered under the Securities Act or the securities laws or "blue sky" laws of any state of the United States or any other relevant jurisdiction and, accordingly, may not be re-offered, resold, pledged or otherwise transferred except in accordance with the restrictions described below. Neither the Issuer nor any other person is required to so register or qualify the Notes or to provide registration rights to any investor therein. The Notes are being offered and sold only outside the United States to persons other than U.S. persons pursuant to Regulation S, or in transactions otherwise exempt from registration under the Securities Act.

Each purchaser of an interest in a Global Note or a Definitive Note (each initial purchaser of the Notes, together with each subsequent transferee of the Notes, is referred to herein as the **Purchaser**) will be deemed, or in the case of a Definitive Note required, to have acknowledged, represented and agreed as follows (terms used in this section that are defined in Regulation S under the Securities Act are used herein as defined therein):

1. Transfer Restrictions and Notice thereof. Each Purchaser acknowledges and agrees that (a) the Notes have not been and will not be registered under the Securities Act and the Issuer has not registered and does not intend to register as an "investment company" under the Investment Company Act, (b) neither the Notes nor any beneficial interest in the Notes may be offered, sold, pledged or transferred within the United States or to, or for the account or benefit of, a U.S. person (as defined in Regulation S under the Securities Act) (i) as part of its distribution at any time or (ii) otherwise prior to the date that is 40 days after the later of the commencement of the offering of the Notes and the Closing Date, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and in accordance with any applicable securities laws of any states or other jurisdiction of the United States and (c) unless the relevant legend set out below has expired or has been removed from the Notes, each Purchaser will notify any transferee of Notes (as applicable) from it (i) of such transfer restrictions, (ii) that such transferee shall be deemed to have represented that such transferee is acquiring the Notes in an offshore transaction and that such transfer is made pursuant to an exemption from registration in accordance with Rule 903 or Rule 904 of Regulation S and (iii) that such transferee will be required to notify any subsequent transferee as to the foregoing.
2. Legends on Global Note. Each Purchaser acknowledges that each Global Note will bear a legend substantially to the effect set out below and that the Issuer has covenanted in the Note Trust Deed not to remove such legend.

THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE **SECURITIES ACT**) OR THE SECURITIES LAWS OR "BLUE SKY" LAWS OF ANY STATE OR ANY OTHER RELEVANT JURISDICTION OF THE UNITED STATES, AND THE ISSUER (AS DEFINED IN THE NOTE TRUST DEED) HAS NOT REGISTERED AND DOES NOT INTEND TO REGISTER AS AN INVESTMENT COMPANY UNDER THE U.S. INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE **INVESTMENT COMPANY ACT**). CONSEQUENTLY, THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR TRANSFERRED WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, A U.S. PERSON (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT **REGULATION S**) (U.S. PERSONS) EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO,



SUCH REGISTRATION REQUIREMENTS. THIS NOTE IS BEING OFFERED FOR SALE OUTSIDE THE UNITED STATES IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT. THIS LEGEND SHALL CEASE TO APPLY UPON THE EXPIRY OF THE PERIOD OF 40 DAYS AFTER THE COMPLETION OF THE DISTRIBUTION OF ALL THE NOTES OF THE TRANCHE OF WHICH THIS NOTE FORMS PART.

3. Mandatory Transfer/Redemption. Each Purchaser acknowledges and agrees that in the event that at any time the Issuer determines (or is notified by a person acting on behalf of the Issuer) that such Purchaser was in breach, at the time given or deemed to be given, of any of the representations or agreements set out above or otherwise determines that any transfer or other disposition of any Notes would, in the sole determination of the Issuer, require the Issuer to register as an "investment company" under the provisions of the Investment Company Act, such purchase or other transfer will be void *ab initio* and will not be honoured by the Note Trustee. Accordingly, any such purported transferee or other holder will not be entitled to any rights as a Noteholder and the Issuer will have the right, but not the obligation, to force the transfer of, or redeem, any such Notes.
4. The Issuer, the Lead Managers and their Affiliates and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements.

## **DOCUMENTS INCORPORATED BY REFERENCE**

### **Initial Valuation**

The Initial Valuations have been filed with Euronext Dublin and are incorporated by reference into this Offering Circular. The Initial Valuations have been published at the following website:

<http://www.ise.ie/Market-Data-Announcements/Debt/Individual-Debt-Instrument-Data/Dept-Security-Documents/?progID=-1&uID=10175&FIELDSORT=docName>

### **Websites**

No website referred to in this Offering Circular forms part of this Offering Circular.

## GENERAL INFORMATION

1. The issue of the Notes was authorised by a resolution of the board of directors of the Issuer passed on 16 November 2018.
2. Application has been made to Euronext Dublin for the Notes to be admitted to its Official List and trading on the Global Exchange Market. The Global Exchange Market is the exchange regulated market of the Irish Stock Exchange. The Global Exchange Market is not a regulated market for the purposes of Directive 2004/39/EC (as amended).
3. It is expected that admission of the Notes to the Official List of Euronext Dublin for trading on the Global Exchange Market will be granted on or about the Closing Date, subject only to the issue of the Global Notes. The listing of the notes will be cancelled if the Global Notes are not issued.
4. Secondary transactions will normally be effected for settlement in euro and for delivery on the third working day after the day of the transaction.
5. Since the date of incorporation or establishment, the Issuer has not commenced operations and no financial statements have been made up as at the date of this Offering Circular.
6. The Global Notes have been accepted for clearance through Euroclear and Clearstream, Luxembourg as set out under "*Description of the Notes*".
7. The Issuer is not, 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), since the date of its incorporation, which may have, or have had, since the date of its incorporation, significant effects on the Issuer's financial position or profitability.
8. For so long as the Notes are listed on the Official List of Euronext Dublin and admitted to trading on the Global Exchange Market, copies of the following documents (and any amendments thereto from time to time) will be available electronically or may be inspected in physical/electronic form during usual business hours on any week day (excluding Saturdays, Sundays and public holidays) at the specified offices of the Principal Paying Agent and at the registered office of the Issuer for the term of the Notes for the life of this Offering Circular:
  - (a) the constitution of the Issuer;
  - (b) documents incorporated by reference into this Offering Circular;
  - (c) the Note Trust Deed;
  - (d) the Issuer Security Documents;
  - (e) the Servicing Agreement;
  - (f) the Cash Management Agreement;
  - (g) the Issuer Account Bank Agreement;
  - (h) the Corporate Services Agreement;
  - (i) the Agency Agreement;

- (j) the Liquidity Facility Agreements; and
  - (k) the Master Definitions Schedule.
9. The Note Trust Deed and the Issuer Deed of Charge will provide that the Note Trustee and the Issuer Security Trustee may rely on reports or other information from professional advisers or other experts (whether addressed to or obtained by the Issuer, the Note Trustee, the Issuer Security Trustee or any other person) in accordance with the provisions of the Note Trust Deed and the Issuer Deed of Charge, respectively, whether or not such report or other information contains any monetary or other limit on the liability of the relevant professional adviser or expert.
  10. Except as is outlined in this Offering Circular (see the section entitled "*Transaction Overview*", the section entitled "*Cash Management – Issuer Cash Manager Quarterly Report*" and the section entitled "*Key Terms of the Servicing Arrangements for the Securitised Senior Loan – Reporting*"), the Issuer does not intend to provide any post-issuance transaction information in relation to the Notes to be admitted to trading and the performance of the underlying collateral.
  11. The language of this Offering Circular is English. Any foreign language text that is included with or within the document has been included for convenience purposes only and does not form part of this Offering Circular.
  12. No website referred to in this Offering Circular forms part of this Offering Circular for the purposes of the listing of the Notes on Euronext Dublin.
  13. Servicer Quarterly Reports, Issuer Cash Manager Quarterly Reports and other notices to the Noteholders will be made available for review at <https://pivot.usbank.com>.
  14. Walkers Listing Services Limited is acting solely in its capacity as listing agent for the Issuer in connection with the Notes and is not itself seeking admission of the Notes to trading on the Global Exchange Market of Euronext Dublin.
  15. The legal entity identifier (LEI) code of the Issuer is: 54930074ILCYNMBZR670.

## **APPENDIX 1**

### **COLLATERAL TERM SHEET**

*The collateral term sheet set out in this appendix is a summary of certain features of this transaction, and is qualified by reference to the more detailed provisions of this Offering Circular.*

# Arrow CMBS 2018 DAC

Commercial Mortgage Backed Floating Rate Notes due 2030

**€292,700,000**

Offered Securities  
Regulation S

## Collateral Termsheet

Deutsche Bank AG, London Branch – Joint Lead Manager and Joint Bookrunner  
Société Générale, London Branch – Joint Lead Manager and Joint Bookrunner

**October 2018**

These summary materials (the "Materials") do not constitute an invitation to acquire, or an offer for the subscription, purchase or otherwise of, any shares, debentures or securities for the purposes of the United Kingdom Financial Services and Markets Act 2000 or the U.S. Securities Act of 1933 as amended (the "Securities Act"). These Materials may only be used or passed on in the United Kingdom to a person whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their business or a person to whom these Materials may otherwise lawfully be issued or passed on for the purpose of making arrangements for the syndication, underwriting or marketing of an offer of shares, debentures or securities. If you are not such a person, please return this document forthwith to Deutsche Bank AG, London Branch, Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom or Société Générale, London Branch, 41 Tower Hill, EC3N 4SG London. The information contained in these Materials is in draft form and subject to change. If the securities described herein or any other securities are ultimately offered, they will only be offered pursuant to a prospectus, which could contain material information not contained herein, and prospective investors who consider purchasing any such securities should make their investment decisions based only upon the information provided therein and consultation with their own advisers. These Materials are for your private information and we are not soliciting any action based upon them. These Materials are not to be construed as an effort to sell or the solicitation of any offer to buy or sell any security or instrument or to participate in any trading strategy. These Materials are based on information that we consider reliable, but we do not represent that these Materials are accurate or complete or that the content will conform to the terms of any future offer of securities, and these Materials should not be relied upon as such. By accepting these Materials the recipient agrees that it will not distribute or provide them to any other person or use such information in connection with any sale, to or from any person not in possession of such information, of any security described herein or any other security to which such information relates. The information contained in these Materials may not pertain to any such securities that will actually be sold. The information contained in these Materials may be based on assumptions regarding market conditions and other materials as reflected therein. Changes to such assumptions may have a material impact on any returns detailed. We make no representations regarding the reasonableness of such assumptions or the likelihood that any such assumptions will coincide with actual market conditions or events, and these Materials should not be relied upon for such purposes. Deutsche Bank AG, London Branch and its respective affiliates, officers, directors, partners and employees, including persons involved in the preparation or issuance of these Materials ("DB") and Société Générale, London Branch and its respective affiliates, officers, directors, partners and employees, including persons involved in the preparation or issuance of these Materials ("SG") may, from time to time, have long or short positions in, and buy and sell, the securities mentioned herein or derivatives thereof (including options). Information contained in these Materials is current as of the date appearing hereon only. Information in these Materials regarding any assets backing any securities discussed herein supersedes all prior information regarding such assets. All information in these Materials, whether regarding the assets backing any securities discussed herein or otherwise, will be superseded by the information contained in any final prospectus for any securities actually offered or sold to you. Additional information is available upon request. DB and SG are not acting as agents for the issuer or their affiliates in connection with the proposed transaction. DB and SG are not providing any accounting, tax or legal advice to any party in connection with the matters contained in these summary materials. In addition, we mutually agree that, subject to applicable law, any party may disclose any and all aspects of any potential transaction or structure described herein that are necessary to support any U.S. federal income tax benefits, without any limitation of any kind.



# Disclaimer

These Materials are intended for discussion purposes only and does not create any legally binding obligations on the part of DB or SG. Without limitation, these Materials do not constitute an offer, an invitation to offer or a recommendation to enter into any transaction. These Materials do not purport to be comprehensive or necessarily contain all the information that you may require to make a decision as to the proposed transaction. When making an investment decision, you should rely solely on the final documentation relating to the transaction and not the summary contained herein which is subject to change. DB and SG are not acting as your financial adviser or in any other fiduciary capacity with respect to this proposed transaction.

The information presented herein is an advertisement and does not comprise a prospectus for the purposes of EU Directive 2003/71/EC. The information herein has not been reviewed or approved by any rating agency, government entity, regulatory body or listing authority and does not constitute listing particulars in compliance with the regulations or rules of any stock exchange. Any offering will be made only by means of the appropriate offering materials, which will contain material information not in these Materials. The information herein is preliminary, limited in nature and subject to completion and amendment, and will be superseded by the final prospectus relating to this transaction. When available, such prospectus will be published on the website of Euronext Dublin. All opinions and estimates included in this document speak as of the date of this document and are subject to change without notice. This document addresses only certain aspects of the characteristics of the securities described herein and thus does not provide a complete assessment: as such it may not reflect the impact of all structural characteristics of such securities. Receipt of these Materials involves no obligation or commitment of any kind. Prospective investors are not to construe information contained herein, in the prospectus or other offering materials as a recommendation that any recipient of these Materials should invest in the proposed transaction, or that the securities described in these Materials are a suitable investment for such recipient or any other person or as legal, accounting or tax advice. None of DB or SG make any representation nor give any advice concerning the appropriate regulatory accounting treatment or possible tax consequences in connection with the proposed transaction.

The transaction(s) or products(s) mentioned herein may not be appropriate for all investors and before entering into any transaction you should take steps to ensure that you fully understand the transaction and have made an independent assessment of the appropriateness of the transaction in the light of your own objectives and circumstances, including the possible risks and benefits of entering into such transaction. For general information regarding the nature and risks of the proposed transaction and types of financial instruments please go to <https://www.db.com/company/en/risk-disclosures.htm>. Prior to making an investment decision, you should conduct such investigations as you deem necessary to verify the information contained in the prospectus or other offering materials that will be prepared at a later date and to determine if your interest in investing in the securities described in these Materials is appropriate and suitable for you. In addition, you should also consider seeking advice from your own advisers in making this assessment. If you decide to enter into a transaction with DB and SG, you do so in reliance on your own judgment. Neither of DB or SG owes any duty to any person who receives these Materials (except as required by law or regulation) to exercise any judgement on such person's behalf as to the merits or suitability of any transaction or securities. Neither of DB or SG is a legal, tax or accounting advisor. The information contained in this document is based on material we believe to be reliable; however, we have not independently verified this information and we do not represent that it is accurate, current, complete, or error free. No representation or warranty, express or implied, is or will be given by DB or SG or their respective directors, partners, employees or advisers or any other person as to the accuracy or completeness of these Materials, and so far as permitted by law and except in the case of fraud by the party concerned, no responsibility or liability is accepted for the accuracy or sufficiency hereof, or for the consequences of reliance upon any statement, opinion or information contained therein or any errors, omissions or misstatements, negligent or otherwise, relating hereto.

Assumptions, targets, estimates, forecasts and opinions contained in this document constitute our judgment as of the date of the document and are subject to change without notice, and no reliance should be placed on any assumptions, targets, estimates, forecasts and opinions. Any projections are based on a number of assumptions as to market conditions and there can be no guarantee that any projected results will be achieved. Past performance is not a guarantee of future results, an investment in the proposed transaction may result in the loss of your investment, there is likely to be little or no secondary market for the proposed transaction and we are dealing with you on a principal to principal basis and do not accept any responsibility for any dealings, including on selling, between you and any third parties.

You represent that you will comply with all applicable securities laws in force in any jurisdiction in which you purchase, offer, sell or deliver securities or possess or distribute transaction documentation and DB and SG shall have no responsibility in respect thereof.

These materials were prepared by a Sales or Trading function within DB and SG, and were not produced, reviewed or edited by the Research Department. Any opinions expressed herein may differ from the opinions expressed by other DB or SG departments including the Research Department. Sales and Trading functions are subject to additional potential conflicts of interest which the Research Department does not face. DB and SG may engage in transactions in a manner inconsistent with the views discussed herein. DB and SG trades or may trade as principal in the securities (or related derivatives), and may have proprietary positions in the securities (or related derivatives) discussed herein. DB and SG may make a market in the securities (or related derivatives) discussed herein. Sales and Trading personnel are compensated in part based on the volume of transactions effected by them. The distribution of this document and availability of these products and services in certain jurisdictions may be restricted by law. You may not distribute this document, in whole or in part, without our express written permission. The information set out in these Materials is confidential and may be price sensitive and must not be disclosed to any other person without the express written consent of DB and SG. DB and SG may currently and from time to time provide investment banking services (including without limitation corporate finance services) for the companies mentioned in this document and may from time to time participate or invest in commercial banking transactions (including without limitation loans) with the companies mentioned in this document. Accordingly, information may be available to DB or SG which is not reflected in this document. Any of DB or SG may make a market in the securities described herein. Accordingly, any of DB or SG may actively trade such securities or related derivatives for its own account and those of its customers and, at any time, may have a long or short position in such securities or derivatives related hereto. In addition, DB and SG may possess or come to possess public or confidential information concerning companies mentioned in this document or their affiliates without providing or being under any obligation to provide such information to such investors or prospective investors.

DB and SG SPECIFICALLY DISCLAIMS ALL LIABILITY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL OR OTHER LOSSES OR DAMAGES INCLUDING LOSS OF PROFITS INCURRED BY YOU OR ANY THIRD PARTY THAT MAY ARISE FROM ANY RELIANCE ON THIS DOCUMENT OR FOR THE RELIABILITY, ACCURACY, COMPLETENESS OR TIMELINESS HEREOF.

The securities described in these Materials have not been, and will not be, registered under the Securities Act and will be offered and sold, pledged or otherwise transferred, directly or indirectly, and this document will be disseminated only outside the United States to non-U.S. Persons in compliance with Regulation S.

NOTHING IN THIS PRESENTATION CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OF THE ISSUER. IN PARTICULAR, THESE MATERIALS AND THE INFORMATION CONTAINED HEREIN DOES NOT CONSTITUTE AN OFFER OR SALE OF SECURITIES IN THE UNITED STATES. THESE MATERIALS MAY NOT BE FORWARDED OR DISTRIBUTED TO ANY OTHER PERSON AND MAY NOT BE REPRODUCED IN ANY MANNER WHATSOEVER, AND IN PARTICULAR MAY NOT BE FORWARDED TO ANY U.S. PERSON OR TO ANY U.S. ADDRESS. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS DOCUMENT IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF THE SECURITIES ACT OR THE APPLICABLE LAWS OF OTHER JURISDICTIONS.

These Materials have been delivered to you on the basis that you are a person into whose possession they may be lawfully delivered in accordance with the laws of the jurisdiction in which you are located. By accessing these Materials, you will be deemed to have confirmed and represented to us that (a) you have understood and agree to the terms set out herein, (b) you consent to delivery of these Materials by electronic transmission, (c) you are not a U.S. person (within the meaning of Regulation S under the Securities Act) nor acting for the account or benefit of a U.S. person and the electronic mail address that you have given to us and to which this e-mail has been delivered is not located in the United States, its territories and possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands) or the District of Columbia, (d) if you are a person in the United Kingdom, then you are a person who (i) has professional experience in matters relating to investments or (ii) is a high net worth entity falling within Article 49(2)(a) to (d) of the Financial Services and Markets Act (Financial Promotion)



Order 2005 and (e) if you are a person in France, then you are a qualified investor acting for its own account or a person providing portfolio management financial services, all as defined and in accordance with Article L. 411-2 and Article D. 411-2 of the French Monetary and Financial Code.

These Materials have been sent to you in an electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of electronic transmission and consequently none of the Issuer, DB, SG nor any person who controls it nor any director, officer, employee nor agent of it or affiliate of any such person accepts any liability or responsibility whatsoever in respect of any difference between the version distributed to you in electronic format and the hard copy version available to you on request from DB or SG.

DB is authorised under German Banking Law and is regulated by 'BaFin', Germany's Federal Financial Supervisory Authority. DB is also authorised by the UK's Prudential Regulation Authority ("PRA"). It is subject to limited regulation by the UK's Financial Conduct Authority ("FCA") (under number 150018) and by the PRA.

Société Generale is a French credit institution (bank) authorized and supervised by the European Central Bank (ECB) and the Autorité de Contrôle Prudentiel et de Résolution (the French Prudential Control and Resolution Authority) (ACPR) and regulated by the Autorité des Marchés Financiers (the French financial markets regulator) (AMF).

Société Generale, London Branch is authorised by the ECB, the ACPR and the Prudential Regulation Authority (PRA) and subject to limited regulation by the Financial Conduct Authority (FCA) and the PRA.

Details about the extent of DB's and SG's authorisation and regulation by the PRA, and its regulation by the FCA, are available from DB or SG, as the case may be, on request.

This disclaimer and any non-contractual disputes arising in connection with this disclaimer shall be governed exclusively by and construed in accordance with English law. If any provision of this disclaimer is held to be invalid or unenforceable, then the remaining provisions shall continue to be valid and enforceable and shall be severed accordingly.

**MiFID II professionals/ECPS-only/No PRIIPs KID** – Manufacturer target market (MIFID II product governance) is eligible counterparties and professional clients only (all distribution channels). No PRIIPs key information document (KID) has been prepared as the securities described herein are not to be made available to retail investors in the European Economic Area.





# Executive Summary

- Arrow 2018 CMBS transaction is comprised of one senior term loan (the “Facility” or the “Loan”) made to 28 borrowers ultimately owned by funds managed by the Blackstone Group L.P. (“Blackstone”) and is jointly arranged by Deutsche Bank, London Branch (“DB”) and Société Générale, London Branch (“SG”).
- The Loan is a €308.15m<sup>1</sup> term facility arranged and underwritten by DB and SG on a 50/50 basis. The Loan is made in order to refinance the Sponsor’s equity acquisition of 89 primarily logistics/light industrial and mixed used properties totalling 612k sqm across France (69.5% of MV), Germany (23.1% of MV) and the Netherlands (7.5% of MV). There is a structurally subordinated mezzanine loan of c. €78.1m provided by Partners Group.
- The Portfolio is characterised by logistics/light industrial assets which are located in logistics regions. By area, 78% of the Portfolio is warehouse assets<sup>2</sup>. 60% of GRI is generated by assets in urban logistics locations<sup>3</sup> and 36% in big box distribution allowing the portfolio to be well-placed to benefit from e-commerce growth.
- The transaction has the following key strength and features:
  - 1) **Attractive Debt Metrics:** The Loan carries a 10.1% going-in NRI Debt Yield and 5.34x going-in ICR (assuming Euribor of 0% and a margin of 1.90%) with a LTV of 69.7%<sup>4</sup> (€504/sqm) and LTPP of 65.2%.
  - 2) **Diversified Portfolio:** The portfolio is highly diversified in terms of geography, value and income.
  - 3) **Stable Occupancy:** The occupancy of the Portfolio has been stable at c. 90% over the past three years.
  - 4) **Strong Asset Fundamentals:** The assets are primarily light industrial and logistics properties. Many of which are strategically located in urban logistic locations with over 30% of rent concentrated in or around Paris. In addition, the assets benefit from occupancy of 90.7% and 2.7 year WAL to break.
  - 5) **Diversified Tenant Base:** Diversified with the largest tenant contributing 4.5% of GRI and top 10 tenants contributing 25.2%.
  - 6) **Risk Retention:** DB and SG will each retain circa 2.5% of the Loan on their balance sheet to comply with risk retention so only circa 95% of the loan is securitised in this CMBS.
  - 7) **High Quality Sponsorship:** Blackstone is one of the world’s largest and most sophisticated institutional real estate investors.
  - 8) **Substantial Equity Investment:** Blackstone (95%) and M7 Real Estate (“M7”) (5%) have c. €115m of equity invested into portfolio. This is a significant investment which will align the Sponsor’s interests with those of the noteholders.
  - 9) **Experienced Asset Manager:** M7 has been retained by Blackstone to provide investment advice and strategic asset management services across its pan-European logistics (“Last Mile”) platform. Industrial Securities has been appointment by the borrower as asset manager and is responsible for day-to-day management of the Portfolio. Both M7 and Industrial Securities are leading asset managers in the light industrial and logistic real estate in Europe.
- The notes other than the Class X are expected to be rated by DBRS and Fitch and have [7] classes with ratings between [●] to [●]. The Class X will be unrated. The notes will be listed on the Global Exchange Market (“GEM”), operated by the Irish Stock Exchange. The transaction is expected to close in [November 2018].

<sup>1</sup> DB and SG will each hold c. 2.5% of the loan as retention so only €292.7m (c. 95%) is being securitised.

<sup>2</sup> Warehouse assets includes logistics, urban logistics and light industrial assets.

<sup>3</sup> Urban logistics locations are defined as within 30 km of a city centre with a population of more than 150,000 according to the Sponsor. This is a growing asset class necessary for fast delivery to satisfy customer demands for shorter delivery times and service related to the rapid growth in e-commerce.

<sup>4</sup> The valuer - Cushman and Wakefield, is of the opinion that if the Portfolio were to be sold as a single lot subject to caveats (please see Initial valuation), the sales process would be likely to generate a “portfolio premium” of 5% to 10% relative to the aggregate value of the individual properties, equivalent to a MV of €464m to €486m. This translates to a LTV of between 66.4% and 63.4%.



# Calculations and Sources

Cut-Off Date	Cut-Off Date is 30 April 2018.
Market Value ("MV")	Taken from the valuations completed by Cushman & Wakefield on 30 June 2018 ("Initial Valuation").
GRI and NRI	Based on the below sources: Gross Rental Income (GRI) is taken from the tenancy schedule provided by the Sponsor as of the Cut-Off Date with updates from leasing activities only on a number of units post the Cut-Off Date up until 30 June 2018. NRI is calculated by subtracting non-recoverable expenses from the GRI. Non-recoverables expenses is taken from the valuation reports by C&W in respect of valuations as at 30 June 2018.
ERV	ERV is taken from the valuations completed by C&W on 30 June 2018.
Tenancy Details	Based upon tenancy schedule provided by the Sponsor as of the Cut-Off Date with updates from leasing activities on a number of units post the Cut-Off Date up until 30 June 2018.
WALT to Break / Expiry	WALT to Break / Expiry is the weighted average lease term to break / expiry and it is calculated from the Loan Closing Date.
Closing Loan Balance	The Closing Loan Balance as of Loan Closing Date (19 September 2018).
Loan to Value ("LTV")	Closing Loan Balance divided by Market Value. Note that these calculations may differ from those applicable under the loan agreements.
Assumed Rate	EURIBOR is assumed to be equal to 0% given the EURIBOR floor for the purpose of calculating the interest due element for ICR and DSCR.
Hedged Rate	EURIBOR is assumed to be [3.17]% for the purpose of calculating the interest due element for ICR, which is equal to the expected strike rate of the interest rate cap entered into in connection with the Loan.
Interest Cover Ratio ("ICR")	The ICR for the Loan is calculated for the purposes of this document as NRI divided by interest (EURIBOR specified (either Assumed Rate or Hedged Rate) plus Margin which is assumed to be 1.9% <sup>1</sup> ) due on a twelve-month forward-looking basis using the Closing Loan Balance. Note that these calculations may differ from those applicable under the loan agreements.
Debt Yield ("DY")	The DY is calculated as NRI (based on the above sources) divided by the Closing Loan Balance. Note that these calculations may differ from those applicable under the loan agreements.

<sup>1</sup> The Margin is a range between 1.70% and 2.075% and is subject to change before securitisation closing.



# Sponsor and Asset Manager

## Sponsor



**The Blackstone Group L.P.** is an advisory and investment firm that specializes in private equity, real estate, and credit and marketable alternative investment strategies. Blackstone began building a real estate investment business in 1992, with the acquisition of a series of hotel businesses, and has built it into a global leader in private equity real estate, with \$119 billion in assets under management.

Blackstone seeks to acquire high quality investments at discounts to replacement cost. They then improve the properties through hands-on management and targeted value-add initiatives. Blackstone's real estate portfolio includes office, retail, hotel, industrial and residential properties. Blackstone real estate also operates one of the leading real estate finance platforms, including management of the publicly traded Blackstone Mortgage Trust (NYSE:BXMT).

Blackstone has a team of approximately 450+ real estate investment professionals in 13 offices around the world. As at the 30th June 2018, the Blackstone Real Estate Platform has \$26.5bn of available capital for investments.<sup>1</sup>



**M7 Real Estate** is a leading specialist in the pan-European, regional, multi-let real estate market. Wholly owned by its senior managers it has over 225 employees in 13 countries across Europe. The team manages circa 1,300 retail, office and industrial properties with a value of circa €7.2 billion. M7 was established in 2009 and initially focused on the multi-let industrial sector within the UK, with a key focus on efficient and accurate data management. A number of JVs were created to capitalise on the opportunities available following the global financial crisis. In addition, a workout business was launched to help lenders manage higher yielding secondary assets.

M7 identifies value-add investment opportunities for investors in the smaller, multi-let sector. This sector is often neglected and considered inefficient due to the small individual lot sizes and the management intensive nature of the underlying assets. M7 typically aggregates numerous individual assets to form larger portfolios with income levels and yields above market averages. M7 has a value-oriented investment philosophy combined with an active, hands-on asset management platform. The in-house, on the ground real estate experience available to the business through its pan-European platform together with its market leading information and data management systems, ensure that M7 can maximise value.

## Asset Manager



**Industrial Securities Europe** is a private property company established in 1995 specialising in the acquisition, development and management of industrial buildings, logistics warehousing and commercial properties throughout Europe. With offices in Germany, France, Luxembourg and The Netherlands, the company currently owns and manages more than 8,000,000 sq ft of space.

iSec is owned by the two founders of the Industrial Securities Group in the UK, Stephen Lawrence and Nigel Lax, as well as the private equity investors that control the Marcol Group who have operated since 1976 in the UK and subsequently in mainland Europe. The Marcol Group comprises a diverse group of private companies with common investors that specialise in most real estate sectors including hotels, retail, health care, leisure, offices, logistics and residential.

iSec has a well-regarded 26-person industrial-focused management team 100% dedicated to this portfolio.

<sup>1</sup> The Blackstone Group L.P. Quarterly Report (Q2 2018)



# Portfolio Overview

## Selected Property Photos



Parc Medicis, Paris / 5.1% of MV  
Mixed Use / 14k SQM



Gennevilliers, Paris / 3.7% of MV  
Mixed Use / 10k SQM



Hordain, Lille / 3.6% of MV  
Logistics / 31k SQM



Itancourt, Lille / 2.3% of MV  
Logistics / 18k SQM



Mitry Mory, Paris / 1.8% of MV  
Urban Logistics / 10k SQM

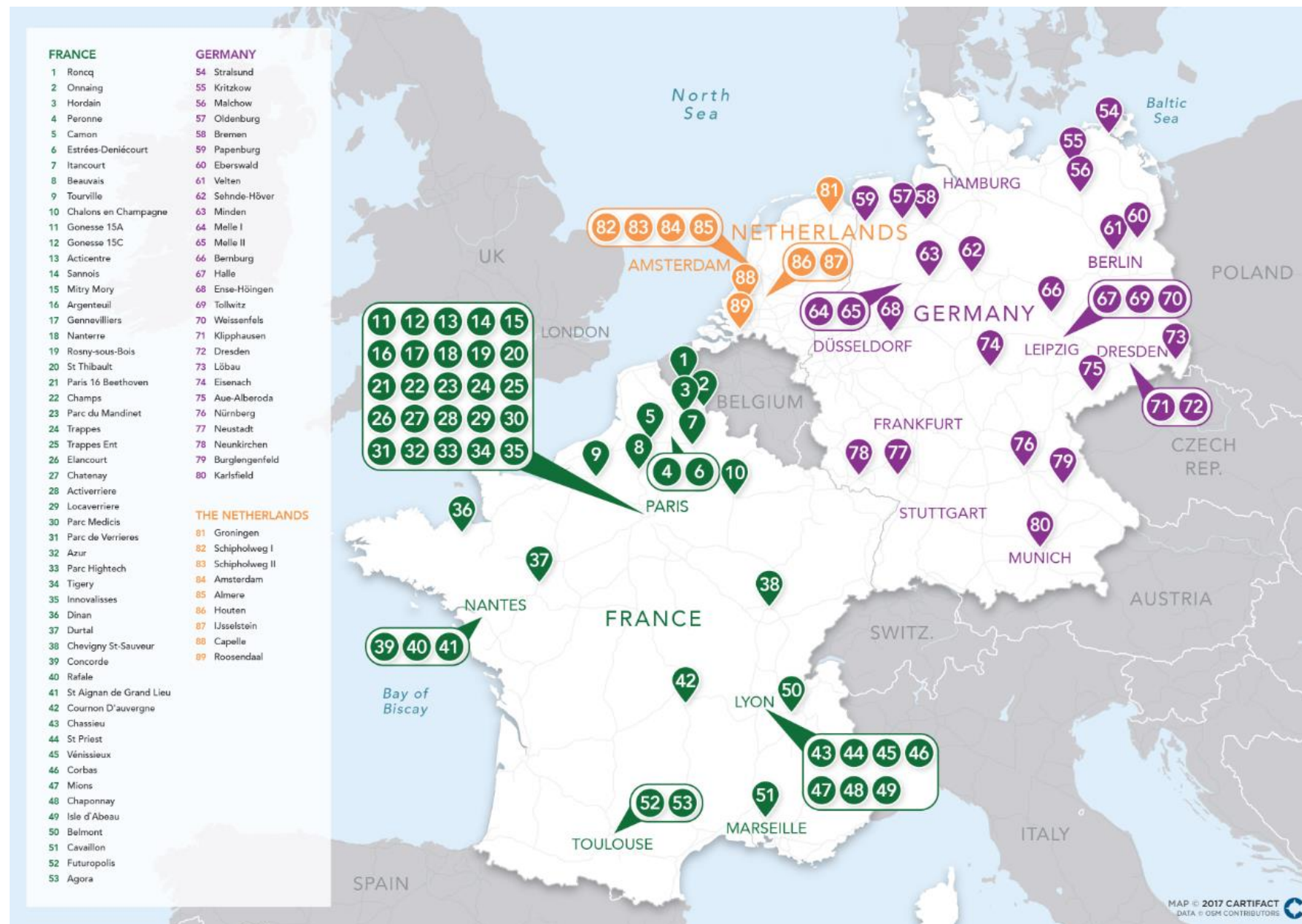


Innovalisses, Paris / 1.0% of MV  
Urban Logistics / 6k SQM



# Portfolio Overview

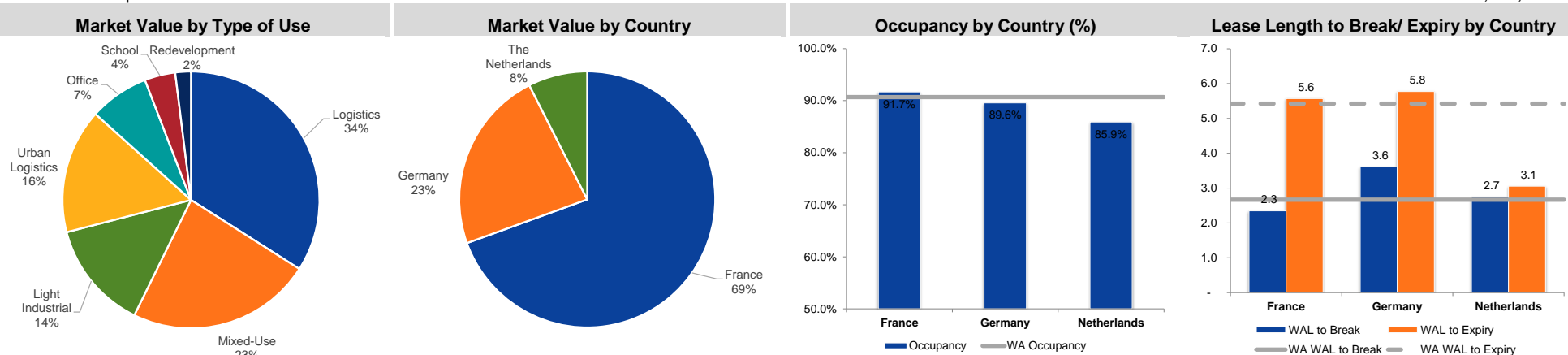
## Property Map



# Portfolio Overview

## Loan information

Market Value <sup>1</sup> :	€441,986,000	Number of Tenants:	349
Vacant Possession Value:	€330,427,000	WALTB / WALTE (years):	2.7 / 5.4
Area (sqm):	611,593	Gross Rental Income:	€33,572,796
Occupancy (% of Area):	90.7%	Net Rental Income:	€31,255,572
Number of Properties:	89	ERV:	€35,094,782



## Characteristics by Country

Country	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALTB (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/psm	% Total	Net PP (€)	% Total
France	53	399,509	65.3%	23,207,648	69.1%	22,373,714	24,223,006	2.3	5.6	91.7%	307,004,000	768	69.5%	334,712,000	70.8%
Germany	27	170,767	27.9%	7,752,457	23.1%	6,669,216	7,765,861	3.6	5.8	89.6%	101,922,000	597	23.1%	105,640,000	22.3%
The Netherlands	9	41,316	6.8%	2,612,691	7.8%	2,212,642	3,105,915	2.7	3.1	85.9%	33,060,000	800	7.5%	32,425,000	6.9%
<b>Total</b>	<b>89</b>	<b>611,593</b>	<b>100.0%</b>	<b>33,572,796</b>	<b>100.0%</b>	<b>31,255,572</b>	<b>35,094,782</b>	<b>2.7</b>	<b>5.4</b>	<b>90.7%</b>	<b>441,986,000</b>	<b>723</b>	<b>100.0%</b>	<b>472,777,000</b>	<b>100.0%</b>

## Characteristics by Uses

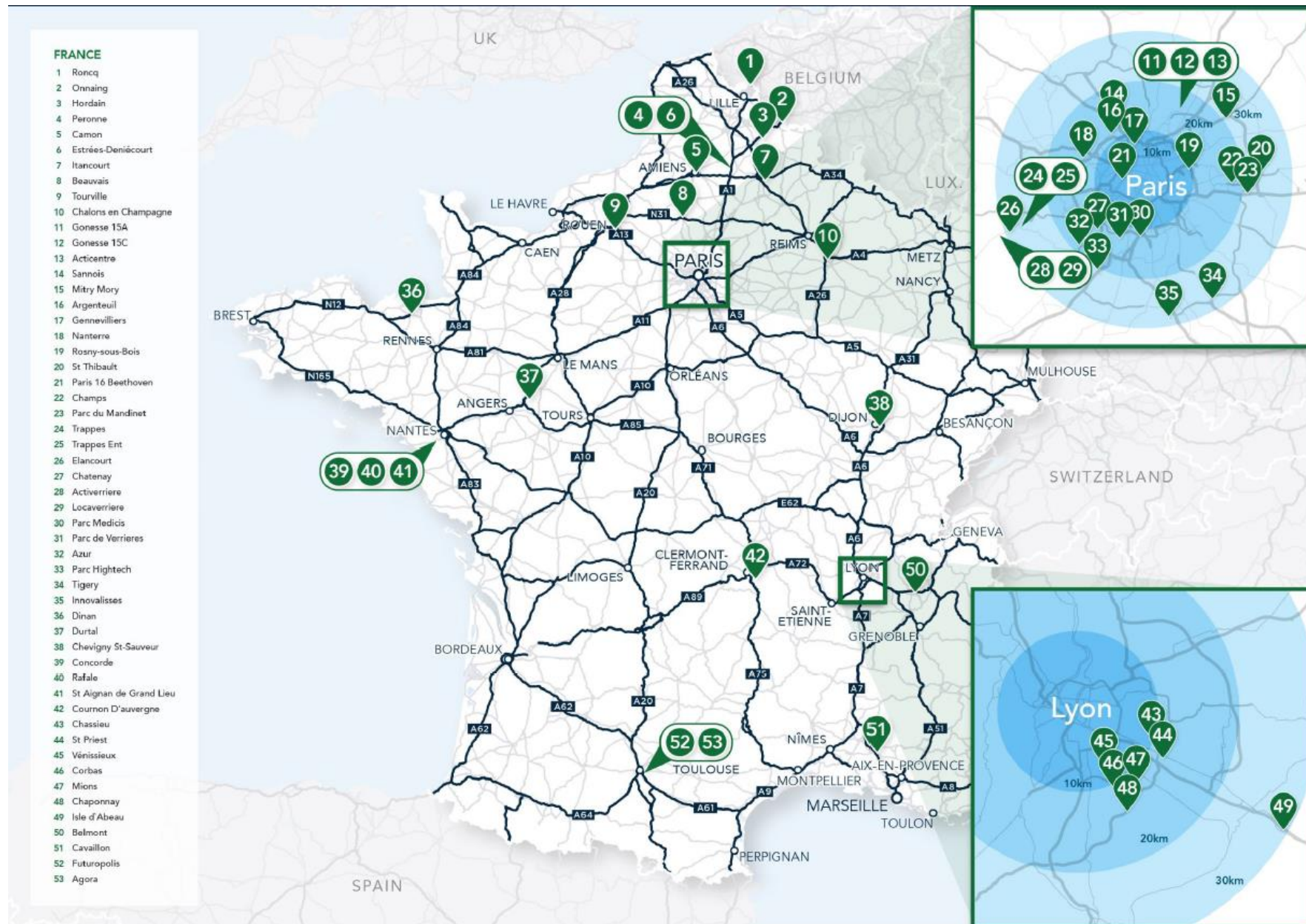
Property Type	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALTB (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/psm	% Total	Net PP (€)	% Total
Logistics	24	285,904	46.7%	12,198,170	36.3%	11,487,267	12,651,361	2.8	6.5	93.3%	150,397,000	526	34.0%	183,588,000	38.8%
Mixed-Use	22	99,394	16.3%	7,869,726	23.4%	7,312,586	7,670,583	3.2	5.0	91.8%	102,753,000	1,034	23.2%	99,029,000	20.9%
Light Industrial	18	103,640	16.9%	5,337,266	15.9%	5,091,571	5,710,504	1.9	4.7	93.5%	60,497,000	584	13.7%	71,883,000	15.2%
Urban Logistics	13	88,994	14.6%	4,761,256	14.2%	4,348,843	5,217,680	3.2	5.7	88.6%	69,386,000	780	15.7%	68,903,000	14.6%
Office	9	23,624	3.9%	2,387,714	7.1%	2,214,088	3,015,598	1.6	3.6	73.7%	33,171,000	1,404	7.5%	28,741,000	6.1%
School	1	2,032	0.3%	817,568	2.4%	801,216	829,056	2.0	2.1	100.0%	17,082,000	8,406	3.9%	12,166,000	2.6%
Redevelopment	2	8,004	1.3%	201,096	0.6%	-	-	0.8	0.8	20.2%	8,700,000	1,087	2.0%	8,467,000	1.8%
<b>Total</b>	<b>89</b>	<b>611,593</b>	<b>100.0%</b>	<b>33,572,796</b>	<b>100.0%</b>	<b>31,255,572</b>	<b>35,094,782</b>	<b>2.7</b>	<b>5.4</b>	<b>90.7%</b>	<b>441,986,000</b>	<b>723</b>	<b>100.0%</b>	<b>472,777,000</b>	<b>100.0%</b>

<sup>1</sup> The valuer - Cushman and Wakefield is of the opinion that if the Portfolio were to be sold as a single lot subject to caveats (please see Initial valuation), the sales process would be likely to generate a "portfolio premium" of 5 to 10% relative to the aggregate value of the individual properties, equivalent to a MV of €464m to €486m.



# Portfolio Overview – France

France Property Map

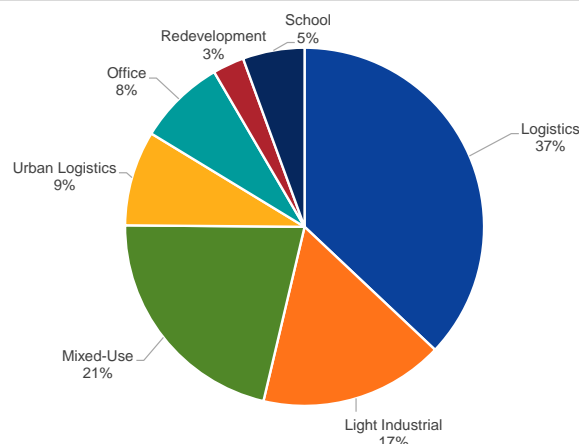




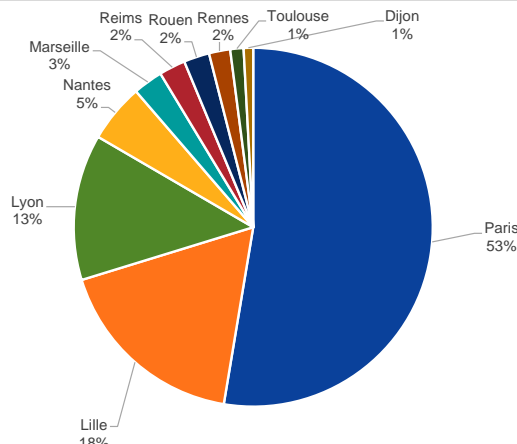
# Portfolio Overview – France

## France Portfolio Overview

Market Value by Type of Use



Market Value by Sub-market



## Portfolio Description

- The French Portfolio comprises 53 assets across 399,509 sqm, with the highest concentration in Paris (25 assets / 49 buildings). The French Portfolio generates €23.2m in GRI with a WALT B of 2.3 years. The French Portfolio contributes 65.3% GLA and 69.1% GRI.
- The MV of the French Portfolio is €307.0m. The French portfolio can be divided into 10 sub-markets with Lille, Paris and Lyon portfolios carrying the majority of assets.

## Characteristics by Uses

Property Type	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALT B (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>France</b>															
Logistics	18	212,661	34.8%	9,482,771	28.2%	9,354,059	9,686,605	2.7	6.6	95.4%	113,737,000	535	25.7%	143,015,000	30.2%
Light Industrial	14	78,473	12.8%	4,408,595	13.1%	4,289,910	4,752,142	1.7	5.1	93.2%	51,067,000	651	11.6%	59,705,000	12.6%
Mixed-Use	6	47,106	7.7%	4,604,267	13.7%	4,389,446	4,715,945	2.7	5.8	90.8%	65,861,000	1,398	14.9%	62,829,000	13.3%
Urban Logistics	5	33,704	5.5%	1,918,855	5.7%	1,839,370	2,083,085	2.2	4.6	90.8%	26,346,000	782	6.0%	26,623,000	5.6%
Office	7	17,529	2.9%	1,774,496	5.3%	1,699,712	2,156,173	1.5	3.9	75.8%	24,211,000	1,381	5.5%	21,907,000	4.6%
Redevelopment	2	8,004	1.3%	201,096	0.6%	-	-	0.8	0.8	20.2%	8,700,000	1,087	2.0%	8,467,000	1.8%
School	1	2,032	0.3%	817,568	2.4%	801,216	829,056	2.0	2.1	100.0%	17,082,000	8,406	3.9%	12,166,000	2.6%
<b>Total France</b>	<b>53</b>	<b>399,509</b>	<b>65.3%</b>	<b>23,207,648</b>	<b>69.1%</b>	<b>22,373,714</b>	<b>24,223,006</b>	<b>2.3</b>	<b>5.6</b>	<b>91.7%</b>	<b>307,004,000</b>	<b>768</b>	<b>69.5%</b>	<b>334,712,000</b>	<b>70.8%</b>

## Characteristics by Sub-market

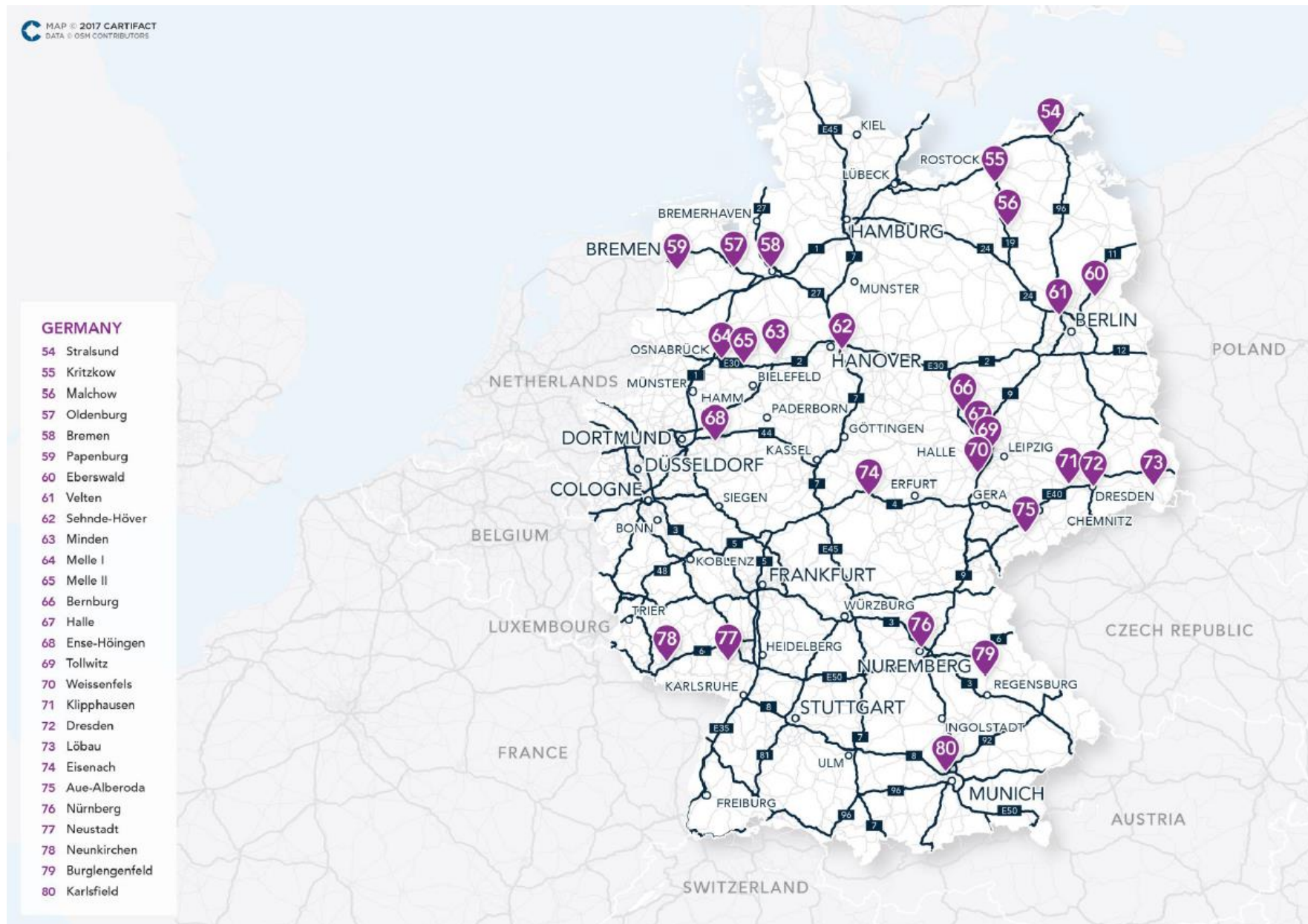
Sub-market	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALT B (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>France</b>															
Paris	25	133,363	21.8%	11,211,908	33.4%	10,506,050	11,560,874	1.8	4.8	87.1%	161,559,000	1,211	36.6%	157,541,000	33.3%
Lille	8	116,011	19.0%	4,317,605	12.9%	4,233,829	4,780,072	2.3	7.0	89.7%	54,115,000	466	12.2%	70,976,000	15.0%
Lyon	9	52,576	8.6%	3,138,204	9.3%	3,038,306	3,052,472	4.1	5.8	96.7%	40,363,000	768	9.1%	45,791,000	9.7%
Nantes	4	17,533	2.9%	1,371,351	4.1%	1,310,703	1,397,018	2.4	7.0	92.1%	16,204,000	924	3.7%	19,763,000	4.2%
Marseille	1	13,387	2.2%	1,023,597	3.0%	972,418	912,963	0.3	0.3	100.0%	8,220,000	614	1.9%	11,799,000	2.5%
Reims	1	23,058	3.8%	625,000	1.9%	766,679	807,030	2.1	8.4	100.0%	7,296,000	316	1.7%	8,028,000	1.7%
Rouen	1	13,800	2.3%	621,000	1.8%	589,950	621,000	2.6	8.7	100.0%	7,086,000	513	1.6%	6,631,000	1.4%
Rennes	1	21,418	3.5%	440,152	1.3%	519,889	547,252	6.3	9.4	100.0%	5,859,000	274	1.3%	8,199,000	1.7%
Toulouse	2	3,188	0.5%	251,830	0.8%	239,239	337,325	1.6	4.9	69.6%	3,674,000	1,152	0.8%	2,903,000	0.6%
Dijon	1	5,175	0.8%	207,000	0.6%	196,650	207,000	7.3	7.4	100.0%	2,628,000	508	0.6%	3,081,000	0.7%
<b>Total France</b>	<b>53</b>	<b>399,509</b>	<b>65.3%</b>	<b>23,207,648</b>	<b>69.1%</b>	<b>22,373,714</b>	<b>24,223,006</b>	<b>2.3</b>	<b>5.6</b>	<b>91.7%</b>	<b>307,004,000</b>	<b>768</b>	<b>69.5%</b>	<b>334,712,000</b>	<b>70.8%</b>





# Portfolio Overview – Germany

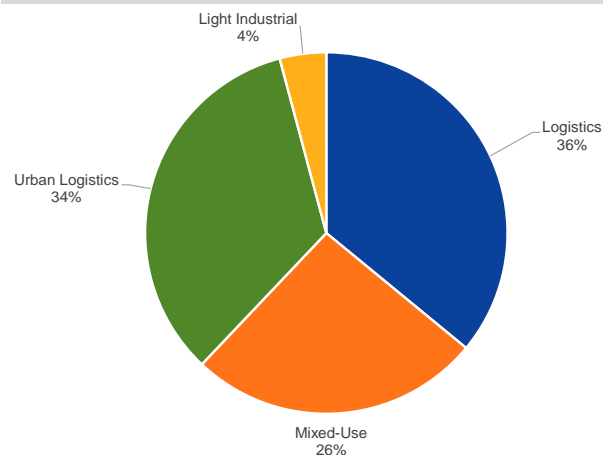
## Germany Property Map



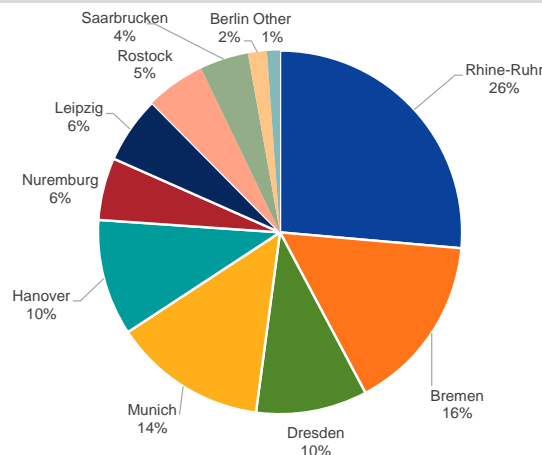
# Portfolio Overview – Germany

## Germany Portfolio Overview

Market Value by Type of Use



Market Value by Sub-market



## Portfolio Description

- The German Portfolio comprises 27 assets located across the country. The portfolio totals 170,767 GLA sqm, with an in-place rent of €7.8m and a WALTB of 3.6 years.
- The German Portfolio has a market value of €101.9m. The portfolio can be further divided into 10 sub-markets.

## Characteristics by Uses

Property Type	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALTB (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>Germany</b>															
Logistics	6	73,243	12.0%	2,715,399	8.1%	2,133,208	2,964,756	3.0	6.3	87.2%	36,660,000	501	8.3%	40,573,000	8.6%
Mixed-Use	14	37,447	6.1%	2,499,054	7.4%	2,297,824	1,952,908	4.0	4.1	100.0%	26,592,000	710	6.0%	25,256,000	5.3%
Urban Logistics	5	44,846	7.3%	2,088,797	6.2%	1,846,600	2,384,565	4.0	7.6	84.2%	34,440,000	768	7.8%	33,607,000	7.1%
Light Industrial	2	15,231	2.5%	449,207	1.3%	391,584	463,632	3.4	3.5	91.0%	4,230,000	278	1.0%	6,204,000	1.3%
<b>Total Germany</b>	<b>27</b>	<b>170,767</b>	<b>27.9%</b>	<b>7,752,457</b>	<b>23.1%</b>	<b>6,669,216</b>	<b>7,765,861</b>	<b>3.6</b>	<b>5.8</b>	<b>89.6%</b>	<b>101,922,000</b>	<b>597</b>	<b>23.1%</b>	<b>105,640,000</b>	<b>22.3%</b>

## Characteristics by Sub-market

Sub-market	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALTB (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>Germany</b>															
Rhine-Ruhr	3	60,162	9.8%	1,898,903	5.7%	1,385,301	2,285,526	2.2	5.1	84.4%	26,900,000	447	6.1%	30,684,000	6.5%
Bremen	3	29,640	4.8%	1,363,107	4.1%	1,071,329	1,248,711	3.4	3.4	76.1%	16,136,000	544	3.7%	16,267,000	3.4%
Dresden	4	21,057	3.4%	932,522	2.8%	839,797	865,569	3.8	7.0	93.5%	10,080,000	479	2.3%	11,317,000	2.4%
Munich	1	10,346	1.7%	780,129	2.3%	722,731	831,744	4.1	4.2	100.0%	13,900,000	1,344	3.1%	10,626,000	2.2%
Hanover	2	13,477	2.2%	551,442	1.6%	558,612	699,433	5.8	9.9	100.0%	10,540,000	782	2.4%	9,599,000	2.0%
Nuremburg	2	11,723	1.9%	598,685	1.8%	545,020	468,408	3.7	3.8	100.0%	5,659,000	483	1.3%	7,343,000	1.6%
Leipzig	4	7,653	1.3%	480,108	1.4%	490,076	456,657	3.9	8.8	100.0%	6,064,000	792	1.4%	6,883,000	1.5%
Rostock	2	7,807	1.3%	424,389	1.3%	384,522	397,326	2.0	9.9	100.0%	5,370,000	688	1.2%	5,961,000	1.3%
Saarbrücken	1	5,274	0.9%	392,108	1.2%	363,385	281,904	8.0	8.1	100.0%	4,390,000	832	1.0%	3,928,000	0.8%
Berlin	2	2,642	0.4%	168,863	0.5%	155,440	142,488	3.6	3.7	100.0%	1,709,000	647	0.4%	2,042,000	0.4%
Other	3	986	0.2%	162,202	0.5%	153,003	88,095	3.9	4.0	100.0%	1,174,000	1,191	0.3%	990,000	0.2%
<b>Total Germany</b>	<b>27</b>	<b>170,767</b>	<b>27.9%</b>	<b>7,752,457</b>	<b>23.1%</b>	<b>6,669,216</b>	<b>7,765,861</b>	<b>3.6</b>	<b>5.8</b>	<b>89.6%</b>	<b>101,922,000</b>	<b>597</b>	<b>23.1%</b>	<b>105,640,000</b>	<b>22.3%</b>



# Portfolio Overview – The Netherlands

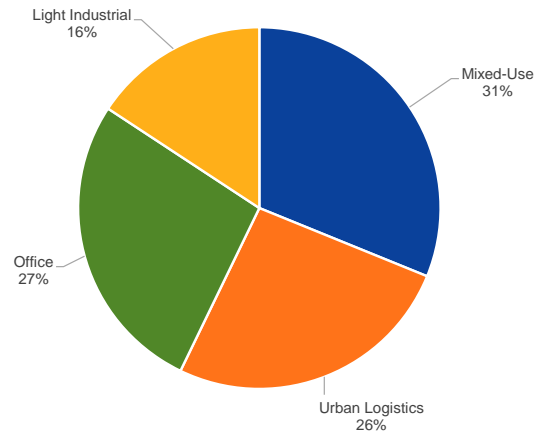
## The Netherlands Property Map



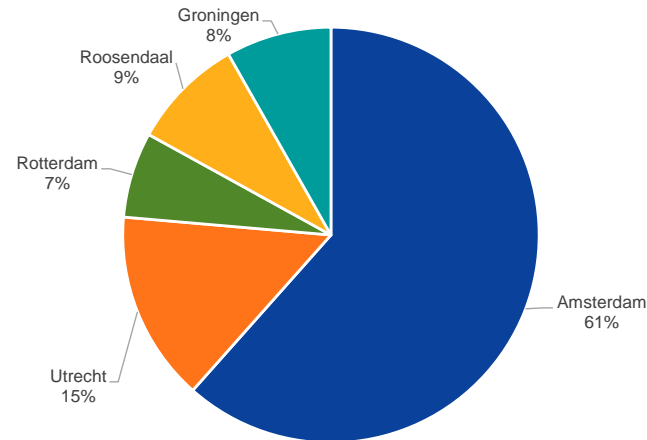
# Portfolio Overview – The Netherlands

## The Netherlands Portfolio Overview

Market Value by Type of Use



Market Value by Sub-market



Portfolio Description

- The Dutch portfolio is the smallest of the three portfolios comprising of 9 assets located mainly in or near Amsterdam. Totalling 41,316 sqm, the Dutch Portfolio generates €2.6m in-place rent with a WALT of 2.7 years.
- The Dutch Portfolio has a market value of €33.1m. The portfolio can be sub-divided into 5 sub-markets.

## Characteristics by Uses

Property Type	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALT (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>The Netherlands</b>															
Mixed-Use	2	14,841	2.4%	766,405	2.3%	625,316	1,001,730	3.2	3.3	74.0%	10,300,000	694	2.3%	10,944,000	2.3%
Urban Logistics	3	10,444	1.7%	753,604	2.2%	662,873	750,030	3.2	3.5	100.0%	8,600,000	823	1.9%	8,673,000	1.8%
Office	2	6,095	1.0%	613,218	1.8%	514,376	859,425	1.9	2.7	67.8%	8,960,000	1,470	2.0%	6,834,000	1.4%
Light Industrial	2	9,936	1.6%	479,464	1.4%	410,077	494,730	2.3	2.4	100.0%	5,200,000	523	1.2%	5,974,000	1.3%
<b>Total Netherlands</b>	<b>9</b>	<b>41,316</b>	<b>6.8%</b>	<b>2,612,691</b>	<b>7.8%</b>	<b>2,212,642</b>	<b>3,105,915</b>	<b>2.7</b>	<b>3.1</b>	<b>85.9%</b>	<b>33,060,000</b>	<b>800</b>	<b>7.5%</b>	<b>32,425,000</b>	<b>6.9%</b>

## Characteristics by Sub-market

Sub-market	# of Assets	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALT (yrs)	WALTE (yrs)	Occupancy	MV (€)	MV €/sqm	% Total	Net PP (€)	% Total
<b>The Netherlands</b>															
Amsterdam	4	20,379	3.3%	1,412,117	4.2%	1,209,621	1,730,020	3.4	3.9	81.0%	20,350,000	999	4.6%	19,480,000	4.1%
Utrecht	2	6,605	1.1%	493,279	1.5%	423,276	440,600	1.7	1.7	100.0%	4,900,000	742	1.1%	6,120,000	1.3%
Rotterdam	1	3,916	0.6%	220,897	0.7%	189,201	218,570	1.5	1.6	100.0%	2,200,000	562	0.5%	1,362,000	0.3%
Roosendaal	1	6,507	1.1%	243,161	0.7%	207,282	283,310	3.5	3.6	100.0%	2,900,000	446	0.7%	3,100,000	0.7%
Groningen	1	3,909	0.6%	243,237	0.7%	183,262	433,415	1.5	1.5	49.8%	2,710,000	693	0.6%	2,363,000	0.5%
<b>Total Netherlands</b>	<b>9</b>	<b>41,316</b>	<b>6.8%</b>	<b>2,612,691</b>	<b>7.8%</b>	<b>2,212,642</b>	<b>3,105,915</b>	<b>2.7</b>	<b>3.1</b>	<b>85.9%</b>	<b>33,060,000</b>	<b>800</b>	<b>7.5%</b>	<b>32,425,000</b>	<b>6.9%</b>



# Portfolio Overview

## Property Summary

### Top 20 Assets by MV

#	Asset	Country	City	Asset Type	Area (sqm)	% Total	GRI (€)	% Total	NRI (€)	ERV (€)	WALTB (yrs)	WALTE (yrs)	Occupancy	MV (€)	% Total	Cumulative %
1	Parc Medicis	France	Paris	Mixed-Use	13,984	2.3%	1,568,362	4.7%	1,489,944	1,568,362	1.4	5.6	93.8%	22,476,000	5.1%	5.1%
2	Paris 16 Beethoven	France	Paris	School	2,032	0.3%	817,568	2.4%	801,216	817,568	2.0	2.1	100.0%	17,082,000	3.9%	9.0%
3	Gennevilliers	France	Paris	Mixed-Use	9,637	1.6%	1,025,985	3.1%	974,686	1,025,985	4.1	6.7	95.9%	16,346,000	3.7%	12.6%
4	Hordain	France	Lille	Logistics	31,777	5.2%	1,184,616	3.5%	1,160,923	1,184,616	0.9	7.8	100.0%	15,790,000	3.6%	16.2%
5	Parc de Verrieres	France	Paris	Mixed-Use	13,144	2.1%	1,188,805	3.5%	1,131,103	1,188,805	1.8	5.0	89.4%	15,712,000	3.6%	19.8%
6	Karlsfield	Germany	Munich	Urban Logistics	10,346	1.7%	780,129	2.3%	722,731	780,129	4.1	4.2	100.0%	13,900,000	3.1%	22.9%
7	Oldenburg	Germany	Bremen	Mixed-Use	16,805	2.7%	1,159,410	3.5%	1,069,607	1,159,410	3.8	3.8	100.0%	13,100,000	3.0%	25.9%
8	Melle II	Germany	Rhine-Ruhr	Logistics	25,782	4.2%	581,904	1.7%	409,886	581,904	2.1	3.7	66.4%	10,200,000	2.3%	28.2%
9	Parc du Mandinet	France	Paris	Light Industrial	12,043	2.0%	786,253	2.3%	746,940	786,253	1.2	4.7	81.9%	10,151,000	2.3%	30.5%
10	Itancourt	France	Lille	Logistics	18,000	2.9%	885,707	2.6%	867,993	885,707	4.0	7.1	100.0%	10,121,000	2.3%	32.8%
11	Ense-Hoeningen	Germany	Rhine-Ruhr	Logistics	20,699	3.4%	762,408	2.3%	674,928	762,408	2.3	7.4	100.0%	9,790,000	2.2%	35.0%
12	Tigery	France	Paris	Logistics	9,334	1.5%	686,851	2.0%	652,508	686,851	0.5	6.6	100.0%	8,868,000	2.0%	37.0%
13	Sehnde-Hoever	Germany	Hanover	Urban Logistics	9,230	1.5%	429,858	1.3%	454,312	429,858	5.8	11.0	100.0%	8,430,000	1.9%	38.9%
14	Parc Hightech	France	Paris	Light Industrial	8,051	1.3%	666,082	2.0%	632,778	666,082	1.8	4.8	89.1%	8,221,000	1.9%	40.8%
15	Cavaillon	France	Marseille	Logistics	13,387	2.2%	1,023,597	3.0%	972,418	1,023,597	0.3	0.3	100.0%	8,220,000	1.9%	42.6%
16	Camon	France	Lille	Logistics	20,250	3.3%	670,033	2.0%	636,531	670,033	2.0	6.9	100.0%	8,159,000	1.8%	44.5%
17	Mitry Mory	France	Paris	Urban Logistics	9,729	1.6%	574,808	1.7%	546,068	574,808	1.1	2.8	100.0%	7,878,000	1.8%	46.3%
18	Almere	The Netherlands	Amsterdam	Mixed-Use	11,665	1.9%	509,429	1.5%	404,835	509,429	3.8	3.9	66.9%	7,700,000	1.7%	48.0%
19	Chalons en Champagne	France	Reims	Logistics	23,058	3.8%	625,000	1.9%	766,679	625,000	2.1	8.4	100.0%	7,296,000	1.7%	49.6%
20	Argenteuil	France	Paris	Office	3,885	0.6%	464,695	1.4%	455,401	464,695	1.8	2.4	67.3%	7,203,000	1.6%	51.3%
<b>Subtotal (Top 20)</b>					<b>282,838</b>	<b>46.2%</b>	<b>16,391,499</b>	<b>48.8%</b>	<b>15,571,485</b>	<b>16,391,499</b>	<b>2.2</b>	<b>5.2</b>	<b>93.1%</b>	<b>226,643,000</b>	<b>51.3%</b>	<b>51.3%</b>
<b>Others</b>					<b>328,755</b>	<b>53.8%</b>	<b>17,181,297</b>	<b>51.2%</b>	<b>15,684,087</b>	<b>18,703,283</b>	<b>3.1</b>	<b>5.6</b>	<b>88.6%</b>	<b>215,343,000</b>	<b>48.7%</b>	<b>100.0%</b>
<b>Total</b>					<b>611,593</b>	<b>100.0%</b>	<b>33,572,796</b>	<b>100.0%</b>	<b>31,255,572</b>	<b>35,094,782</b>	<b>2.7</b>	<b>5.4</b>	<b>90.7%</b>	<b>441,986,000</b>	<b>100.0%</b>	<b>100.0%</b>





# Portfolio Overview

## Top 10 Assets

### 1) Parc Medicis (4.7% GRI, 5.1% MV), France



Asset Type	Mixed-Use
Country	France
Sub-market	Paris
Ownership	Co-Ownership
Area (sqm)	13,984
Year Built/ Renovated	1990
% of office	43%
Building Clear Height (min/ max) (m)	5/ 8
Loading Doors	0
GRI (€)	1,568,362
MV (€)	22,476,000
Occupancy	93.8%
WALTB/ WALTE (years)	1.4 / 5.6

- Parc Medicis is a mixed-use business park, comprised of six industrial and office properties totalling 25,807 sqm. The Borrower owns 4 of the 6 building totalling 13,984 sqm, providing the Borrower with effective ownership of 52.0% of the park. The asset was developed between 1990 and 1992 and offers standardized configurations, with light-industrial warehouse space on the ground floor and office space on the upper level.
- Parc Medicis is located in Fresnes, a Paris suburban town situated 17.0 km south of central Paris and in the immediate catchment area of Orly Airport.
- Situated within a mixed-use sub-market of Fresnes, the area is characterised by light industrial, urban logistics, mid-rise office, retail and residential land use.
- The property sits at the intersection of autoroutes A6B, A86 and A106, that form part of Paris' network of highways including a direct connection into central Paris and access to the outer ring road highway.

### 2) Paris 16 Beethoven (2.4% GRI, 3.9% MV), France



Asset Type	School
Country	France
Sub-market	Paris
Ownership	Co-Ownership
Area (sqm)	2,032
Year Built/ Renovated	1880
% of office	100%
Building Clear Height (min/ max) (m)	NA/ NA
Loading Doors	NA
GRI (€)	817,568
MV (€)	17,082,000
Occupancy	100.0%
WALTB/ WALTE (years)	2 / 2.1

- The asset consists of a co-ownership interest in an 8 storey mixed-use (residential/school) property of which the Borrower owns three floors. The Borrower's interest consists of ownership of the basement, ground and first floors, and the rest of the building is residential apartments which are owned by third parties.
- The commercial area is 100% leased to the International School of Paris, who utilize the site as part of a multi-building campus within the 16th arrondissement.
- The property has been renovated to satisfy the needs of the school, including basement sports facility, classrooms and music rooms.
- The property is centrally located in the 16th arrondissement, a densely built residential market in the heart of Paris.
- Situated on a cul-de-sac which leads directly to the River Seine and is surrounded by high quality apartments and residential units.
- The location is served by the Parisian metro system with access via Passy Metro Station, a 2-minute walk from the property.

# Portfolio Overview

## Top 10 Assets

### 3) Gennevilliers (3.1% GRI, 3.7% MV), France



Asset Type	Mixed-Use
Country	France
Sub-market	Paris
Ownership	Freehold
Area (sqm)	9,637
Year Built/ Renovated	1987
% of office	42.8%
Building Clear Height (min/ max) (m)	4/ 7
Loading Doors	0
GRI (€)	1,025,985
MV (€)	16,346,000
Occupancy	95.9%
WALTB/ WALTE (years)	4.1 / 6.7

- The property is a three building mixed-use business park, offering 9,604 sqm of light-industrial and logistics space with complementary office space.
- Of the 3 buildings, buildings A and B offer 4.0 metre clear heights and a 2.0 ton load capacity, ideal for activity based users, while building C provides 7.0 metre clear heights and a 3.0 ton load capacity, best suited to logistics users.
- The three buildings have had rolling renovations and upgrades over the past two years. The total cost of the upgrades was c. €810,000.
- The property is located in Gennevilliers, one of Paris's traditional and oldest industrial areas. The area is inside Paris' northern ringroad network of highways and offers excellent connectivity. Gennevilliers is home to the port of Paris and enjoys established industrial infrastructure including access to the port and railway.
- Gennevilliers is undergoing rapid growth, with significant investment into redevelopment, renovation and modernization of facilities, driving occupier demand.

### 4) Hordain (3.5% GRI, 3.6% MV), France



Asset Type	Logistics
Country	France
Sub-market	Lille
Ownership	Co-Ownership
Area (sqm)	31,777
Year Built/ Renovated	2005
% of office	5.5%
Building Clear Height (min/ max) (m)	10/ 10
Loading Doors	28
GRI (€)	1,184,616
MV (€)	15,790,000
Occupancy	100.0%
WALTB/ WALTE (years)	0.9 / 7.8

- Class-A turnkey logistics site with three buildings, developed between 2005 and 2007. The buildings were designed specifically to meet the needs of auto suppliers and logistics companies, with 10.0 metre clear heights, 5.0 ton load capacity and 1 loading bay per 1,000 sqm (28 dock doors and 42 total doors).
- The property is 100% leased to strategic tenants including Mercedes and various Peugeot suppliers and logistics companies.
- The property is located in the town of Hordain, along autoroute A2 between Paris and Valenciennes. Situated within France's north-south distribution channel, Hordain presents an excellent logistics and manufacturing destination in northern France.
- The property sits in an established industrial area, featuring numerous logistics and manufacturing properties. This is highlighted by a PSA Peugeot manufacturing facility in close proximity to the Property, which has recently formed a joint venture with Toyota to service its new product line.





# Portfolio Overview

## Top 10 Assets

### 5) Parc de Verrieres (3.5% GRI, 3.6% MV), France



Asset Type	Mixed-Use
Country	France
Sub-market	Paris
Ownership	Freehold
Area (sqm)	13,144
Year Built/ Renovated	1992
% of office	62.2%
Building Clear Height (min/ max) (m)	7.3/ 7.3
Loading Doors	0
GRI (€)	1,188,805
MV (€)	15,712,000
Occupancy	89.4%
WALTB/ WALTE (years)	1.8 / 5

- The property consists of a four building, mixed-use business park, with two industrial buildings and two three-storey office buildings on site.
- The industrial properties offer nearly 5,000 sqm of light-industrial and logistics space along with upper level office spaces. The office buildings are each comprised of three-storeys of office space. Together, the business park comprises almost 8,200 sqm of office space across the four properties. The two office properties are developed over a shared underground carpark.
- Parc de Verrieres is located in Verriere-le-Buisson, a residential area 23.6 km south of Paris, which forms part of the Parisian outer suburbs.
- The property is concentrated in a predominately high-end residential neighbourhood, surrounded by parks and single family properties.
- The property is situated a short distance from autoroute A86, which forms part of Paris' outer ringroad and provides excellent connectivity throughout the region.

### 6) Karlsfeld (2.3% GRI, 3.1% MV), Germany



Asset Type	Urban Logistics
Country	Germany
Sub-market	Munich
Ownership	Freehold
Area (sqm)	10,346
Year Built/ Renovated	1981
% of office	17.7%
Building Clear Height (min/ max) (m)	8/ 8
Loading Doors	10
GRI (€)	780,129
MV (€)	13,900,000
Occupancy	100.0%
WALTB/ WALTE (years)	4.1 / 4.2

- The property consists of a multifunctional two-storey urban logistics building, comprising 8,510 sqm of industrial space and an attached three storey office building with 1,836 sqm of space. The industrial space has been designed to accommodate a multi-tenant layout, with 10 dock level loading doors and the ability to sub-divide the space into six separate units, each with a loading dock and its own office space.
- There are nine tenants in total, with three anchor tenants: Lacon Electronic, Proxenos and MAN Trucks.
- The property is centrally located in Karlsfeld, a region of Munich, 16.4 km from the city centre. The property benefits from direct access to several highways, including the Munich ring road that provides connections to the city centre and the A8 highway which runs through western Germany.
- Considered a strong urban-logistics location, in close proximity to the Munich market, ideally suited for last-mile logistics.





# Portfolio Overview

## Top 10 Assets

### 7) Oldenburg (3.5% GRI, 3.0% MV), Germany



Asset Type	Mixed-Use
Country	Germany
Sub-market	Bremen
Ownership	Freehold
Area (sqm)	16,805
Year Built/ Renovated	1993/ 2006
% of office	13.7%
Building Clear Height (min/ max) (m)	8/ 11
Loading Doors	14
GRI (€)	1,159,410
MV (€)	13,100,000
Occupancy	100.0%
WALTB/ WALTE (years)	3.8 / 3.8

- The property is comprised of three buildings totalling 16,805 sqm of lettable space, with 13,441 sqm warehouse, 2,303 sqm office and 1,061 sqm retail space.
- The property provides institutional quality logistics and warehouse space, offering 8.0-11.0 metre clear heights and 14 dock doors.
- The property is centrally located in the city of Oldenburg, in north-western Germany. A new freight port development in Wilhelmshafen, located 50.0 km north of the property, is expected to increase the importance of Oldenburg as a logistics and distribution centre and drive demand for space throughout the region.
- Well positioned in a major industrial park near the city centre, serving Oldenburg and the surrounding region. The area is served by highways 28 and 29 which provide connections throughout Germany, including links with Bremen 43.8 km east of the property and Groningen in the Netherlands to the west.

### 8) Melle II (1.7% GRI, 2.3% MV), Germany



Asset Type	Logistics
Country	Germany
Sub-market	Rhine-Ruhr
Ownership	Freehold
Area (sqm)	25,782
Year Built/ Renovated	1970/ 2007
% of office	5.9%
Building Clear Height (min/ max) (m)	5/ 11
Loading Doors	33
GRI (€)	581,904
MV (€)	10,200,000
Occupancy	66.4%
WALTB/ WALTE (years)	2.1 / 3.7

- The property consists of four logistics units offering 25,780 sqm of logistics space including ancillary office and basement warehouse space.
- The logistics space can easily be demised and offers varying clear heights from 5.0-11.0 metres, due to the range in building ages. There are subsequently numerous accommodation options that can meet various tenant requirements or conversion to urban logistics use. The office space consists of one three-storey office building connected to one of the industrial buildings and a freestanding cottage, which has been converted into additional office space.
- The property is located in Melle in western Germany, situated east of Hanover and north of the Rhine-Ruhr economic zone. Melle sits strategically between major economic centres in Germany, and represents an excellent distribution region, with direct highway connections to many of Germany's largest markets.
- The property is located in an industrial portion of Melle, 2.0 km from Highway 30, in close proximity to major arteries and national highways. Due to its strong logistics location, Melle has attracted interest from a number of major logistics companies including DPD, Kraftverkehr Nagel and BLG.



# Portfolio Overview

## Top 10 Assets

### 9) Parc du Mandinet (2.3% GRI, 2.3% MV), France



Asset Type	Light Industrial
Country	France
Sub-market	Paris
Ownership	Freehold
Area (sqm)	12,043
Year Built/ Renovated	1986
% of office	39.2%
Building Clear Height (min/ max) (m)	7.3/ 7.3
Loading Doors	0
GRI (€)	786,253
MV (€)	10,151,000
Occupancy	81.9%
WALTB/ WALTE (years)	1.2 / 4.7

- The property is a multi-tenant light industrial business park with 7,322 sqm of light industrial space and 4,720 sqm of complementary offices with a total lettable area of 12,042 sqm distributed amongst two buildings. There is a parking lot for approximately 150 vehicles.
- The property has the potential for redevelopment in the future to urban logistics or conversion to residential use.
- Located in Lognes, 25.2 km east of Paris, the property is well situated, providing logistics services both into Paris as well as the immediate surrounding area.
- The property sits in a mixed-industrial district, surrounded by similar logistics and light-industrial properties as well as single and multi-family properties.
- The area is well served by transportation links, including train services and is in close proximity to A4 highway linking Orly and the Roissy Airports.

### 10) Itancourt (2.6% GRI, 2.3% MV), France



Asset Type	Logistics
Country	France
Sub-market	Lille
Ownership	Freehold
Area (sqm)	18,000
Year Built/ Renovated	2007
% of office	1.8%
Building Clear Height (min/ max) (m)	9/ 9
Loading Doors	18
GRI (€)	885,707
MV (€)	10,121,000
Occupancy	100.0%
WALTB/ WALTE (years)	4 / 7.1

- Class A logistics facility, with ancillary office space, totalling 18,000 sqm with 9.0 metre clear heights and 18 dock doors.
- The property is 100% leased to CPF, a joint-venture between Nestle and General Mills who use the facility to store breakfast cereals. A new lease is currently being finalised for a 9 year term with a break option (and penalty) in year 6. The site is linked directly to the tenant's adjacent manufacturing plant.
- This asset distributes CPF's cereals across Europe, together with similar nearby sites along with factories and warehouses in Rumilly, Belgium and Poland.
- The property is located in Itancourt, near the city of Saint-Quentin in northern France.
- Situated 10.0 km from autoroute A26, near the intersection with autoroute A29, offering rapid access to north-south and east-west transportation routes.
- Autoroutes A26 and A29 form key links in France's north-south logistics network running from Lille to Marseille, providing the property with a strategic logistics location within the network including links to the A1 highway connecting Paris to Lille.

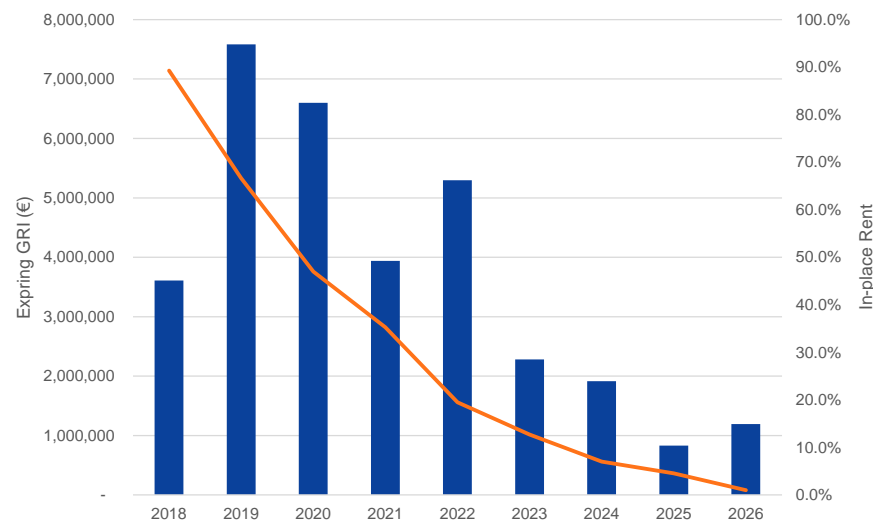
# Tenancy Overview

## Top Tenants & Portfolio Lease Maturity Profile

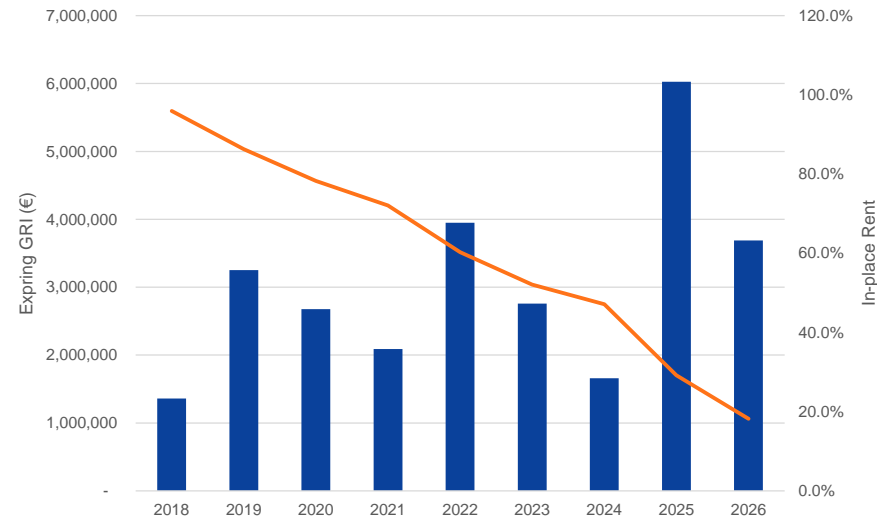
### Top 10 Tenants

Tenant Name	GRI (€)	GRI %	Area (sqm)	Area %	Rent Per sqm	WALTB (yrs)	WALTE (yrs)
Trans-o-flex Schnell-Lieferdienst GmbH & Co. KG	1,525,220	4.5%	28,447	4.7%	53.6	3.8	10.9
Dipl. Betriebswirt Ulrich Zimmermann	1,159,410	3.5%	16,805	2.7%	69.0	3.8	3.8
Cereal Partners Grance (CPF)	885,707	2.6%	18,000	2.9%	49.2	4.0	7.1
The International School of Paris (ISP)	817,568	2.4%	2,032	0.3%	402.3	2.0	2.1
Carrefour Supply Chain	792,971	2.4%	10,153	1.7%	78.1	0.3	0.4
NTG Logistics GmbH	762,408	2.3%	20,699	3.4%	36.8	2.3	7.4
STEF	686,851	2.0%	9,334	1.5%	73.6	0.5	6.6
ID Logistics	625,000	1.9%	23,058	3.8%	27.1	2.1	8.4
Bolloré	621,000	1.8%	13,800	2.3%	45.0	2.6	8.7
Docapost DPS	585,083	1.7%	8,476	1.4%	69.0	0.6	0.6
<b>Total</b>	<b>8,461,218</b>	<b>25.2%</b>	<b>150,804</b>	<b>24.7%</b>	<b>56.1</b>	<b>2.5</b>	<b>12.1</b>

### Portfolio Lease Roll-off to Break



### Portfolio Lease Roll-off to Expiry



# Tenancy Overview

## Top Tenants

### Description of Top 5 Tenants

- **Trans-o-flex** is a logistics partner in the health care sector. The Pan-European company offers logistics solutions for pharmaceutical products and other high-end, sensitive goods. Trans-o-flex covers the entire logistics chain from procurement to warehousing and distribution through to fulfilment. The company reported a turnover of approx. €459m in 2017. In 2016, Trans-o-flex introduced a new structure reorganising into three business segments, Pharma, Technology and Contract Logistics.
- **Dipl. Betriebswirt Ulrich Zimmermann** retails and distributes a general line of apparel, dry goods, hardware, housewares, home furnishings, and groceries. The Company markets its products through a retail chain of stores throughout Germany.
- **Cereal Partners France (CPF)** is a subsidiary of Cereal Partners Worldwide (CPW), a joint venture which combines the expertise of two companies: Nestle and General Mills. CPW is the 2<sup>nd</sup> largest global breakfast cereal company. The company was established in 1990 and employs 4,600 people and makes many of the world's most popular breakfast cereals. The company has international reach, serving customers in more than 130 global markets.
- **The International School of Paris (ISP)** - is a private international school based in Paris, France. It is a non-profit organization, and is managed by a Board of Trustees. Many members of this Board are parents of ISP students. It was created under the name Pershing Hall in 1964. In March 2017, the school had approximately 700 students, representing over 60 nationalities and 50 native languages. According to the official IB listing, ISP is the only school in France to offer all three International Baccalaureate programmes.
- **The Carrefour Supply Chain** is part of Carrefour group, the leading retailer in Europe and the second-largest retailer in the world, employing nearly 375,000 people. The company operates more than 12,300 stores in over 30 countries and generated revenues of €88.2 billion in 2017. Carrefour is a multi-local, multi-format, and multi-channel retailer. Carrefour welcomes more than 104 million customer households around the world, offering them a wide range of products.

# Loan Information

## Loan Structure

Loan information		Property information	
Original Balance:	€ 308,150,278.96 <sup>1</sup>	Property Type:	Predominantly of logistics, urban logistics and light-industrial properties (see Page 8 for details)
Loan Purpose:	Refinance a portion of the 100% equity invested in the acquisition	No. of Properties:	89
Closing Date:	19 September 2018	Year Built:	1880–2008
Sponsor:	The Blackstone Group L.P.	Year Acquired:	2018
Margin:	3 month EURIBOR + 1.90% <sup>2</sup> (EURIBOR floor at 0%)	Management:	Industrial Securities
Borrower:	28 borrowers domiciled in France, Netherlands and Luxembourg	Net Rentable Area (sqm):	611,593
Interest Payment Dates:	15th February, May, August, November	No. of Tenants:	349
Maturity Date:	2.2+1+1+1 years	Occupancy (% of GLA):	90.7%
Extension Conditions:	No potential or actual payment EoD; and Hedging has been put in place until the extended maturity date	Occupancy (% of ERV):	95.7%
Scheduled Amortisation <sup>3</sup> :	Nil	WALT to Expiry/ Break:	5.4 years / 2.7 years
Prepayment Penalties:	The shorter of (i) 15 Month Margin Makewhole; and (ii) if the Loan has been securitised, 12 Month Margin Makewhole from the date of the securitisation. No prepayment penalties for first 15% of the total commitment prepaid.	Financial information	
Loan covenants and special features		Market Value (psm):	€441,986,000 (€723/sqm)
		Net Purchase Price (psm)	€472,777,000 (€773/sqm)
		ERV:	€35,094,782
		Valuer (Date of Valuation):	Cushman & Wakefield (30 June 2018)
Cash Trap Event <sup>4</sup> :	LTV: Greater than 77.2% Debt Yield: Less than 9.45%	GRI:	€33,572,796
Event of Default <sup>5</sup> :	No default financial covenants	NRI:	€31,255,572
Release Price:	The higher of (1) Closing LTV x the value of that property at closing x 110% (100% for first 15% debt repaid from asset sale); and (2) the ALA of that property. (please refer to Page 27 for further details)	NRI Yield (on MV):	7.1%
		ICR (Assumed Rate / Hedged Rate):	5.34x / 2.00x
		DY <sup>6</sup> (Cut-Off Date):	10.1%
		Closing LTV / LTPP (Cut-Off Date):	69.7% / 65.2%

<sup>1</sup> This represents 100% of the loan. Please note only circa 95% of the Loan is being securitised.

<sup>2</sup> Please note the margin is a range between 1.70% and 2.075% and may change before securitisation closing. For the purpose of this document, margin has been assumed to be 1.90%.

<sup>3</sup> Post permitted Change of Control (CoC), 1% p.a.

<sup>4</sup> Post permitted Change of Control, if a Cash Trap Event occurs on any two consecutive IPD, the amount sitting in the Cash Trap Account will be used to pay down the debt subject to some withholding of certain cost items.

<sup>5</sup> Post permitted change of Control, Event of Default shall include (1) LTV Ratio is not greater than the proportion expressed as a percentage which Net Debt on the CoC Date bears to an amount equal to 85 per cent. of the Market Valuation set out in the most recent Valuation delivered on or before the CoC Date and (2) DY is not less than the proportion expressed as a percentage which an amount equal to 82.5 per cent. of the Net Rental Income received by the Obligors for the Relevant Period ending on the Financial Quarter Date immediately preceding the CoC Date bears to Net Debt on the CoC Date.

<sup>6</sup> The DY is calculated as NRI (based on the above sources) divided by the Closing Loan Balance. Note that these calculations may differ from those applicable under the loan agreements.





# Loan Information

## Loan Structure

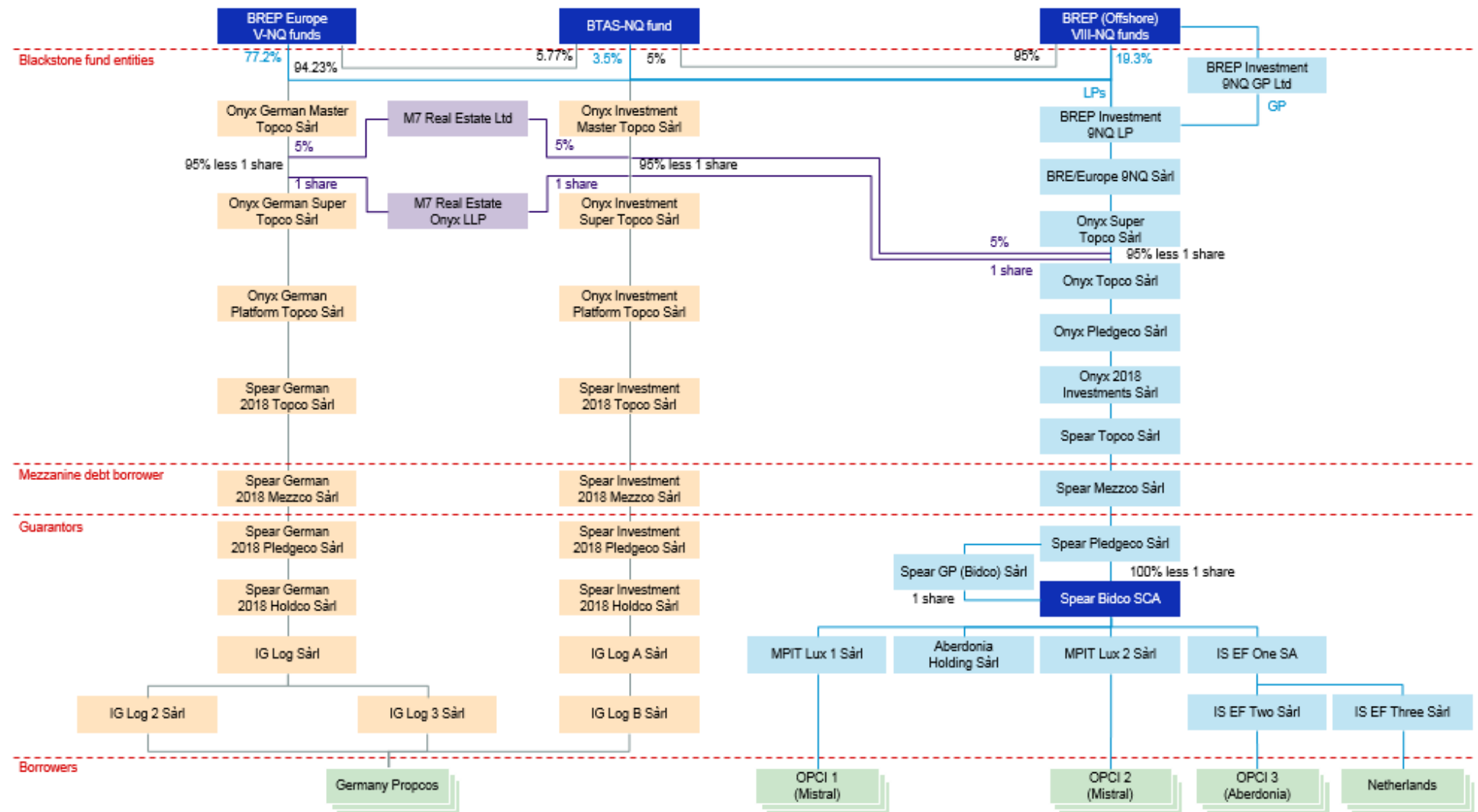
Hedging <sup>1</sup>		Security Package
Counterparty	[•]	<u>Non-Propcos</u> : first-ranking security over bank accounts, intra-group receivables, rights under SPA (if any) and the shares in any subsidiaries.  <u>Propcos</u> : first-ranking security over each Property, insurance policies, bank accounts (other than any existing accounts which will be closed post-closing), all occupational leases, hedging agreements, rights under SPA (if any) and intra-group receivables. No notices to tenants unless an Event of Default is continuing.
Instrument:	100% hedged via an interest rate cap	
Hedged Rate	Maximum strike rate of the higher of 2% p.a. and the strike rate required to ensure a Hedged ICR (for senior and mezzanine debt combined) of not less than 2.0x. Based on closing NRI, the strike rate will be set at [3.17]%.	

<sup>1</sup> Hedging not yet in place. The initial 2-year hedge will be put in place within 10 business days of the securitisation notice being sent. (the securitisation notice was sent on [•])



# Loan Information

## Borrower Structure



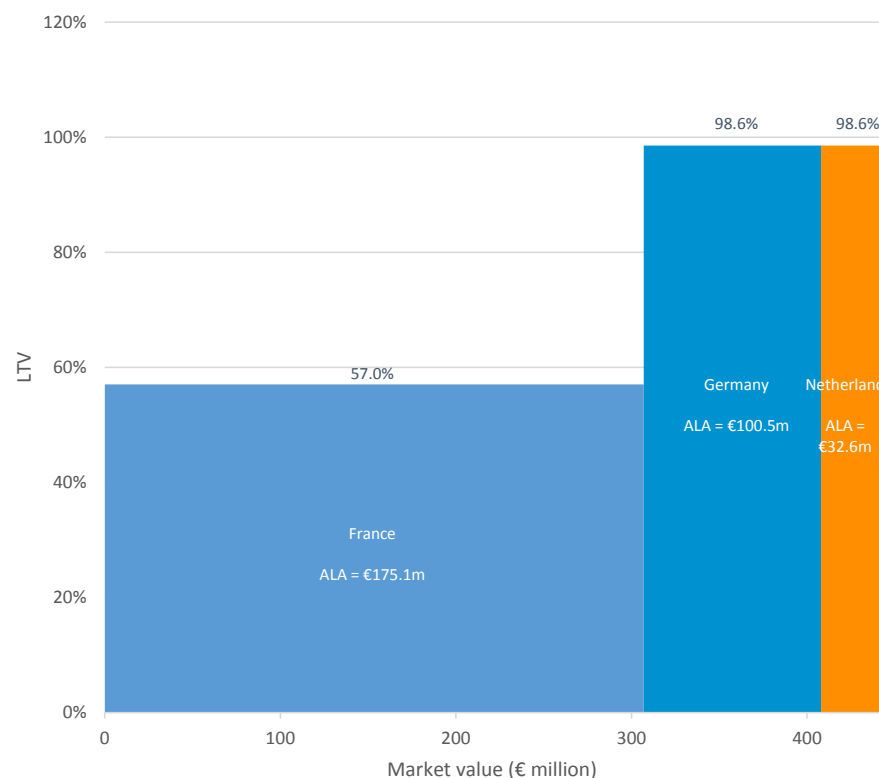
# Loan Information

## Loan Features

### Asymmetric Allocation of Debt

- As a consequence of the debt capacity restrictions in France, the allocation of debt between the jurisdictions is asymmetric with the French assets having a much lower LTV than the rest of the portfolio (please refer to attached table). This imbalance means that if a standard ALA and release premium mechanism were used to calculate repayment of debt upon a sale of properties and a French asset sold, the leverage on the portfolio would increase.
- To address this risk, the required repayment of debt upon a sale of a property is structured to be the higher of (1) Closing LTV x the value of the property at closing x Release Premium; and (2) the ALA of that property. The Release Premium will be 100% for the first 15% of debt repaid from asset sales and 110% thereafter.
- The excess of the required repayment over the ALA of the property sold will be applied first to pay down the loans that have the highest property LTVs until the LTV on each property is equal to or less than the portfolio LTV and thereafter, proceeds are applied pro-rata between all loans. This helps ensure that leverage is not increased as a consequence of a sale of a French asset.
- The obligations of the French borrowers are directly cross-collateralised (subject to agreed guarantee limitation language) within three sub-groups (each an “OPCI Group”). Excess value of an OPCI Group benefits the other OPCI Groups as well as the non-French borrowers via the cross collateralisation of the obligations of the Luxembourg holding companies above the French borrowers.

Country	MV (€)	% of MV	ALA (€)	% of ALA	LTV
France	307,004,000	69.5%	175,110,617	56.8%	57.0%
Germany	101,922,000	23.1%	100,455,382	32.6%	98.6%
The Netherlands	33,060,000	7.5%	32,584,280	10.6%	98.6%
<b>Total</b>	<b>441,986,000</b>	<b>100.0%</b>	<b>308,150,279</b>	<b>100.0%</b>	<b>69.7%</b>





# Loan Information

## Loan Features

### Sauvegarde Risk

The French borrowers (like any other Senior Obligor having its Centre of Main Interest located in France, within the meaning of the Recast EU Insolvency Regulation) will be subject to French insolvency legislation. The legal procedures to be followed in France in relation to an insolvency of a French company may affect the ability of the Issuer to liquidate assets of the French borrowers, particularly due to the risk of a French borrower commencing sauvegarde proceedings (procédure de sauvegarde).

Even though sauvegarde proceedings were primarily designed to protect the employment of industrial companies, a French borrower (like any other Senior Obligor having its Centre of Main Interest located in France) may apply for sauvegarde proceedings if it experiences difficulties that it is not able to resolve when it is still able to pay its debts as they fall due. Broadly speaking, sauvegarde proceedings in respect of a French company impose a stay on creditors from taking enforcement action, which would include a stay on the Issuer enforcing its security over the French company's assets, in particular its mortgage, and would entitle the Court and the French company to agree a rescheduling plan in relation to the debts of that French company.

The lender has the benefit of share pledges over the Luxembourg holding companies (double lux-co structure) of the French borrowers which, following enforcement, would allow the Issuer to substitute the legal representatives of the French borrowers and take control of any sauvegarde proceedings by (i) requesting the court to terminate the sauvegarde proceedings; (ii) seeking adoption of the court of a sauvegarde or reorganization plan on terms agreed by the lenders; and (iii) seeking or consenting to amend any sauvegarde or reorganization plan already adopted by the court prior to the Issuer taking control of the French borrowers.

In addition, the French borrowers have contractually undertaken not to initiate sauvegarde proceedings and a guarantee has been granted by Onyx Topco Sarl, Onyx German Super Topco Sarl and Onyx Investment Super Topco Sarl that may be called by the Issuer if it suffers any cost, loss or liability as a result of a French borrower breaching this obligation not to file for sauvegarde and not paying any amount to the Issuer that would have been payable under the Senior Finance Documents. The guarantee is capped at 25% of the principal amount of the Senior Loan made to refinance the acquisition of the Property owned by the relevant French borrower or any of its subsidiaries which is outstanding at that time.

The Issuer also benefits from an assignment by way of security under the "loi Dailly" over the receivables arising from lease documents entered into or to be entered into in respect of the French Properties, which can be enforced notwithstanding the opening of Safeguard Proceedings to achieve a payment of lease receivables to the lenders even during the continuation of Safeguard Proceedings.



# Loan Information

## Loan Features

### 3% Tax Risk

All owners of real estate in France are liable to a 3% tax liability unless certain conditions are met. Some conditions apply automatically and others are subject to filing requirements. Broadly, the 3% tax does not apply if an annual return is filed with the authorities detailing:

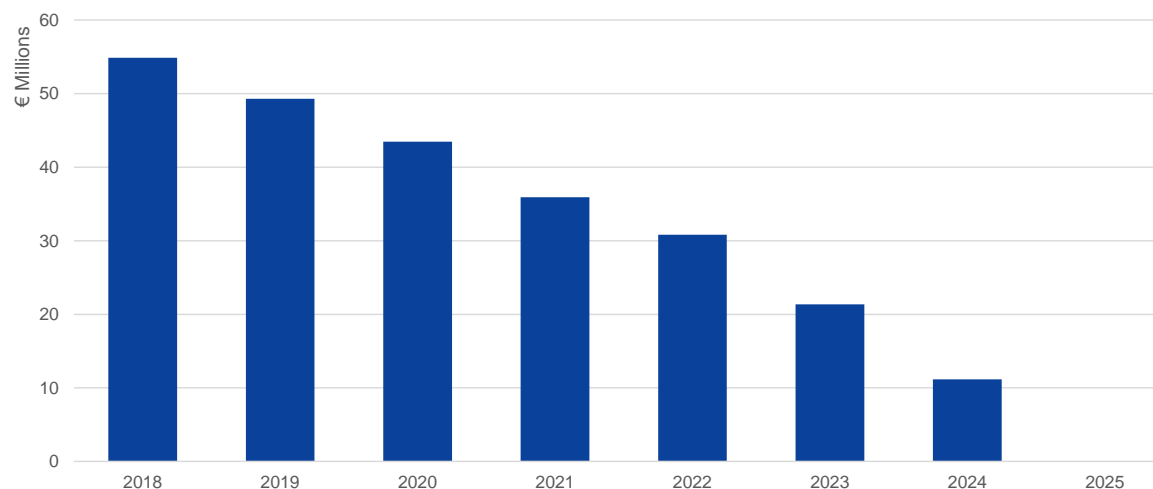
- The description, location and market value of the property owned by the relevant company;
- The identities and addresses of all shareholders, partners or beneficial owners owning more than 1% of shares of the property owner; and
- The interest in the entity owned by each shareholder, partner or beneficial owner owning more than 1% of such shares or interest.

If these are filed, an exemption to the 3% tax should be available. However, the Tax Due Diligence shows:

- Records available are incomplete, therefore in some cases it could not be determined whether returns had been filed by previous owners;
- In some cases there was evidence of filed returns having been completed incorrectly by previous owners

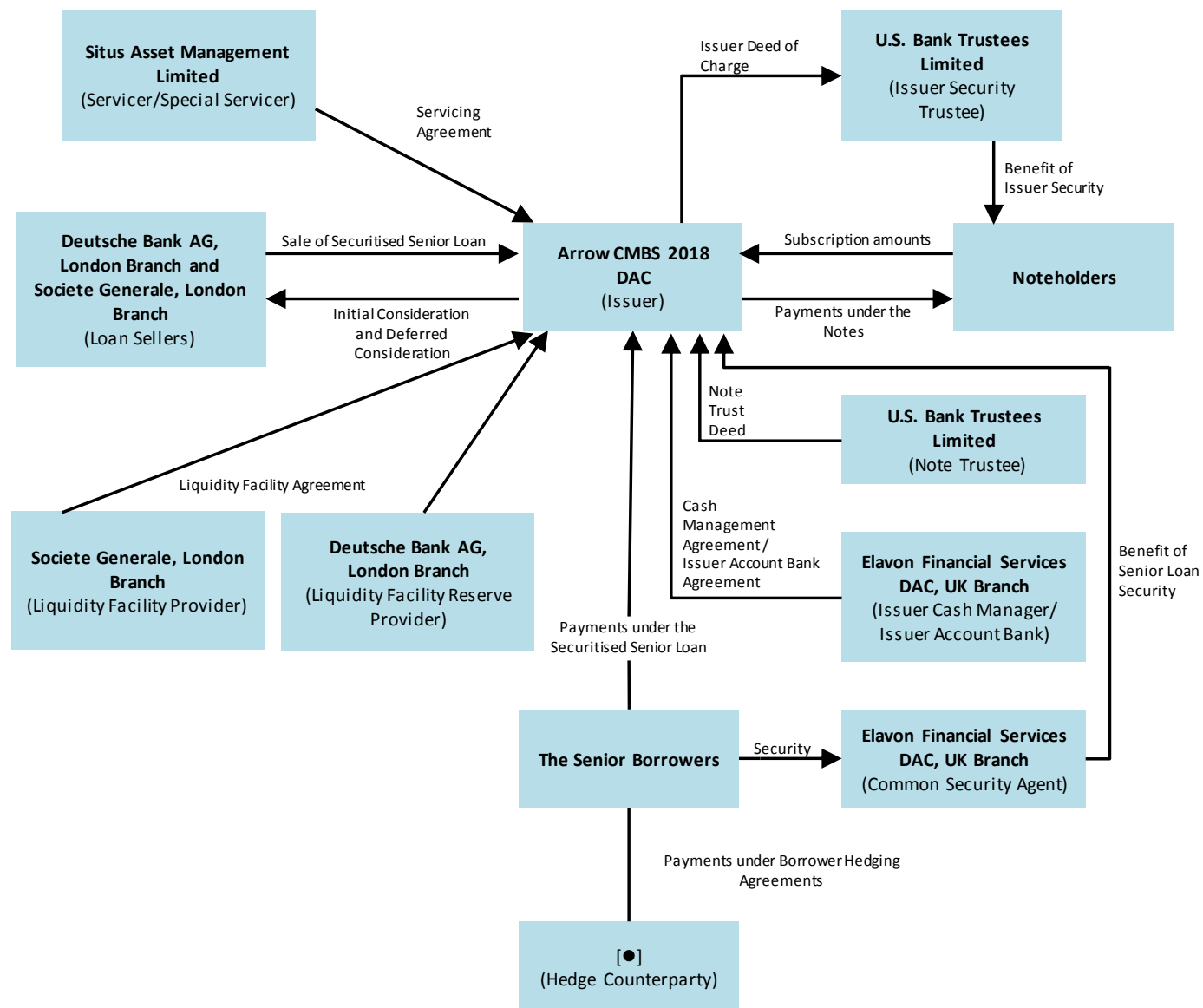
Considering that some annual returns may not have been filed and that some were filed inaccurately, there is currently a potential liability of up to circa €55m (including penalties and interest for late payment). Should this liability materialise, each borrower is obligated to pay under the terms of the financing. To date, the tax authorities have not submitted a claim or taken any steps to recover payments.

There is a six-year statute of limitations in this respect in France and this tax liability shall reduce over time as claims become time barred. The claims shall reduce fully by 2025. The tax liability roll-off is shown in the chart below.



# Transaction Structure

## Transaction parties



▪ Issuer	Arrow CMBS 2018 DAC
▪ Note Trustee	U.S. Bank Trustees Limited
▪ Agent Bank & Principal Paying Agent	Elavon Financial Services DAC, UK Branch
▪ Servicer & Special Servicer	Situs Asset Management Limited
▪ Issuer Cash Manager	Elavon Financial Services DAC, UK Branch
▪ Issuer Security Trustee	U.S. Bank Trustees Limited
▪ Liquidity Reserve Facility Provider	Deutsche Bank AG, London Branch
▪ Liquidity Facility Provider	Société Générale, London Branch
▪ Senior Loan Facility Agent	Situs Asset Management Limited
▪ Common Security Agent	Elavon Financial Services DAC, UK Branch



# Transaction Structure

## Note Structure

### Issuer:

ARROW CMBS 2018 DAC, a newly formed designated activity company with limited liability in Ireland.

### Capital Structure:

Class	€mm	LTV	Debt Yield	WAL (yrs)	Coupon*	Status
A1	[135.8]	[32.3]%	[21.9]%	[5.0]	[3m€+TBD]	Offered
A2	[21.4]	[37.4]%	[18.9]%	[5.0]	[3m€+TBD]	Offered
B	[20.6]	[42.4]%	[16.7]%	[5.0]	[3m€+TBD]	Offered
C	[29.3]	[49.3]%	[14.3]%	[5.0]	[3m€+TBD]	Offered
D	[32.0]	[57.0]%	[12.4]%	[5.0]	[3m€+TBD]	Offered
E	[32.7]	[64.7]%	[10.9]%	[5.0]	[3m€+TBD]	Offered
F	[20.9]	[69.7]%	[10.1]%	[5.0]	[3m€+TBD]	Offered
<b>Total</b>	<b>292.7</b>					

\* EURIBOR has a zero floor

### Pre-Enforcement Principal Distributions:

Prior to occurrence of Sequential Payment Trigger, all principal repayment will be allocated pro-rata.

Following the occurrence of Sequential Payment Trigger, all principal will be allocated sequentially

Sequential Payment Trigger means the first to occur of:

- (a) if the Senior Loan has not been repaid in full by the Senior Loan Maturity Date, the Business Day following the Senior Loan Maturity Date;
- (b) the occurrence of a Special Servicing Transfer Event in relation to the Securitised Senior Loan; or
- (c) the delivery of an Acceleration Notice.



# Transaction Structure

## Note Structure

### Class X Interest Diversion Trigger

At any time while a Class X Interest Diversion Trigger Event is continuing prior to the earlier of, the Expected Note Maturity Date and the delivery of a Note Acceleration Notice, payment of the Class X Interest Amount or Subordinated Class X Amounts will, instead of being paid to the Class X Noteholder, be held in the Issuer Transaction Account and credited to the Class X Interest Diversion Ledger (amounts so credited to the Class X Interest Diversion Ledger being **Class X Interest Diversion Amounts**).

Following the occurrence of the Expected Note Maturity Date (but prior to the delivery of a Note Acceleration Notice), if a Class X Diversion Trigger Event is continuing, payment of the Class X Interest Amount or Subordinated Class X Amounts will, instead of being paid to the Class X Noteholder on the relevant Note Interest Payment Date, be treated as Principal Receipts, available for application in accordance with the Pre-Enforcement Priority of Payments on such Note Interest Payment Date.

On each Note Payment Date, Class X Interest Diversion Amounts standing to the credit of the Class X Interest Diversion Ledger shall:

- (a) to the extent that there is no Class X Interest Diversion Trigger Event continuing on such Note Payment Date, be paid directly to the Class X Noteholder; or
- (b) to the extent that a Class X Interest Diversion Trigger Event is continuing on such Note Payment Date:
  - (i) prior to the earlier of, the Expected Note Maturity Date and the delivery of a Note Acceleration Notice, continue to be held in the Issuer Transaction Account; or
  - (ii) following the Expected Note Maturity Date (but prior to the delivery of a Note Acceleration Notice), constitute Principal Receipts available for application in accordance with the Pre-Enforcement Priority of Payments; or
  - (iii) following the delivery of a Note Acceleration Notice, constitute amounts available for application in accordance with the Post-Enforcement Priority of Payments.

**Class X Interest Diversion Trigger Event** means:

- (a) the Senior Debt Yield being less than 8.66 per cent.; or
- (b) the Senior LTV Ratio exceeding 82.02 per cent.



# Transaction Structure

## Note Structure

<b>Class X Purchase Right:</b>	Spear Pledgeco Sarl has a call option to purchase 50% of the Class X notes at par at any time after expiry of the Prepayment Fee makewhole period.
<b>Expected Maturity / Legal Final Maturity:</b>	22 November 2023 <sup>1</sup> / 22 May 2030
<b>Note Payment Dates:</b>	22 <sup>nd</sup> February, May, August, November; with the first Note Payment Date on 22 <sup>nd</sup> November 2018.
<b>Interest Rate:</b>	3 month EURIBOR + margin <sup>2</sup> . If, after the Expected Maturity Date, 3 month EURIBOR is higher than 5.0%, the EURIBOR element of interest accrued on the notes above that rate will be subordinated to all other payments of interest and principal on the notes and will not be rated. The Notes benefit from a EURIBOR floor at 0%.
<b>Prepayment Penalty Allocation:</b>	Allocated to noteholders on a margin weighted basis.
<b>Available Funds Cap:</b>	Interest on the junior notes for any note payment date will be subject to an Available Funds Cap. As such, interest on the Class D, Class E and Class F Notes for any note payment date will be limited, to an amount equal to the lesser of (i) the interest amount that would be payable in respect of such class of notes in the ordinary course and (ii) an adjusted amount equal to the amount of available funds following the distribution of amounts ranking in priority thereto in the priority of payments. If the difference between the relevant interest amount and the adjusted interest amount is attributable to a reduction in the interest-bearing balance of the Loans due to prepayments on the Loans (whether arising voluntarily or otherwise), the amount of interest that would otherwise be represented by such difference will be extinguished on such note payment date and the affected Noteholders will have no claim against the Issuer in respect thereof.
<b>Risk Retention:</b>	DB and SG will each hold circa 2.5% of the loan in their balance sheet, therefore only circa 95% of the loan is securitised.
<b>Listing:</b>	The notes will be listed on GEM, operated by Euronext Dublin.
<b>Settlement:</b>	Euroclear and Clearstream

<sup>1</sup> Assuming the loans are fully extended.

<sup>2</sup> Please refer to footnote 2 on page 24 regarding the change in margin.



## APPENDIX 2

### THE PROPERTIES

#### PART 1

#### THE FRENCH PROPERTIES

	Obligor	Property	Title No.	Market value <sup>1</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
1.	Chapelyon SCI	Chaponnay	ZAC de Chapotin, Grande Terre de Chapotin, Chaponnay (69970), France	1,556,000	868,698.29	1,084,835	1,193,318
2.	Digem SARL	Dinan	14 rue Violette, Quevert (22100), France	5,859,000	3,329,705.28	4,084,864	4,493,350
3.	S.L.P.1. SARL	Elancourt	1 rue François Arago, Elancourt (78990), France	6,476,000	4,524,331.33	4,524,331	4,966,536
4.	IF THREE LOG 1 SCI	Beauvais	Parc D'activités De La Vatine Sud, Beauvais (60000), France	2,576,000	2,420,950.34	2,420,950	2,420,950
5.	IF THREE LOG 1 SCI	Cournon D'Auvergne	78 avenue du Midi, Cournon D'Auvergne (63800), France	3,397,000	3,383,931.01	3,383,931	3,383,931
6.	IF THREE LOG 1 SCI	Venissieux	44 route de Corbas, Vénissieux (69200), France	4,635,000	3,119,756.41	3,231,497	3,554,647

<sup>1</sup> Sourced from the Initial Valuation.

	<b>Obligor</b>	<b>Property</b>	<b>Title No.</b>	<b>Market value<sup>1</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
7.	IF THREE LOG 1 SCI	St Priest	149-153 route de Grenoble, Saint Priest (69800), France	5,569,000	2,730,058.46	3,882,677	4,270,945
8.	S.L.P.1. SARL	Nanterre	28 rue Lavoisier, Nanterre (92000), France	4,202,000	3,793,594.57	3,793,595	3,793,595
9.	Industrial Securities Onnaing SAS	Onnaing	Parc d'Activité de la Vallée de l'Escaut – Waka 1 N°9, Onnaing (59264), France	5,943,000	2,749,669.38	4,143,428	4,557,771
10.	SARL Innovalisses	Innovalisses	Parc d'activites Des Malines, Lisses (91090), France	4,433,000	2,080,690.32	3,090,664	3,399,730
11.	S.L.P.1. SARL	Chalons	ZAC de La Veuve, La Veuve (51520), France	7,296,000	4,027,650.57	5,086,732	5,595,405
12.	Nescourt SCI	Itancourt	26 Rue d'Urvilliers, Itancourt (02240), France	10,121,000	6,200,587.97	7,056,307	7,761,938
13.	PANED SARL	Panavi	ZAC de Haute Picardie, Estrees- Deniecourt (80200), France	3,891,000	5,376,303.72	5,376,304	5,376,304
14.	Abervest SARL	Argenteuil	Quai de Bezons, Argenteuil (95100), France	7,203,000	4,158,188.30	5,021,893	5,524,082
15.	IF THREE LOG 1 SCI	Azur	4 rue René Razel, Saclay (91400), France	1,875,000	1,005,058.59	1,307,240	1,437,964
16.	IF THREE LOG 1	Isle D'abeau	29 rue Condorcet, Villefontaine	2,753,000	1,701,151.08	1,919,377	2,111,315



	<b>Obligor</b>	<b>Property</b>	<b>Title No.</b>	<b>Market value<sup>1</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
	SCI		Vaulx Milieu (38090), France				
17.	IF THREE LOG 1 SCI	Saint Aignan De Grand Lieu	Saint Aignan-Grand Lieu (44860) et Bouguenais (44340), France	6,651,000	5,769,113.54	5,769,114	5,769,114
18.	IF THREE LOG 1 SCI	Futuropolis	Parc de la Grande Plaine – 6, rue Maryse Hilsz, Toulouse (31000), France	2,736,000	1,125,814.74	1,907,525	2,098,277
19.	Nescourt SCI	Parc Medicis	Avenue de Parc Medicis, Fresnes (94260), France	22,476,000	9,214,869.54	15,670,147	17,237,162
20.	S.L.P.1. SARL	Hordain	ZAC Hordain Hainaut, Hordain (59111), France	15,790,000	8,901,112.34	11,008,704	12,109,574
21.	IF THREE LOG 1 SCI	Activerrière	30 rue Panicale, La Verrière (78320), France	627,000	440,391.27	440,391	480,855
22.	IF THREE LOG 1 SCI	Le Rafale	Saint Aignan-Grand Lieu (44860) et Bouguenais (44340), France	3,934,000	1,570,807.53	2,742,764	3,017,040
23.	IF THREE LOG 1 SCI	Agora	rue Jean Bart, Labège (31670), France	938,000	424,546.43	653,969	719,365
24.	IF THREE LOG 1 SCI	Trappes	Parc Du Manet, rue Eugène Hénaff, Trappes (78190), France	1,376,000	920,572.02	959,340	1,055,274
25.	IF THREE LOG 1 SCI	Bouguenais – Saint-Aignan de Grand-Lieu	Saint Aignan De Grand Lieu (44860) et Bouguenais (44340), France	3,078,000	1,367,611.13	2,145,965	2,360,562

	<b>Obligor</b>	<b>Property</b>	<b>Title No.</b>	<b>Market value<sup>1</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
26.	IF THREE LOG 1 SCI	Acticentre	4 Avenue Pierre Salvi, Gonesse (95500), France	3,766,000	2,314,621.67	2,625,635	2,888,199
27.	IF THREE LOG 1 SCI	Champs	65 Avenue du Général de Gaulle et allée des Marguerites, Champs sur Marne (77420), France	2,122,000	1,569,088.07	1,569,088	1,627,392
28.	IF THREE LOG 1 SCI	Trappes Ent	Parc Du Manet, 23 rue Eugène Hénaff, Trappes (78190), France	1,689,000	1,227,057.33	1,227,057	1,295,318
29.	IF THREE LOG 1 SCI	Chatenay	41-49 chemin de la Justice, Chatenay-Malabry (92290), France	4,920,000	2,161,089.35	3,430,198	3,773,217
30.	IF THREE LOG 1 SCI	Locaverrière	rue de Panicale, La Verriere (78320), France	3,336,000	2,424,935.05	2,424,935	2,558,426
31.	MPITS 1 SCI	Parc du Mandinet	1 rue des Campanules, Lognes (77185), France	10,151,000	6,170,352.20	7,077,223	7,784,945
32.	MPITS 1 SCI	Parc du Verrières	ZAC des Godets, 1 à 4 Impasse de la Noisette, Verrières Le Buisson (91370), France	15,712,000	9,042,511.61	10,954,322	12,049,755
33.	MPITS 1 SCI	Parc Hightech	ZAC de Courtaboeuf, Parc Hightec 9 avenue du Quebec, Villebon-Sur- Yvette (91140), France	8,221,000	5,345,250.75	5,731,637	6,304,801
34.	MPITS 2 SCI	Chassieu	10 avenue Louis Blériot, Chassieu (69680), France	5,245,000	3,488,682.12	3,656,786	4,022,465

	Obligor	Property	Title No.	Market value <sup>1</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
35.	MPITS 2 SCI	Mitry Mory	5 rue René Cassin, ZAC de la Villette aux Aulnes, Mitry Mory (77290), France	7,878,000	4,788,855.60	5,492,500	6,041,749
36.	MPITS 2 SCI	St Thibault des Vignes	7 rue de la Marne, ZAC de Saint Thibault des Vignes, Saint Thibault des Vignes (77400), France	4,155,000	3,069,554.62	3,069,555	3,186,528
37.	MPITS 3 SARL	Cavaillon	220 Allée Marie Mauron, ZAC des Bords de Durance, Cavaillon (84300), France	8,220,000	5,077,002.13	5,730,940	6,304,034
38.	MPITS 3 SARL	Gennevilliers	27/41 Boulevard Louise Michel, Gennevilliers (92230), France	16,346,000	5,900,163.30	11,396,344	12,535,978
39.	MPITS 3 SARL	Roncq	Parc du Lion Allée des Trois Lions, zone artisanale du Dronckaert, Roncq (59223), France	4,273,000	2,145,805.42	2,979,113	3,277,024
40.	MPITS 3 SARL	Rosny-sous-Bois	Parc des Algorithmes Zac de Nanteuil, 1 rue de Rome, Rosny sous Bois (93110), France	4,447,000	1,602,016.10	3,100,425	3,410,467
41.	MPITS 21 SCI	Tigery	4, boulevard des Pays-Bas, Tigery (91250), France	8,868,000	5,382,030.94	6,182,722	6,800,994
42.	MPITS 22 SCI	Camon	Zone d'activités de la Blanche- Tache, 2 rue Rosa Luxembourg, Camon (80450), France	8,159,000	6,422,480.26	6,422,480	6,422,480

	Obligor	Property	Title No.	Market value <sup>1</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
43.	MPITS 23 SARL	Chevigny St-Sauveur	rue Pierre-Henri Spaak et rue Robert Schuman Chevigny Saint Sauveur (21800), France	2,628,000	1,527,927.63	1,832,228	2,015,450
44.	MPITS 23 SARL	Mions	Boulevard des Nations, Mions (69780), France	2,940,000	1,471,311.48	2,049,752	2,254,728
45.	MPITS 23 SARL	Paris 16 Beethoven	11bis et 13 rue Beethoven, Paris (75116), France	17,082,000	6,032,298.97	11,909,479	13,100,427
46.	MPITS 23 SARL	Sannois – (4103)	6 Esplanade de la Gare, Sannois (95110), France	3,780,000	2,191,552.75	2,635,396	2,898,935
47.	MPITS 23 SARL	Durtal	2, rue Joseph Cugnot, Durtal (49430), France	2,541,000	1,713,514.43	1,771,572	1,948,729
48.	MPITS 23 SARL	Péronne	ZI de la Chapelette, Rue Gilles de Gennes, Péronne (80200), France	3,362,000	1,926,068.90	2,343,968	2,578,365
49.	MPITS 23 SARL	Tourville	Chemin départemental n°7, Tourville La Riviere (76410), France	7,086,000	3,287,861.42	4,940,321	5,434,353
50.	MPITS 23 SARL	Belmont	Parc d'Activités de Val Guiers, 810 allée Val Guiers, Belmont Tramonet (73330), France	6,960,000	4,229,318.45	4,852,475	5,337,722
51.	MPITS 23 SARL	Corbas	lieudit Chambetiere, Corbas (69960), et lieudit La Grande Nève,	6,768,000	3,276,119.62	4,718,613	5,190,475

	<b>Obligor</b>	<b>Property</b>	<b>Title No.</b>	<b>Market value<sup>1</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
			Vénisseux (69200), France				
52.	Foncière Trinité Dix Neuf SCI	Gonesse 15A	rue Pierre Salvi, Zac de la Grande Vallée, Gonesse (95500), France	205,000	59,323.33	142,925	157,217
53.	Foncière Trinité Vingt et Un SCI	Gonesse 15C	rue Pierre Salvi, Zac de la Grande Vallée, Gonesse (95500), France	213,000	58,659.55	148,502	163,353

**PART 2**

**THE GERMAN PROPERTIES**

	<b>Obligor</b>	<b>Property (including land register details)</b>	<b>Title No.</b>	<b>Market value<sup>2</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
1.	Ger Log 1 S.à r.l.	Karlsfeld	Hertzstraße 2, 4, 6, 85757 Karlsfeld, Germany  Registered with the land register of Karlsfeld at the local court of Dachau, volume 177, folio 6427, land parcel 784	13,900,000	13,699,984.43	13,699,984	13,699,984
2.	Ger Log 1 S.à r.l.	Klipphausen	Göttinger Straße 1, 01665 Klipphausen, Germany  Registered with the land register of Klipphausen at the local court of Meißen, folio 503, land parcels 362/3, 591/2 and 599	4,720,000	4,652,081.04	4,652,081	4,652,081
3.	Ger Log 1 S.à r.l.	Tollwitz	In den Längen 3, 06231 Tollwitz, Germany  Registered with the land register of Tollwitz at the local court of	4,780,000	4,711,217.67	4,711,218	4,711,218

<sup>2</sup> Sourced from the Initial Valuation.

	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
			Merseburg, folio 1035, plot 7, land parcel 77/6				
4.	Ger Log 4 S.à r.l.	Ense-Höingen	Harkortstraße 1, 59469 Ense- Höingen, Germany  Registered with the land register of Höingen at the local court of Werl, folio 1009, plot 1, land parcels 547, 505, 506, 509, 510, 543, 545 and folio 710, plot 1, land parcels 503, 507 and 508	9,790,000	9,649,125.73	9,649,126	9,649,126
5.	Ger Log 4 S.à r.l.	Malchow	Lindenallee 20, 22, 24, 17213 Malchow, Germany  Registered with the land register of Malchow at the local court of Waren (Müritzt), folio 6499, plot 15, land parcels 47/16, 51/4, 51/6, 47/17, 53/14, 53/32, 53/15, 53/21, 53/29, 53/22, 53/20, 53/13, 51/3, 51/5, 47/15, 46/5, 45/5, 50/3, 50/4, 49/4, 49/5, 48/3, 48/4, 47/4 and 47/5	4,640,000	4,573,232.21	4,573,232	4,573,232
6.	Ger Log 4 S.à r.l.	Melle I	Betonstraße 8, 49324 Melle, Germany  Registered with the land register of	6,910,000	6,810,567.80	6,810,568	6,810,568

	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
			Oldendorf at the local court of Osnabrück, folio 437, plot 6, land parcels 16/13, 17/5, 144/1 and 19/3				
7.	Ger Log 4 S.à r.l.	Melle II	Hermann-Unbefunde Straße 12,14/ Neuerostraße 5, 49324 Melle, Germany  Registered with the land register of Melle at the local court of Osnabrück, folio 3043, plot 10, land parcels 228/3, 132/8, folio 3043, plot 11, land parcels 44/6, 45/1, 44/7 and 44/8 as well as folio 3044, plot 10, land parcel 133/10	10,200,000	10,053,225.99	10,053,226	10,053,226
8.	Ger Log 4 S.à r.l.	Sehnde-Höver	Gretlade/Rebhuhnweg, 31319 Sehnde-Höver, Germany  Registered with the land register of Höver at the local court of Lehrte, folio 795, plot 3, land parcel 49/3	8,430,000	8,308,695.59	8,308,696	8,308,696
9.	Ger Log 5 S.à r.l.	Bernburg	Kalistraße 2d, 06406 Bernburg, Germany  Registered with the land register of Bernburg at the local court of Bernburg, folio 7182, plot 14, land parcel 11/26	383,000	377,488.78	377,489	377,489



	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
10.	Ger Log 5 S.à r.l.	Dresden	Fritz-Reuter-Straße 24 and HansasträÙe 54, 01097 Dresden, Germany  Registered with the land register of Dresden-Neustadt at the local court of Dresden, folio 6305, land parcels 1322/1, 1559/2, 1375/3, 1323 and 1559/3	1,330,000	1,310,861.82	1,310,862	1,310,862
11.	Ger Log 5 S.à r.l.	Eberswalde	Eberswalder StraÙe 22a, 16227 Eberswalde, Germany  Registered with the land register of Eberswalde at the local court of Eberswalde, folio 10046, district Finow, plot 17, land parcel 106	429,000	422,826.86	422,827	422,827
12.	Ger Log 5 S.à r.l.	Eisenach	Mühlhäuser StraÙe 11, 13, 99817 Eisenach, Germany  Registered with the land register of Eisenach at the local court of Eisenach, folio 14351, plot 44, land parcels 2912/5 and 2913	336,000	331,165.09	331,165	331,165
13.	Ger Log 5 S.à r.l.	Halle	Dessauer Platz 5, 06118 Halle (Saale), Germany	464,000	457,323.22	457,323	457,323

	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
			Registered with the land register of Halle at the local court of Halle (Saale), folio 26993, plot 11, land parcel 5551/0				
14.	Ger Log 5 S.à r.l.	Löbau	Rumburger Straße 5, 02708 Löbau, Germany  Registered with the land register of Löbau at the local court of Zittau, folio 4172, land parcel 994/12	1,080,000	1,064,459.22	1,064,459	1,064,459
15.	Ger Log 5 S.à r.l.	Neustadt	Landauer Straße 44, 67434 Neustadt an der Weinstraße, Germany  Registered with the land register of Neustadt at the local court of Neustadt an der Weinstraße, folio 15966, land parcel 1926	396,000	390,301.72	390,302	390,302
16.	Ger Log 5 S.à r.l.	Nürnberg	Äußere Bayreuther Straße 143, 90411 Nürnberg, Germany  Registered with the land register of Großreuth h. d. Veste at the local court of Nürnberg, folio 8276, land parcel 399/1	599,000	590,380.62	590,381	590,381

	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
17.	Ger Log 5 S.à r.l.	Papenburg	Friederikenstraße 88, 26871 Papenburg, Germany  Registered with the land register of Bokel at the local court of Papenburg, folio 1565, plot 7, land parcel 74/10	426,000	419,870.03	419,870	419,870
18.	Ger Log 5 S.à r.l.	Stralsund	Werftstraße 22, 18439 Stralsund, Germany  Registered with the land register of Stralsund at the local court of Stralsund, folio 40005, plot 37, land parcels 18/2, 18/3 and 18/4	442,000	435,639.79	435,640	435,640
19.	Ger Log 5 S.à r.l.	Weißenfels	Nikolaus-Otto-Straße 1a, 06667 Weißenfels, Germany  Registered with the land register of Weißenfels at the local court of Weißenfels, folio 11222, plot 9, land parcel 250/0	437,000	430,711.74	430,712	430,712
20.	Ger Log 6 S.à r.l.	Oldenburg	Gerhard-Stalling-Str. 9, 11, 26135 Oldenburg, Germany  Registered with the land register of Oldenburg at the local court of	13,100,000	12,911,496.12	12,911,496	12,911,496

	<b>Obligor</b>	<b>Property (including land register details)</b>	<b>Title No.</b>	<b>Market value<sup>2</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
			Oldenburg, folio 71642, district Osternburg, plot 12, land parcel 32/25				
21.	Ger Log 7 S.à r.l.	Bremen	Traunsteiner Straße 1-2, 28219 Bremen, Germany  Registered with the land register of Vorstadt R11 at the local court of Bremen, folio 176, plot 11, land parcel 142/106 and folio 255, plot 11, land parcel 142/31	2,610,000	2,572,443.12	2,572,443	2,572,443
22.	Ger Log 7 S.à r.l.	Kritzkow	Gewerbestraße 21, 21a, 18229 Laage, Germany  Registered with the land register of Kritzkow at the local court of Güstrow, folio 528, plot 1, land parcel 181/65	730,000	719,495.59	719,496	719,496
23.	Ger Log 7 S.à r.l.	Minden	Gesellenweg 13 – 15, 32427 Minden, Germany  Registered with the land register of Minden at the local court of Minden, folio 7431, plot 25, land parcels 731 and 743	2,110,000	2,079,637.92	2,079,638	2,079,638

	<b>Obligor</b>	<b>Property (including land register details)</b>	<b>Title No.</b>	<b>Market value<sup>2</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
24.	Ger Log 7 S.à r.l.	Velten West	Ameisenweg 2, 16727 Velten, Germany  Registered with the land register of Velten at the local court of Oranienburg, folio 5495, district Falkenhagen Forst (V), plot 5, land parcels 36/11 and 36/9	1,280,000	1,261,581.30	1,261,581	1,261,581
25.	Ger Log 8 S.à r.l.	Burglengenfeld	Hopfenröthe 3, 93133 Burglengenfeld, Germany  Registered with the land register of Burglengenfeld at the local court of Schwandorf, folio 8677, land parcels 906/7, 938/1, 943/8, 939/1, 977/3 and 943	5,060,000	4,987,188.58	4,987,189	4,987,189
26.	Ger Log 9 S.à r.l.	Aue-Alberoda	Wachbergstraße 3-5, 08280 Aue- Alberoda, Germany  Registered with the land register of Alberoda at the local court of Aue, folio 601, land parcels 280/5 and 280/35	2,950,000	2,907,550.65	2,907,551	2,907,551
27.	Ger Log 9 S.à r.l.	Neunkirchen	Am Ochsenwald 7, 66539 Neunkirchen, Germany	4,390,000	4,326,829.61	4,326,830	4,326,830

	Obligor	Property (including land register details)	Title No.	Market value <sup>2</sup> (€)	Senior Allocated Loan Amount (€)	Release Price 1 (€)	Release Price 2 (€)
			Registered with the land register of Wellesweiler at the local court of Saarbrücken, folio 4597, plot 03, land parcels 123/18, 108/41, 124/1, 125/1 and 123/16				

**PART 3**

**THE DUTCH PROPERTIES**

	<b>Obligor</b>	<b>Property (including land register details)</b>	<b>Title No.</b>	<b>Market value<sup>3</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
1.	MPIT Netherlands 1 B.V.	Capelle	Vlierbaan 15, 17 and 19, 2908 LR Capelle aan den IJssel, The Netherlands	2,200,000	590,440.56	1,533,828	1,687,211
2.	MPIT Netherlands 1 B.V.	Houten	Peppelkade 54, 56, 58 and 60, 3992 AK Houten, The Netherlands and Wilgenkade 1, 3992 LL Houten, The Netherlands	2,300,000	1,245,672.59	1,603,548	1,763,902
3.	MPIT Netherlands 1 B.V.	IJsselstein	Boerhaaveweg 4, 3401 MN IJsselstein, The Netherlands	2,600,000	1,407,109.28	1,812,706	1,993,977
4.	MPIT Netherlands 1 B.V.	Roosendaal	Jan Vermeerlaan 257, 259, 261, 261A, 263, 4703 KW Roosendaal, The Netherlands and Westelijke Havendijk 15, 15A, 15B, 15C, 15D and 15E, 4703 RA Roosendaal, The Netherlands	2,900,000	1,343,737.29	2,021,865	2,224,051
5.	MPIT Netherlands 1 B.V.	Schipholweg I	Schipholweg 303, 1171 PL Badhoevedorp, The Netherlands	2,800,000	1,407,147.46	1,952,145	2,147,360

<sup>3</sup> Sourced from the Initial Valuation.

	<b>Obligor</b>	<b>Property (including land register details)</b>	<b>Title No.</b>	<b>Market value<sup>3</sup> (€)</b>	<b>Senior Allocated Loan Amount (€)</b>	<b>Release Price 1 (€)</b>	<b>Release Price 2 (€)</b>
6.	MPIT Netherlands 1 B.V.	Schipholweg II	Schipholweg 321 and 323, 1171 PL Badhoevedorp, The Netherlands	3,600,000	1,762,186.64	2,509,901	2,760,891
7.	Dutchprop 5 B.V.	Groningen	Leonard Springerlaan 9, 9727 KB Groningen, The Netherlands	2,710,000	4,038,645.93	4,038,646	4,038,646
8.	Dutchprop 6 B.V.	Amsterdam	Funenpark 1, 1018 AK Amsterdam, The Netherlands	6,250,000	9,314,220.32	9,314,220	9,314,220
9.	IT 1 S.à r.l.	Almere	Versterkerstraat 2-4, 27, 1322 AP Almere, The Netherlands Antennestraat 23-25-27, 1322 AH Almere, The Netherlands	7,700,000	11,475,119.44	11,475,119	11,475,119



## APPENDIX 3

### GLOSSARY OF DEFINED TERMS

<b>€, euro, EUR or Euro:</b>	means the single currency of the EU.
<b>\$ or USD:</b>	means the currency of the United States.
<b>3 per cent. Property Tax:</b>	has the meaning given to it on page 191.
<b>Aberdonia Portfolio:</b>	means the French Properties owned directly or indirectly by Aberdonia Properties SPPICAV.
<b>Account Opening Backstop Date:</b>	means the date that is 10 Business Days before the first Senior Loan Payment Date.
<b>Accountholder:</b>	has the meaning given to it on page 320.
<b>Accounting Principles:</b>	means, in relation to an Obligor, IFRS or the accounting standards generally accepted in the jurisdiction of incorporation of that Obligor.
<b>Accrued Interest:</b>	has the meaning given to it on page 437.
<b>ACMs:</b>	has the meaning given to it page 404.
<b>Acquisition:</b>	means: <ul style="list-style-type: none"><li>(a) upon the taking of Mezzanine Enforcement Action by a Mezzanine Facility Creditor under any Mezzanine Only Security granted by a Mezzanine Borrower, the acquisition of all (and not part only) of:<ul style="list-style-type: none"><li>(i) the issued shares in each Senior Company; and</li><li>(ii) each Mezzanine Borrower's rights and interests under and in any Mezzanine Borrower Intercompany Loan; or</li></ul></li><li>(b) upon the taking of Mezzanine Enforcement Action by a Mezzanine Facility Creditor under any Mezzanine Only Security granted by Spear Topco S.à r.l., Spear German 2018 Topco S.à r.l. and Spear Investment 2018 Topco S.à r.l. (each a <b>Mezzanine Shareholder</b>), the acquisition of all (and not part only) of:<ul style="list-style-type: none"><li>(i) the issued shares in each Mezzanine Borrower; and</li><li>(ii) each Mezzanine Shareholder's rights and interests under and in any Mezzanine Company-Borrower Intercompany Loan Agreement.</li></ul></li></ul>

<b>Acquisition Agreement:</b>	means each of: <ul style="list-style-type: none"> <li>(a) the sale and purchase agreement dated 18 May 2018 for the sale and purchase of all the issued shares (amongst other things) in connection with the "Aberdonia property holding structure" and made between the sellers and the purchasers listed therein; and</li> <li>(b) the sale and purchase agreement dated 18 May 2018 for the sale and purchase of all the issued shares in and shareholder loans made to the indirect owners of the "Mistral Portfolios" and made between the sellers and the purchasers listed therein (the <b>Mistral SPA</b>).</li> </ul>
<b>Acquisition Completion Date:</b>	means the date of completion of an Acquisition in accordance with the section titled " <i>Description of the Intercreditor Agreement – Enforcement Action: Mezzanine Facility Creditors</i> ".
<b>Acquisition Date:</b>	has the meaning given to it on page 232.
<b>Acquisition Fee:</b>	has the meaning given to it on page 147.
<b>Acquisition Longstop Date:</b>	means, in respect of a Mezzanine Enforcement Notice which states that Mezzanine Enforcement Action is to be carried out by way of an Acquisition, the date falling 30 Business Days after the delivery of that Mezzanine Enforcement Notice.
<b>Action 6:</b>	has the meaning given to it on page 73.
<b>Ad Hoc Noteholder Committee:</b>	has the meaning given to it on page 289.
<b>Ad Hoc Review:</b>	has the meaning given to it on page 283.
<b>Administrative Fees:</b>	has the meaning given to it on page 252.
<b>Administrative Fee Rate:</b>	has the meaning given to it on page 251.
<b>Affiliate:</b>	means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.
<b>Affiliate Entity:</b>	means with respect to any specified entity, any other entity controlling or controlled by or under common control with such entity. For the purposes of this definition, control when used with respect to any specified entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms controlling and controlled have meanings correlative to the foregoing.
<b>Agency Agreement:</b>	has the meaning given to it on page 318.
<b>Agent:</b>	has the meaning given to it on page 319.

<b>Agent Bank:</b>	has the meaning given to it on page 318.
<b>Aggregate Indemnity Amount:</b>	has the meaning given to it on page 164.
<b>Agreement for Lease:</b>	means an agreement to grant an Occupational Lease of all or part of any Property.
<b>AIFM Regulation:</b>	means Regulation (EU) No 231/2013.
<b>Almere Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Ambiente Report:</b>	has the meaning given to it on page 149.
<b>AMF:</b>	has the meaning given to it on page 212.
<b>Amsterdam Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Anti-Tax Avoidance Directive:</b>	has the meaning given to it on page 75.
<b>Anti-Tax Avoidance Directive 2:</b>	has the meaning given to it on page 75.
<b>Appointees:</b>	means any attorney, manager, agent, delegate, nominee, custodian or other person appointed by the Note Trustee under the Note Trust Deed or any examiner, attorney, manager, receiver, agent, delegate, nominee, custodian or other person appointed by the Issuer Security Trustee under the Issuer Deed of Charge.
<b>Appropriation:</b>	means the appropriation (or similar process) of the partnership interests in or the shares in the capital of a member of the Group by the Common Security Agent (or any Receiver or Senior Delegate), or the Common Secured Parties, which is effected (to the extent permitted under the relevant Common Transaction Security Document and applicable law) by enforcement of the Common Transaction Security.
<b>Approved Insurer:</b>	means in respect of any Insurance Policy, an insurer or underwriter: <ul style="list-style-type: none"> <li>(a) holding a Required Rating at the time that Insurance Policy is entered into; or</li> <li>(b) the identity of which is approved in writing by the Senior Loan Facility Agent or Mezzanine Loan Facility Agent (as applicable) (such approval not to be unreasonably withheld, delayed or conditioned).</li> </ul>

**Approved Person:**

means:

- (a) any Original Mezzanine Lender;
- (b) any Affiliate of an Original Mezzanine Lender;
- (c) any fund which is a Related Fund of an Original Mezzanine Lender or a Related Fund of an Affiliate of an Original Mezzanine Lender; or
- (d) any trust, fund or other entity:
  - (i) which owns, controls and/or manages, or is advised and/or managed by, any person that owns, controls and/or manages, directly or indirectly, commercial real estate assets which are located in the United Kingdom and/or the European Union and have an aggregate market value of not less than €2,000,000,000 (or its equivalent) excluding the Properties;
  - (ii) which owns, controls and/or manages, or is advised and/or managed by, any person that owns, controls and/or manages, directly or indirectly, commercial real estate assets which are located anywhere in the world and have an aggregate market value of not less than €5,000,000,000 (or its equivalent) excluding the Properties;
  - (iii) whose shares are listed on a recognised stock exchange and have an aggregate market value, at any time, of more than €5,000,000,000 (or its equivalent); or
  - (iv) which, at any time, owns total assets, as set out in its most recent financial statements at that time, of more than €5,000,000,000 (or its equivalent).

**Approved Replacement  
Sauvegarde Guarantor:**

means:

- (a) in respect of an Acquisition referred to in paragraph (a) of the definition of Acquisition, each of:
  - (i) Spear Pledgeco S.à r.l.;
  - (ii) Spear German 2018 Pledgeco S.à r.l.; and
  - (iii) Spear Investment 2018 Pledgeco S.à r.l.; or
- (b) in respect of an Acquisition referred to in paragraph (b) of the definition of Acquisition, each of:
  - (i) Spear Mezzco S.à r.l.;

	(ii) Spear German 2018 Mezzco S.à r.l.; and
	(iii) Spear Investment 2018 Mezzco S.à r.l.
<b>Arcadis:</b>	has the meaning given to it on page 108.
<b>Arendt Corporate DD Report:</b>	has the meaning given to it on page 150.
<b>Arrangers:</b>	means Deutsche Bank AG, London Branch and Société Générale AG, London Branch.
<b>Asset:</b>	means, in respect of any Obligor: <ul style="list-style-type: none"> <li>(a) any asset of that Obligor;</li> <li>(b) any Subsidiary of that Obligor; or</li> <li>(c) any asset of any such Subsidiary,</li> </ul> in each case other than an Excluded Entity or an Excluded Property.
<b>Asset Status Report:</b>	means an asset status report prepared by the Special Servicer pursuant to the Servicing Agreement, with respect to the Securitised Senior Loan and the Properties not later than 60 days after the occurrence of a Special Servicing Transfer Event.
<b>Attal Legal DD Report:</b>	has the meaning given to in on page 150.
<b>Authorisation:</b>	means an authorisation, consent, approval, resolution, licence, exemption, permission, recording, filing, notarisation, registration or similar requirement, however described.
<b>Available Funds:</b>	has the meaning given to it on page 257.
<b>Basel III:</b>	has the meaning given to it on page 76.
<b>Basic Terms Modification:</b>	has the meaning given to it on page 360.
<b>BCBS:</b>	has the meaning given to it on page 76.
<b>Benchmarks Regulation:</b>	has the meaning given to it on page 74.
<b>BEPS:</b>	has the meaning given to it on page 75.
<b>BGH:</b>	has the meaning given to it on page 390.
<b>Blanket Insurance Policy:</b>	has the meaning given to it on page 113.
<b>Bordereau:</b>	has the meaning given to it on page 412.
<b>Borrowing Liabilities:</b>	means, in respect of any Obligor, any liabilities and obligations (not being Guarantee Liabilities) which that Obligor may owe as a debtor to a Creditor or another Obligor in respect of any Financial

Indebtedness incurred under any Debt Document (whether incurred solely or jointly and including, without limitation, any liabilities and obligations as a Senior Borrower and any liabilities and obligations as a Mezzanine Borrower).

**Break Costs:**

means the amount (if any) by which:

- (a) the interest (excluding Senior Loan Margin on any portion of the Senior Loan not subject to a Securitisation and including Senior Loan Margin on any portion of the Senior Loan subject to a Securitisation or retained as required by law or regulation for capital risk retention purposes by an Original Senior Lender selling (or who has sold) all or part of the Senior Loan(s) to a Securitisation Issuer, in each case, at the time of calculation) which a Senior Lender should have received for the period from the immediately subsequent Senior Loan Interest Period Date to the last day of the Senior Loan Interest Period commencing on that immediately subsequent Senior Loan Interest Period Date in respect of that Senior Loan or Unpaid Sum, had the principal amount or Unpaid Sum not been received;

exceeds:

- (b) the higher of:
  - (i) zero; and
  - (ii) the amount which that Senior Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the European interbank market for a period starting on the immediately subsequent Senior Loan Interest Period Date and ending on the next Senior Loan Payment Date after that Senior Loan Interest Period Date.

**Building Permits:**

has the meaning given to it on page 118.

**Business Day:**

has the meaning given to it on page 48.

**Business Day Convention:**

has the meaning given to it on page 7.

**Call Period Start Date:**

means the earlier of:

- (a) the date that is 12 Months after the date of a Securitisation; and
- (b) the date that is 15 Months after the Senior Utilisation Date.

**Capelle Property:**

means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).

<b>Capital Requirements Regulation:</b>	means Regulation (EU) No 575/2013.
<b>Cash Management Agreement:</b>	means the cash management agreement to be entered into on or about the Closing Date by, among others, the Issuer, the Servicer, the Special Servicer, the Issuer Cash Manager and the Issuer Security Trustee.
<b>Cash Trap Event:</b>	has the meaning given to it on page 10.
<b>Central Bank:</b>	has the meaning given to it on page viii.
<b>Centre of Main Interests:</b>	has the meaning given to that term in Article 3(1) of the Insolvency Regulation.
<b>Change of Tax Law:</b>	means in respect of any Senior Lender, any change which occurs after the date on which that Senior Lender became a Senior Lender under the Common Terms Agreement, in (or in the published interpretation, administration or the application of) any law or regulation or relevant double taxation treaty or any published practice or published concession of any relevant Tax Authority, in each case, affecting such Senior Lender.
<b>Charged Property:</b>	means all of the assets of the members of the Group which from time to time are, or are expressed to be, the subject of the Common Transaction Security.
<b>Chargor:</b>	means any person expressed to create Security pursuant to any Common Transaction Security Document.
<b>Class:</b>	has the meaning given to it on page 318.
<b>Class A1 Noteholders:</b>	has the meaning given to it on page 318.
<b>Class A1 Notes:</b>	has the meaning given to it on page 318.
<b>Class A1 Principal Distribution Amount:</b>	has the meaning given to it on page 256.
<b>Class A2 Noteholders:</b>	has the meaning given to it on page 318.
<b>Class A2 Notes:</b>	has the meaning given to it on page 318.
<b>Class A2 Principal Distribution Amount:</b>	has the meaning given to it on page 256.
<b>Class Allocation of PRPDA:</b>	has the meaning given to it on page 255.
<b>Class B Noteholders:</b>	has the meaning given to it on page 318.
<b>Class B Notes:</b>	has the meaning given to it on page 318.
<b>Class B Principal</b>	has the meaning given to it on page 256.

**Distribution Amount:**

**Class C Noteholders:** has the meaning given to it on page 318.

**Class C Notes:** has the meaning given to it on page 318.

**Class C Principal Distribution Amount:** has the meaning given to it on page 256.

**Class D Adjusted Interest Payment Amount:** has the meaning given to it on page 30.

**Class D Available Funds Cap:** has the meaning given to it on page ii.

**Class D Interest Amount:** has the meaning given to it on page 30.

**Class D Noteholders:** has the meaning given to it on page 318.

**Class D Notes:** has the meaning given to it on page 318.

**Class D Principal Distribution Amount:** has the meaning given to it on page 256.

**Class E Adjusted Interest Payment Amount:** has the meaning given to it on page 30.

**Class E Available Funds Cap:** has the meaning given to it on page ii.

**Class E Interest Amount:** has the meaning given to it on page 31.

**Class E Noteholders:** has the meaning given to it on page 318.

**Class E Notes:** has the meaning given to it on page 318.

**Class E Principal Distribution Amount:** has the meaning given to it on page 257.

**Class F Adjusted Interest Payment Amount:** has the meaning given to it on page 31.

**Class F Available Funds Cap:** has the meaning given to it on page ii.

**Class F Interest Amount:** has the meaning given to it on page 32.

**Class F Noteholders:** has the meaning given to it on page 318.

**Class F Notes:** has the meaning given to it on page 318.

**Class F Principal Distribution Amount:** has the meaning given to it on page 257.

**Class of Prepaid Notes:** has the meaning given to it on page 251.



<b>Class X Account:</b>	has the meaning given to it on page 244.
<b>Class X Amount:</b>	has the meaning given to it on page 333.
<b>Class X Call Option:</b>	has the meaning given to it on page 44.
<b>Class X Entrenched Rights:</b>	has the meaning given to it on page 43.
<b>Class X Interest Diversion Amounts:</b>	has the meaning given to it on page 32.
<b>Class X Interest Diversion Ledger:</b>	means the ledger of that name maintained by the Issuer Cash Manager in the Issuer Transaction Account.
<b>Class X Interest Diversion Trigger Event:</b>	has the meaning given to it on page 33.
<b>Class X Noteholders:</b>	has the meaning given to it on page 318.
<b>Class X Notes:</b>	has the meaning given to it on page 318.
<b>Class X Released Interest Diversion Amounts:</b>	has the meaning given to it on page 31.
<b>Clearing Systems:</b>	means Euroclear or Clearstream, Luxembourg.
<b>Clearstream, Luxembourg:</b>	has the meaning given to it on page 319.
<b>Closing Date:</b>	has the meaning given to it on page iii.
<b>CMBS:</b>	has the meaning given to it on page 66.
<b>CoC Date:</b>	has the meaning given to it on page 10.
<b>Code:</b>	has the meaning given to it on page 339.
<b>Coeur Défense case:</b>	has the meaning given to it on page 98.
<b>Collection Period:</b>	has the meaning given to it on page 255.
<b>COMI:</b>	has the meaning given to it on page 102.
<b>Commission's Proposal:</b>	has the meaning given to it on page 72.
<b>Common Insolvency Event:</b>	<p>means, in relation to any Senior Obligor:</p> <ul style="list-style-type: none"> <li>(a) that any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of that Senior Obligor, a moratorium is declared in relation to any financial indebtedness of that Senior Obligor, or an administrator is appointed in respect of that Senior Obligor;</li> <li>(b) that any composition, compromise, assignment or</li> </ul>

arrangement is made with any of its creditors (excluding any composition, compromise, assignment or arrangement entered into between that Senior Obligor and a Senior Facility Creditor in respect of the Senior Facility Liabilities of that Senior Obligor, or between a Mezzanine Obligor which is also a Senior Obligor and a Mezzanine Facility Creditor in respect of the Mezzanine Facility Liabilities of that Mezzanine Obligor);

- (c) that that Senior Obligor becomes insolvent, or is unable to pay its debts, or admits in writing its inability generally to pay its debts, as they fall due;
- (d) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Senior Obligor or any of its assets; or
- (e) that any analogous procedure or step is taken in any jurisdiction.

**Common Safekeeper:** means Euroclear or Clearstream, Luxembourg subject to the right of Euroclear and Clearstream, Luxembourg to jointly determine that the other shall act as common safekeeper.

**Common Secured Debt Document:** means a Senior Finance Document or a Mezzanine Finance Document (other than a Mezzanine Only Security Document).

**Common Secured Obligations:** means, in respect of an Obligor, the Liabilities of that Obligor to any Common Secured Party which are secured under any Common Secured Debt Document.

**Common Secured Party:** means:

- (a) in respect of a Common Transaction Security Document governed by German law, a Creditor; or
- (b) in respect of any other Common Transaction Security Document:
  - (i) a Creditor;
  - (ii) a Senior Delegate; or
  - (iii) a Receiver.

**Common Security Agent:** means Elavon Financial Services DAC, UK Branch in its capacity as security agent and security trustee for the Common Secured Parties.

**Common Terms Agreement:** has the meaning given to it on page 6.

**Common Transaction Security:** has the meaning given to it on page 17.

**Common Transaction Security Document:**

means each of:

- (a) the Dutch Law Security Agreements;
- (b) the English Law Security Agreements;
- (c) the French Law Security Agreements;
- (d) the German Law Security Agreements;
- (e) the Luxembourg Law Security Agreements;
- (f) any other document entered into at any time by any Senior Transaction Obligor creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Senior Finance Parties as Security for any of the Senior Secured Liabilities;
- (g) any other document amending, extending and/or ratifying any of the above Common Transaction Security Documents; and
- (h) any Security granted under any covenant for further assurance in any of the documents referred to in paragraphs (a) to (g) above.

**Competitive Sales Process:** has the meaning given to it on page 240.

**Compliance Certificate:** means a certificate in the agreed form and delivered in accordance with the Common Terms Agreement.

**Compromised Senior Lender:** means a Senior Lender that has become and continues to be an Increased Cost Senior Lender, a Non-Consenting Senior Lender or a Defaulting Senior Lender.

**Conditions:** has the meaning given to it on page 318.

**Control:** means (whether directly or indirectly):

- (a) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
  - (i) cast, or control the casting of:
    - (A) in the case of a Pledgeco, a Mezzanine Holdco or any Approved Person, more than one half of the maximum number of votes that might be cast at a general shareholders' meeting of that Pledgeco, Mezzanine Holdco or Approved Person (as applicable); or
    - (B) in the case of a Senior Obligor (other than any Pledgeco) or Mezzanine Obligor, all of the votes that might be cast at a general shareholders' meeting of that Senior Obligor

or Mezzanine Obligor (as applicable);

- (ii) appoint or remove all (in the case of a Senior Obligor (other than any Pledgeco) or Mezzanine Obligor (as applicable)), or a majority (in the case of any Pledgeco, Mezzanine Holdco or Approved Person (as applicable)), of the directors, managers or other equivalent officers of the relevant Senior Obligor, Mezzanine Obligor, Mezzanine Holdco or Approved Person (as applicable); and
- (b) the holding of:
  - (i) in the case of a Pledgeco, Mezzanine Holdco or Approved Person, more than one half of the issued share capital of that Pledgeco, Mezzanine Holdco or Approved Person (as applicable); or
  - (ii) in the case of a Senior Obligor (other than any Pledgeco) or Mezzanine Obligor, all of the issued share capital of that Senior Obligor or Mezzanine Obligor (as applicable),

(excluding, in each case, any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

<b>Control Valuation:</b>	means a desktop valuation obtained at the request of any Noteholder of any Class which is the subject of a Control Valuation Event.
<b>Control Valuation Event:</b>	has the meaning given to it on page 371.
<b>Controlling Class:</b>	has the meaning given to it on page 371.
<b>Controlling Class Termination:</b>	has the meaning given to it on page 304.
<b>Controlling Class Test:</b>	has the meaning given to it on page 371.
<b>COR:</b>	means a credit obligation rating.
<b>Corporate Expenses:</b>	means all corporate operating expenditure (in each case, only to the extent such expenditure does not constitute Service Charge Expenses or Irrecoverable Service Charge Expenses) (including, without limitation, audit and accountancy, legal, registration, trustee, manager, tax advisers and domiciliation fees and expenses and expenditure relating to advertising, marketing, payroll and related taxes, computer processing charges, operational equipment and other finance lease payments), in each case, in relation to each Senior Obligor and, to the extent such expenditure is attributable to or incurred in connection with any Senior Obligor or any Property, each shareholder of a Senior Obligor.

<b>Corporate Services Agreement:</b>	has the meaning given to it on page 124.
<b>Corporate Services Provider:</b>	means Walkers Corporate Services (Ireland) Limited in its capacity as corporate services provider pursuant to the Corporate Services Agreement.
<b>Corrected Loan:</b>	has the meaning given to it on page 70.
<b>CRA Regulation:</b>	means Regulation (EC) No. 1060/2009 of the European Parliament and the Council of 16 September 2009 on credit rating agencies, as amended from time to time.
<b>Creditor:</b>	means a Senior Facility Creditor or a Mezzanine Facility Creditor.
<b>Creditors' Process:</b>	means any expropriation, conservatory or executor seizure or attachment, sequestration, distress or execution (including by way of executory attachment or interlocutory attachment or any analogous process in any jurisdiction) other than, in each case, any Dutch Creditors' Process.
<b>CREFC E-IRP Loan Periodic Update File:</b>	has the meaning given to it on page 296.
<b>CREFC E-IRP Loan Set-up File:</b>	has the meaning given to it on page 296.
<b>CREFC E-IRP Property File:</b>	has the meaning given to it on page 296.
<b>CREFC E-IRP Servicer Watchlist Criteria and Servicer Watchlist File:</b>	has the meaning given to it on page 297.
<b>CREFC European Investor Reporting Package:</b>	has the meaning given to it on page 297.
<b>CRS:</b>	has the meaning given to it on page 442.
<b>CRS Regulations:</b>	has the meaning given to it on page 443.
<b>CSA:</b>	has the meaning given to it on page 264.
<b>Curable Default:</b>	means: <ul style="list-style-type: none"> <li>(a) a Senior Payment Event of Default;</li> <li>(b) a Senior Interim Repayment Default; or</li> <li>(c) a Senior Financial Covenant Event of Default.</li> </ul>
<b>Cure Date:</b>	has the meaning given to it on page 233.
<b>Cure Election Period:</b>	means, in respect of a Curable Default, the period commencing on the

date on which that Curable Default has occurred and ending on the date falling 10 Business Days after the date on which the Mezzanine Loan Facility Agent has been notified by the Senior Loan Facility Agent that that Curable Default has occurred.

**Cure Loan:** means any additional loan or loans made available by one or more Mezzanine Lenders to a Mezzanine Borrower to fund the payment of a Cure Payment in circumstances where a Senior Obligor is either entitled under a Senior Finance Document but has elected not to make, or has failed to make, any relevant payment in accordance with the Common Terms Agreement.

**Cure Payment:** means:

- (a) in respect of a Senior Payment Event of Default, a payment made by one or more Mezzanine Lenders into the account specified in the cure payment provisions of the Intercreditor Agreement of an amount equal to the amount of the non-payment (calculated by the Senior Loan Facility Agent) which caused that Senior Payment Event of Default to occur; or
- (b) in respect of a Senior Financial Covenant Event of Default, a payment made by one or more Mezzanine Lenders into the account specified in the cure payment provisions of the Intercreditor Agreement of an amount equal to the amount calculated by the Senior Loan Facility Agent to ensure compliance, as from the start of the relevant calculation period, with the LTV Covenant or Debt Yield Covenant the breach of which caused that Senior Financial Covenant Event of Default to occur.

**Cut-Off Date:** has the meaning given to it on page 46.

**DAC II:** has the meaning given to it on page 442.

**Daily law assignment:** has the meaning given to it on page 412.

**DB Issuer Stand-by Account:** has the meaning given to it on page 244.

**DB Liquidity Facility:** has the meaning given to it on page 267.

**DB Liquidity Facility Provider:** has the meaning given to it on page 267.

**DB Loan Seller Share:** means €146,350,000 in outstanding principal amount of the Securitised Senior Loan.

**DB Proportionate Share:** means, at any time, an amount equal to the proportion of the relevant amount which is calculated by dividing (a) the DB Loan Seller Share by (b) the principal amount outstanding of the Securitised Senior Loan as at the Closing Date, being approximately 50 per cent.

<b>DBRS:</b>	has the meaning given to it on page iv.
<b>DBRS Criteria:</b>	means legal criteria for European Structured Finance Transactions published by DBRS and dated September 2017 for the purposes of determining compliance in respect of an issuance of notes with a long-term rating of AAA by DBRS.
<b>DBRS Minimum Equivalent Rating:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) if a Fitch public rating, a Moody's public rating and an S&amp;P public rating in respect of the relevant company or the relevant investment, as applicable, (each, a <b>Public Long Term Rating</b>) are all available at such date, the DBRS Minimum Equivalent Rating will be such Public Long Term Rating remaining after disregarding the highest and lowest of such Public Long Term Ratings from such rating agencies (provided that if such Public Long Term Rating is under credit watch negative, or the equivalent, then it will be considered one notch lower);</li> <li>(b) if Public Long Term Ratings of the relevant company or the relevant investment, as applicable, are available only by any two of Fitch, Moody's and S&amp;P at such date, the DBRS Minimum Equivalent Rating will be the lower of such Public Long Term Ratings (provided that if such Public Long Term Rating is under credit watch negative, or the equivalent, then it will be considered one notch lower); and</li> <li>(c) if a Public Long Term Rating is available only by any one of Fitch, Moody's and S&amp;P at such date, the DBRS Minimum Equivalent Rating will be such Public Long Term Rating (provided that if such Public Long Term Rating is under credit watch negative, or the equivalent, it will be considered one notch lower).</li> </ul> <p>If at any time the DBRS Minimum Equivalent Rating cannot be determined under paragraphs (a) to (c) above, then it will be the rating that DBRS will confirm to the Issuer.</p>
<b>Debt Document:</b>	means the Intercreditor Agreement, any other Senior Finance Document or any other Mezzanine Finance Document.
<b>Debt Purchase Transaction:</b>	<p>means, in relation to a person, a transaction where such person:</p> <ul style="list-style-type: none"> <li>(a) purchases by way of assignment or transfer;</li> <li>(b) enters into any sub-participation in respect of; or</li> <li>(c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,</li> </ul> <p>any Senior Commitment or amount outstanding under the French</p>

Facility Agreement.

**Debt Yield:**

means:

- (a) on any Senior Loan Payment Date falling prior to the first anniversary of the Senior Utilisation Date (for the purpose of this paragraph (a) the **Relevant Test Date**), the ratio of:

- (i)  $(NRI/D) \times 365$

where:

**NRI** is the Net Rental Income actually received by the Senior Obligors for the period from the Senior Utilisation Date to the Financial Quarter Date falling immediately prior to the Relevant Test Date; and

**D** is the number of days during the period from the Senior Utilisation Date until the Financial Quarter Date falling immediately prior to the Relevant Test Date;

- (ii) to Net Senior Debt on that Senior Loan Payment Date; and

- (b) on any Senior Loan Payment Date falling on or after the first anniversary of the Senior Utilisation Date, the ratio of Net Rental Income actually received by the Senior Obligors for the Relevant Period ending on the Financial Quarter Date falling immediately prior to that Senior Loan Payment Date to Net Senior Debt on that Senior Loan Payment Date.

**Debt Yield Covenant:**

has the meaning given to that term on page 196.

**Debt Yield Equity Cure Amount:**

means an amount to be deposited into the Senior Equity Cure Account or a prepayment of the Senior Loan following breach of the Debt Yield Covenant which is sufficient (but not more than the amount required) to ensure that when taking into account such deposit or prepayment in the calculation of the Debt Yield the requirements of the Debt Yield Covenant would be met.

**Default Interest Withheld Amount:**

has the meaning given to it on page 251.

**Defaulting Senior Lender:**

means:

- (a) a Senior Lender which has failed to make its participation in a Senior Loan available (or has notified the Senior Loan Facility Agent or the Senior Company (which has notified the Senior Loan Facility Agent) that it will not make its participation in a Senior Loan available) by the Senior Utilisation Date of that Senior Loan in accordance with the terms of the Common Terms Agreement unless payment is made within 3 Business Days of its due date and its failure to



pay is caused by:

- (i) administrative or technical error; or
- (ii) a Disruption Event;
- (b) a Senior Lender which has rescinded or repudiated a Senior Finance Document; and/or
- (c) a Senior Lender with respect to which an Insolvency Event has occurred and is continuing.

<b>Deferred Consideration:</b>	has the meaning given to it on page 23.
<b>Deferred Consideration Holder:</b>	means the Loan Sellers or any other person entitled to the Deferred Consideration in accordance with the terms of the Securitised Senior Loan Sale Agreement.
<b>Deferred EURIBOR Excess Amount:</b>	has the meaning given to it on page 29.
<b>Deferred Interest:</b>	has the meaning given to it on page 29.
<b>Deferred Note Prepayment Fees:</b>	has the meaning given to it on page 29.
<b>Definitive Notes:</b>	has the meaning given to it on page 320.
<b>Determination Date:</b>	has the meaning given to it on page 47.
<b>Deutsche Bank:</b>	has the meaning given to it on page 135.
<b>Deutsche Bank Group:</b>	has the meaning given to it on page 135.
<b>Disbursing Agent:</b>	has the meaning given to it on page 436.
<b>Disenfranchised Holder:</b>	has the meaning given to it on page 44.
<b>Disposal Costs:</b>	has the meaning given to it in the definition of Disposal Proceeds.
<b>Disposal Proceeds:</b>	<p>means the consideration receivable by any member of the Group (including any amount receivable in repayment of intercompany debt) for any disposal made by any member of the Group (including, for the avoidance of doubt, by way of Expropriation) after deducting:</p> <ul style="list-style-type: none"><li>(a) any reasonable fees, costs and expenses which are incurred by any member of the Group with respect to that disposal to persons who are neither members of the Group nor Investor Affiliates (<b>Disposal Costs</b>); and</li><li>(b) any Tax incurred and required to be paid by any member of the Group in connection with that disposal (as reasonably determined by such member of the Group, on the basis of existing rates and taking account of any available credit, deduction or allowance) (<b>Disposal Taxes</b>).</li></ul>

<b>Disposal Taxes:</b>	has the meaning given to it in the definition of Disposal Proceeds.
<b>Disposed Entity:</b>	has the meaning given to it on page 239.
<b>Dispute:</b>	has the meaning given to it on page 373.
<b>Disruption Event:</b>	<p>means either or both of:</p> <ul style="list-style-type: none"> <li>(a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Senior Facility (or otherwise in order for the transactions contemplated by the Senior Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the parties to the Common Terms Agreement; or</li> <li>(b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a party preventing that, or any other party: <ul style="list-style-type: none"> <li>(i) from performing its payment obligations under the Senior Finance Documents; or</li> <li>(ii) from communicating with other parties to the Common Terms Agreement in accordance with the terms of the Senior Finance Documents,</li> </ul> <p>and which (in either such case) is not caused by, and is beyond the control of, the party whose operations are disrupted.</p> </li> </ul>
<b>Distress Event:</b>	<p>means any of:</p> <ul style="list-style-type: none"> <li>(a) prior to the Senior Discharge Date, a Senior Acceleration Event;</li> <li>(b) on or after the Senior Discharge Date, a Mezzanine Acceleration Event; or</li> <li>(c) the enforcement of any Common Transaction Security.</li> </ul>
<b>Distressed Disposal:</b>	<p>means a disposal of an asset of a member of the Group or any entity which, prior to an Appropriation of its partnership interests or shares, was a member of the Group which is:</p> <ul style="list-style-type: none"> <li>(a) being effected at the request of an Instructing Group in circumstances where the Common Transaction Security has become enforceable;</li> <li>(b) being effected by enforcement of the Common Transaction Security (other than by way of Appropriation);</li> </ul>

- (c) being effected following an Appropriation to the extent that that disposal is made at the direction of the Instructing Group, the Common Security Agent or any other Creditor which has the right to give that direction; or
- (d) being effected, after the occurrence of a Distress Event, by an Obligor to a person or persons which is not or are not a member or members of the Group.

<b>Distribution Compliance Period:</b>	has the meaning given to it on page 444.
<b>Distributor:</b>	has the meaning given to it on page viii.
<b>DLA Legal DD Report:</b>	has the meaning given to it on page 150.
<b>Dodd-Frank Act:</b>	has the meaning given to it on page xiii.
<b>Dutch Civil Code:</b>	means the <i>Burgerlijk Wetboek</i> .
<b>Dutch Bankruptcy Act:</b>	means the Bankruptcy Act 1986 (as amended) of the Netherlands.
<b>Dutch Creditors' Process:</b>	means a Dutch executory attachment ( <i>executoriaal beslag</i> ) affecting any asset of a Dutch Senior Obligor.
<b>Dutch Land Registry:</b>	means the Netherlands' Cadastre, Land Registry and Mapping Agency.
<b>Dutch Law Security Agreement:</b>	has the meaning given to it on page 16.
<b>Dutch Property:</b>	means each property described in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Dutch Property Management Agreement:</b>	means each Property Management Agreement which relates to one or more of the Dutch Properties.
<b>Dutch Property Manager:</b>	has the meaning given to on page 143.
<b>Dutch Security Providers:</b>	means each of: <ul style="list-style-type: none"> <li>(a) Dutchprop 1 B.V.;</li> <li>(b) Dutchprop 4 B.V.;</li> <li>(c) Dutchprop 5 B.V.;</li> <li>(d) Dutchprop 6 B.V.;</li> <li>(e) Dutchprop 9 B.V.;</li> <li>(f) INL 1 S.À R.L.;</li> <li>(g) IT 1 S.À R.L.; and</li> </ul>

	(h) MPIT Netherlands 1 B.V.
<b>Dutch Senior Borrowers:</b>	has the meaning given to it on page 9.
<b>Dutch Senior Guarantor:</b>	means each Senior Guarantor incorporated under the laws of the Netherlands.
<b>Dutch Senior Obligor:</b>	means any Senior Obligor incorporated under the laws of the Netherlands.
<b>Dutch VAT:</b>	means any VAT imposed by a Tax Authority in the Netherlands.
<b>ECB:</b>	means the European Central Bank.
<b>ECJ:</b>	has the meaning given to it on page 384.
<b>EEA:</b>	has the meaning given to it on page viii.
<b>EHP Corporate DD Report:</b>	has the meaning given to it on page 150.
<b>Eligible Daily Institution:</b>	has the meaning given to it on page 412.
<b>Eligible Letter of Credit (Capex):</b>	<p>means a letter of credit which:</p> <ul style="list-style-type: none"> <li>(a) is addressed to (and the original of which, if required to make a demand under that letter of credit, has been delivered to) the Senior Loan Facility Agent from a person which has a Required Rating on the date of issue of that letter of credit;</li> <li>(b) has an initial expiry date falling at least 12 Months after its issue date;</li> <li>(c) is irrevocable prior to its specified expiry date;</li> <li>(d) can be unconditionally drawn by the Senior Loan Facility Agent on demand;</li> <li>(e) under which no Senior Obligor has any liability (including for any claims which may arise as a result of any demand being made under that letter of credit); and</li> <li>(f) is renewed at least three Months prior to its then current specified expiry date,</li> </ul> <p>and which is issued in connection with a Senior Permitted Capex Project.</p>
<b>EMMI:</b>	has the meaning given to it on page 74.
<b>Enforcement Action</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) in relation to any Liabilities:</li> </ul>

- (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Senior Facility Creditor or a Mezzanine Facility Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Common Secured Debt Documents);
  - (ii) the making of any declaration that any Liabilities are payable on demand;
  - (iii) the making of a demand in relation to a Liability that is payable on demand;
  - (iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities of that member of the Group;
  - (v) the exercise of any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability); and
  - (vi) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group to recover any Liabilities;
- (b) the taking of any steps:
  - (i) to enforce or require the enforcement of any Common Transaction Security; or
  - (ii) to realise any Charged Property (in lieu of enforcement) in any manner available in the relevant jurisdiction or market (including any arrangement by way of cold administration or private sale);
- (c) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities other than pursuant to any netting or set-off of Subordinated Loans under the Common Terms Agreement or the Mezzanine Facility Agreement provided that:
  - (i) the netting and set-off is made in the ordinary course of dealings between the relevant Obligor and creditor of such liabilities; and
  - (ii) such netting or set-off does not breach the terms of the Senior Finance Documents;
- (d) other than as part of a consent, waiver or amendment

permitted under the Intercreditor Agreement, the entering into of any composition, compromise, assignment or arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities;

- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding-up, dissolution, administration or reorganisation of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or any analogous procedure or step in any jurisdiction; or
- (f) the making of a call under an Eligible Letter of Credit (Capex) in respect of an Obligor,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraph (a)(vi) or (e) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; or
- (ii) a Mezzanine Facility Creditor bringing legal proceedings against any person solely for the purpose of:
  - (A) obtaining injunctive relief (or any analogous remedy outside of England and Wales) to restrain any actual or putative breach of any Common Secured Debt Document to which it is party;
  - (B) obtaining specific performance (or any analogous remedy outside of England and Wales) (other than specific performance of an obligation to make a payment) with no claim for damages; or
  - (C) requesting action for a declaratory judgment (or any analogous remedy outside of England and Wales) in respect of any provision of any Common Secured Debt Document to which it is party with no claim for damages.

**English Companies Act:** means the Companies Act 2006 of England and Wales (as amended).

**English Law Security** has the meaning given to it on page 16.

**Agreement:**

**Environment:** means all gases, air, vapours, liquids, water, land, surface and sub-surface soils, rock, flora, fauna, wetlands and all other natural resources or part thereof including artificial or manmade buildings, structures or enclosures, humans, animals and all other living organisms.

**Environmental Claim:** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

**Environmental DD Reports:** has the meaning given to it on page 149.

**Environmental Law:** means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

**Environmental Permit:** means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any Obligor conducted on or from any Properties.

**Equity Contribution:** means an amount which is contributed to a Pledgeco in cash by way of capital contribution (other than a capital contribution constituting Financial Indebtedness) or subscription for shares in a Pledgeco and contributed or invested (if required) by a Pledgeco directly or indirectly to another Senior Obligor by way of capital contribution (other than a capital contribution constituting Financial Indebtedness) or subscription for shares in that Senior Obligor.

**ESMA:** means European Securities and Markets Authority.

**Establishment:** means an "establishment" as that term is used in article 2(10) of the Insolvency Regulation.

**EU:** means the European Union.

**EU Member State:** means a member state of the European Union, *provided that*, in relation to matters concerning the Insolvency Regulation, references to "EU Member State" shall be deemed to exclude Denmark.

**EU Risk Retention Requirements:** has the meaning given to it on page xii.

**EURIBOR:** has the meaning given to it on page 74.

<b>EURIBOR Excess Amount:</b>	has the meaning given to it on page 28.
<b>EURIBOR Notes Cap:</b>	has the meaning given to it on page 28.
<b>EURIBOR Screen Rate:</b>	has the meaning given to it on page 334.
<b>Euroclear:</b>	has the meaning given to it on page 319.
<b>Euronext Dublin:</b>	has the meaning given to it on page i.
<b>Excess Amount:</b>	has the meaning given to it on page 252.
<b>Excess Interest:</b>	has the meaning given to it on page 217.
<b>Excluded Entity:</b>	means each of: <ul style="list-style-type: none"> <li>(a) Bel Prop 2 BVBA;</li> <li>(b) Bel Top S.à r.l.; and</li> <li>(c) Bene Trust NV,</li> </ul> in each case, including each of their Subsidiaries from time to time.
<b>Excluded Entity/Property Taxes:</b>	means any Taxes incurred in respect of: <ul style="list-style-type: none"> <li>(a) any distribution made by an Excluded Entity to any member of the Group;</li> <li>(b) any disposal of an Excluded Entity; or</li> <li>(c) any disposal of an Excluded Property.</li> </ul>
<b>Excluded French Taxes:</b>	means any amounts payable to the French Tax authorities (including, without limitation, by way of interest and penalties) as a result of 3 per cent. Property Tax (including by way of joint liability) incurred in respect of any year until (and including) 2018.
<b>Excluded Prepayment:</b>	has the meaning given to it on page 176.
<b>Excluded Property:</b>	means any real estate asset owned directly or indirectly by an Excluded Entity.
<b>Expected Note Maturity Date:</b>	has the meaning given to it on page 46.
<b>Expenses Drawing:</b>	has the meaning given to it on page 269.
<b>Expenses Shortfall:</b>	has the meaning given to it on page 268.
<b>Expropriation:</b>	means that any part of a Property is compulsorily purchased or is otherwise nationalised or expropriated or is disposed of in order to comply with an order of any agency of state, authority, other



regulatory body or any applicable law or regulation.

**Extraordinary Resolution:** means in respect of the Noteholders or any Class or Classes of Noteholders:

- (a) a resolution passed at a meeting duly convened and held in accordance with the Note Trust Deed by a majority consisting of not less than 75 per cent. of the persons voting thereat upon a show of hands or, if a poll is duly demanded, by a majority consisting of not less than 75 per cent. of the votes cast on such poll;
- (b) a Written Extraordinary Resolution (being a resolution in writing signed by or on behalf of the Noteholders of not less than 75 per cent. in aggregate Principal Amount Outstanding of the Notes, which 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 Noteholders); or
- (c) consent given by way of electronic consents through the relevant Clearing System(s) (in a form satisfactory to the Note Trustee), by or on behalf of the Noteholders holding not less than 75 per cent. in aggregate Principal Amount Outstanding of the Notes for the time being outstanding or, as the case may be, of the Notes for the time being outstanding of such Class or Classes,

and in the circumstances set out in Condition 14.18 (Negative Consent) an Extraordinary Resolution (other than in respect of (i) a Basic Terms Modification, (ii) the waiver of any Note Event of Default, (iii) the acceleration of the Notes, (iv) the enforcement of the Issuer Security or (v) the Class X Entrenched Rights) will be deemed to have been passed unless the holders of Notes outstanding constituting 25 per cent. or more in aggregate of the Principal Amount Outstanding of the Notes or, as the case may be, the Notes of the relevant Class or Classes have informed the Note Trustee in the prescribed manner of their objection to such Extraordinary Resolution within 30 days after the date on which a notice containing the text of such Extraordinary Resolution which acts as an invitation to the Noteholders or, as the case may be, the Noteholders of such Class or Classes to object to the same and details the manner in which such objections should be made has been given to the Noteholders or, as the case may be, such Class or Classes in accordance with the provisions of Condition 17 (Notice to Noteholders).

**Facility Agent Protection Payment:** has the meaning given to it on page 286.

**FATCA:** means:

- (a) Sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or

relating to an intergovernmental agreement between the United States of America and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or

- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the United States Internal Revenue Service, the government of the United States of America or any governmental or taxation authority in any other jurisdiction.

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

**FIA:** means *fonds d'investissement alternative*.

**Final Note Maturity Date:** has the meaning given to it on page 46.

**Final Recovery Determination:** means, in relation to the Securitised Senior Loan, a determination by the Special Servicer acting in accordance with the Servicing Standard, that there has been a recovery of all amounts or recoveries that, in the Special Servicer's judgement will, ultimately be recoverable with respect to the Securitised Senior Loan, such judgement to be exercised in accordance with the Servicing Standard.

**Financial Adviser:** means any:

- (a) independent internationally recognised commercial property adviser;
- (b) independent internationally recognised investment bank;
- (c) independent internationally recognised accountancy firm; or
- (d) other independent internationally recognised professional services firm which is regularly engaged in providing valuations of commercial property, businesses or financial assets or, where applicable, advising on competitive sales processes.

**Financial Code:** has the meaning given to it on page 412.

**Financial DD Report:** has the meaning given to it on page 149.

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

- (a) monies borrowed or raised and debit balances at banks or other financial institutions;
- (b) any amount raised by acceptance under any acceptance credit facility or by a bill discounting or factoring credit facility (or dematerialised equivalent);
- (c) any amount raised pursuant to any note purchase facility or

the issue of bonds, notes, debentures, loan stock or any similar instrument;

- (d) the amount of any liability in respect of any lease or hire purchase contract or other agreement which would, in accordance with the Accounting Principles, be treated as a balance sheet liability (other than any liability in respect of a lease or hire purchase contract which would, in accordance with the Accounting Principles in force prior to 1 January 2019, have been treated as an operating lease);
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) at the time of calculation shall be taken into account);
- (g) any counter indemnity obligation in respect of a guarantee, indemnity, bond, stand-by or documentary letter of credit or any other instrument issued by a bank or financial institution;
- (h) any amount raised by the issue of redeemable shares;
- (i) any amount of any liability under an advance or deferred purchase agreement if (A) one of the primary reasons behind entering into the agreement is to raise finance or (B) the agreement is in respect of the supply of assets or services and payment is due more than 180 days past the period customarily allowed by the relevant supplier to its customers generally for deferred payment;
- (j) any arrangement pursuant to which an asset sold or otherwise disposed of by an Obligor may be re-acquired by an Obligor (whether following the exercise of an option or otherwise);
- (k) any amount raised under any other transaction (including any forward sale or purchase agreement sale and sale back or sale and leaseback agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing; and
- (l) (without double counting) the amount of any liability in respect of any guarantee or indemnity or similar assurance against loss for any of the items referred to in the preceding paragraphs of this definition and any agreement to maintain the solvency of any person whether by investing in, lending to or purchasing the assets of such person.

**Financial Institution:** has the meaning given to it in the CRS.

**Financial Quarter:** means each three-Month period expiring on 31 March, 30 June, 30

September and 31 December in each year.

**Financial Quarter Date:** means the last day of each Financial Quarter.

**Financial Year:** means each 12-Month period (or shorter period in respect of the first financial year of any Senior Obligor or Mezzanine Obligor) expiring on 31 December in each year.

**Financing Costs:** means all fees, costs and expenses and stamp, transfer, registration, notarial and other Taxes incurred by a member of the Group directly or indirectly in connection with the Senior Finance Documents and the Mezzanine Finance Documents.

**First Extended Expected Note Maturity Date:** has the meaning given to it on page 46.

**First Mezzanine Loan Extended Repayment Date:** means the third anniversary of the first Mezzanine Loan Payment Date.

**First Mezzanine Loan Extension Option Conditions:** means each of the following conditions:

- (a) the Mezzanine Company has submitted a Mezzanine Loan Extension Option Notice on any day during the First Mezzanine Loan Extension Option Period;
- (b) on the date of delivery to the Mezzanine Loan Facility Agent of the Mezzanine Loan Extension Option Notice and on the Mezzanine Initial Repayment Date, no Mezzanine Loan Default is continuing under the Mezzanine Facility Agreement; and
- (c) on or prior to the Mezzanine Initial Repayment Date:
  - (i) the Mezzanine Company has confirmed that, unless the Senior Loan has been repaid in full, the repayment date under the Common Terms Agreement will be extended to a date no earlier than the First Mezzanine Loan Extended Repayment Date; and
  - (ii) Hedge Documents are entered into that comply with the provisions of the Mezzanine Facility Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Mezzanine Facility Agreement are complied with, in each case, in respect of the period from the Mezzanine Initial Repayment Date to the First Mezzanine Loan Extended Repayment Date.

**First Mezzanine Loan Extension Option Period:** means the period commencing on the date falling 90 days prior to the Mezzanine Initial Repayment Date and ending on the date falling 30 days prior to the Mezzanine Initial Repayment Date.

**First Senior Loan** means the third anniversary of the first Senior Loan Payment Date.

**Extended Repayment Date:**

**First Senior Loan Extension Option:**

means the Senior Company's first option to extend the Senior Loan Maturity Date by one additional year which is exercised by satisfying the First Senior Loan Extension Option Conditions.

**First Senior Loan Extension Option Conditions:**

means each of the following conditions:

- (a) the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the First Senior Loan Extension Option Period;
- (b) on the date of delivery to the Senior Loan Facility Agent of the Senior Loan Extension Option Notice and on the Senior Initial Repayment Date, no Senior Loan Default is continuing under the Common Terms Agreement; and
- (c) on or prior to the Senior Initial Repayment Date:
  - (i) the Senior Company has confirmed that, unless the Mezzanine Loan has been repaid in full, the repayment date under the Mezzanine Facility Agreement will be extended to a date no earlier than the First Senior Loan Extended Repayment Date; and
  - (ii) Hedge Documents are entered into that comply with the provisions of the Common Terms Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Common Terms Agreement are complied with, in each case, in respect of the period from the Senior Initial Repayment Date to the First Senior Loan Extended Repayment Date.

**First Senior Loan Extension Option Period:**

means the period commencing on the date falling 90 days prior to the Senior Initial Repayment Date and ending on the date falling 30 days prior to the Senior Initial Repayment Date.

**Fitch:**

has the meaning given to it on page iv.

**Fitch Criteria:**

means the Structured Finance and Covered Bonds Counterparty Rating Criteria published by Fitch and dated May 2017 for the purposes of determining compliance in respect of an issuance of notes with a long-term rating of AAA by Fitch.

**Fixtures:**

means fixtures, fittings (other than fixtures and fittings of any lessee, licensee or other occupier under any Occupational Lease and trade fixtures and fittings) and fixed plant, machinery and apparatus, including any *Zubehör*.

**Franklin Legal DD Report:**

has the meaning given to it on page 150.

**French Civil Code:**

means the *Code civil*.

<b>French Commercial Code:</b>	means the <i>Code de commerce</i> .
<b>French Environmental Code:</b>	means the <i>Code de l'environnement</i> .
<b>French Facility Agreement:</b>	has the meaning given to it on page 6.
<b>French Insurance Code:</b>	means the <i>Code des assurances</i> .
<b>French Labour Code:</b>	means the <i>Code du travail</i> .
<b>French Land and Charges Registry:</b>	means the <i>Service de la Publicité Foncière</i> .
<b>French Law Security Agreement:</b>	has the meaning given to it on page 16.
<b>French Loan:</b>	means the French loan granted under the French Facility Agreement.
<b>French Mandatory Prepayment Shortfall Amount:</b>	<p>means, in respect of any mandatory prepayment referred to in the Common Terms Agreement made by a French Senior Borrower, an amount equal to:</p> <ul style="list-style-type: none"> <li>(a) (i) the Senior Permitted Land Plot Disposal Prepayment Proceeds, (ii) the Senior Permitted Property Disposal Prepayment Proceeds, (iii) the Senior Expropriation Prepayment Proceeds, (iv) the Senior Insurance Prepayment Proceeds or (v) the Senior Recovery Prepayment Proceeds, as applicable, received by that French Senior Borrower which, if such amount had been received by a Senior Borrower other than a French Senior Borrower, would have been required to have been applied by such other Senior Borrower in prepayment of the Senior Loan in accordance with the order of application provisions of the Common Terms Agreement; less</li> <li>(b) the amount paid by that French Senior Borrower in accordance with the order of application provisions of the Common Terms Agreement.</li> </ul>
<b>French Master Receivables Security Assignment Agreement:</b>	has the meaning given to it on page 412.
<b>French Non-OPCI Borrower:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) Foncière Trinité Dix Neuf SCI; or</li> <li>(b) Foncière Trinité Vingt et Un SCI.</li> </ul>
<b>French Property:</b>	means each property described in Part 1 (The French Properties) of Appendix 2 (The Properties).

<b>French Property Management Agreement:</b>	means each Property Management Agreement which relates to one or more of the French Properties.
<b>French Property Manager:</b>	has the meaning given to it on page 143.
<b>French Receivables:</b>	has the meaning given to it on page 412.
<b>French Senior Borrowers:</b>	has the meaning given to it on page 9.
<b>French Senior Guarantor:</b>	means each Senior Guarantor incorporated under the laws of France.
<b>French Senior Holdco:</b>	means each Senior Holdco incorporated under the laws of France.
<b>French Senior Obligor:</b>	means any Senior Obligor incorporated under the laws of France.
<b>French SPPICAV:</b>	means each of: <ul style="list-style-type: none"> <li>(a) Mistral Properties 1 SPPICAV;</li> <li>(b) Mistral Properties 2 SPPICAV; and</li> <li>(c) Aberdonia Properties SPPICAV.</li> </ul>
<b>French Tax Code:</b>	means the <i>Code général des impôts</i> .
<b>FSMA:</b>	means the Financial and Services and Markets Act 2000.
<b>FTT:</b>	has the meaning given to it on page 72.
<b>German Account Pledge Agreement:</b>	has the meaning given to it on page 155.
<b>German Civil Code:</b>	means the <i>Bürgerliches Gesetzbuch</i> .
<b>German Creditor's Avoidance of Transfer Act:</b>	means the <i>Anfechtungsgesetz</i> .
<b>German Custody Act:</b>	means the <i>Depotgesetz</i> .
<b>German Existing Land Charge:</b>	means any land charge ( <i>Grundschild</i> ) or mortgage ( <i>Hypothek</i> ) (other than any German New Land Charge) registered in a land register pertaining to a German Property at the Senior Utilisation Date.
<b>German Forced Administration and Forced Sale Act:</b>	means the <i>Gesetz über die Zwangsversteigerung und die Zwangsverwaltung</i> .
<b>German Global Assignment Agreement:</b>	means a German law global assignment agreement between the Luxembourg Senior Borrowers and the Common Security Agent creating a Security over such Luxembourg Senior Borrower's claims for disposal proceeds in relation to their Properties and other monetary claims.
<b>German Heritable</b>	means the <i>Erbbaurechtsgesetz</i> .

**Building Rights Code:**

**German Insolvency Code:** means the *Insolvenzordnung*.

**German Law Security Agreements:** has the meaning given to it on page 17.

**German New Land Charge:** means each agreed immediately enforceable land charge (*Grundschild*) or comprehensive land charge (*Gesamtgrundschild*) in the agreed amount with 16 per cent. interest and 10 per cent. one-time ancillary payment encumbering each German Property in favour of the Common Security Agent, together with an assumption of personal liability (*Übernahme der persönlichen Haftung*) by the relevant Senior Obligor and submission to immediate enforceability (*Unterwerfung unter die sofortige Zwangsvollstreckung*) in an amount equal to 100 per cent. of (a) the relevant nominal amount of such land charge, (b) interest and (c) one-time ancillary payment, and including an assignment of any claims for restitution (*Rückgewähransprüche*) in respect of prior or equal ranking mortgages (*vor- oder gleichrangige Grundpfandrechte*).

**German Property:** means each property described in Part 2 (The German Properties) of Appendix 2 (The Properties).

**German Property Company:** means each Senior Borrower that is the owner of a Property located in Germany.

**German Property Management Agreement:** means each Property Management Agreement which relates to one or more of the German Properties.

**German Property Manager:** has the meaning given to it on page 143.

**German Rental Assignment Agreement:** has the meaning given to it on page 156.

**German Security Agreement:** has the meaning given to it on page 318.

**German Security Trust Accession Agreement:** means the accession agreement dated on or about the Closing Date between the Issuer and the Common Security Agent under which the Issuer accedes to the German Security Trust Agreement.

**German Security Trust Agreement:** has the meaning given to it on page 156.

**German Supreme Court:** means the *Bundesgerichtshof*.

**German VAT:** means any VAT imposed by a Tax Authority in Germany.

**Global Exchange Market:** has the meaning given to it on page i.

**Global Note:** has the meaning given to it on page 319.

**Grace Period:** means, in respect of a Curable Default, the period commencing on the



date of the Mezzanine Cure Notification in respect of that Curable Default and ending on the date falling 15 Business Days after the date of that Mezzanine Cure Notification.

<b>GRI:</b>	has the meaning given to it on page 138.
<b>Group:</b>	means each Pledgeco and each of their respective Subsidiaries from time to time (excluding each Excluded Entity).
<b>Guarantee Liabilities:</b>	means, in respect of any Obligor, any liabilities and obligations (not being Borrowing Liabilities and including, without limitation, any liabilities and limitations arising by way of guarantee, indemnity, contribution or subrogation) which that Obligor may owe as a guarantor or surety to a Creditor or another Obligor in respect of any Financial Indebtedness incurred under any Debt Document (whether incurred solely or jointly).
<b>Hague Trusts Convention:</b>	has the meaning given to it on page 97.
<b>Hazardous Substance:</b>	means any waste, pollutant, emission, contaminant or other substance (including any liquid, solid, gas, ion, living organism or noise) that may be harmful to human health or other life or the Environment or a nuisance to any person or that may make the use or ownership of any affected land or property more costly.
<b>Head Lease:</b>	means a lease, if any, pursuant to which title to a Property is vested in a Senior Borrower (including any ground lease).
<b>Hedge Counterparty:</b>	means any bank or financial institution party to a Hedge Document, including, but not limited to, any entity which provides a guarantee of the obligations of that bank or financial institution under another Hedge Document.
<b>Hedge Document</b>	means each of the present or future documents entered into by, or in favour of, any Senior Obligor evidencing or relating to the hedging transactions referred to in the section titled " <i>Description of the Common Terms Agreement – Hedging – Hedging requirements</i> ", including, but not limited to, any guarantee or similar instrument granted or to be granted in favour of any Senior Obligor in respect of the counterparty's obligation under any such hedging transaction.
<b>Hedge Downgrade Event:</b>	means a Hedge Counterparty ceasing to have the relevant Required Rating.
<b>Hedged ICR:</b>	means, on any date, the ratio of Net Rental Income (for the Relevant Period ending on the Financial Quarter Date falling immediately prior to that date) to the sum of all interest under the Common Terms Agreement which shall be payable by the Senior Obligors to the Senior Finance Parties under the Senior Finance Documents (for the Relevant Period commencing on the Financial Quarter Date falling immediately prior to that date) assuming that EURIBOR is equal to the proposed hedging cap rate to meet the requirements of the hedging provisions of the Common Terms Agreement (which must not be more than the maximum cap strike rate permitted pursuant to hedging

provisions of the Common Terms Agreement).

<b>Hedging Agreement:</b>	means each of the present or future documents entered into by a Senior Obligor and a Hedge Counterparty evidencing or relating to the hedging arrangements referred to in the Common Terms Agreement.
<b>Hedging Arrangement:</b>	means any interest rate hedging arrangements entered into by the Senior Company in accordance with the hedging arrangements referred to in the Common Terms Agreement.
<b>Hedging Document:</b>	has the same meaning as Hedging Agreement.
<b>Hedging Obligor:</b>	has the meaning given to it on page 264.
<b>Hengeler Legal DD Report:</b>	has the meaning given to it on page 150.
<b>Heritable Building Right:</b>	means an alienable and inheritable right <i>in rem</i> to erect and own a building on a plot of land ( <i>Erbbaurecht</i> ) according to the German Heritable Building Rights Code (including any condominium/partial heritable building right ( <i>Wohnungs-/Teilerbbaurecht</i> )) and, where the context so requires, includes the buildings on that plot of land.
<b>Hogan Lovells Report:</b>	has the meaning given to it on page 150.
<b>Hogan Lovells Report on Title:</b>	has the meaning given to it on page 150.
<b>Holding Company:</b>	means, in relation to a person (the <b>First Person</b> ), any person in respect of which the First Person is a Subsidiary.
<b>Houten Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>ICPE:</b>	has the meaning given to it on page 108.
<b>IFRS:</b>	means International Financial Reporting Standards.
<b>IJsselstein Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Illegal Senior Lender:</b>	means any Senior Lender for whom it has become unlawful in any applicable jurisdiction (including where such unlawfulness arises as a result of the application of Sanctions) to perform any of its obligations as contemplated by the Common Terms Agreement or the French Facility Agreement to make, fund, issue or maintain its participation in any Senior Loan.
<b>Incentive Fee:</b>	has the meaning given to it on page 147.

<b>Increased Cost Senior Lender:</b>	<p>means a Senior Lender:</p> <ul style="list-style-type: none"> <li>(a) to whom any Senior Obligor becomes obligated to pay any amount pursuant to the illegality, tax gross up and indemnities and increased costs provisions of the Common Terms Agreement;</li> <li>(b) that has made, or is part of a group of Senior Lenders that has made, a notification to the Senior Loan Facility Agent pursuant to the market disruption provisions of the Common Terms Agreement; or</li> <li>(c) to which any amount payable by a Senior Obligor established in France under a Senior Finance Document is not (or will not be when the relevant corporate income tax is calculated) deductible from that Senior Obligor's taxable income for French Tax purposes by reason of that amount being (i) paid or accrued to a Senior Lender incorporated, domiciled, established or acting through a Senior Facility Office situated in a Non-Co-operative Jurisdiction or (ii) paid to an account opened in the name of or for the benefit of a Senior Lender in a financial institution situated in a Non-Co-operative Jurisdiction.</li> </ul>
<b>Initial Consideration:</b>	has the meaning given to it on page 160.
<b>Initial Expected Note Maturity Date:</b>	has the meaning given to it on page 46.
<b>Initial Investor:</b>	means any fund, partnership and/or other entity managed, advised, owned and/or controlled by The Blackstone Group L.P. and/or any of its Affiliates.
<b>Initial Issuer Reserve Amount:</b>	means an amount equal to €150,000.
<b>Initial Mezzanine LTV:</b>	means the proportion, expressed as a percentage, which the sum of (i) the aggregate principal amount outstanding of the Mezzanine Loans on the Mezzanine Utilisation Date and (ii) the aggregate principal amount outstanding of the Senior Loan on the Senior Utilisation Date bears to the aggregate Market Valuation of the Properties calculated by reference to the Initial Valuation.
<b>Initial Property Management Agreement:</b>	means any agreement between a Propco and a Senior Permitted Property Manager or Mezzanine Permitted Property Manager (as applicable) in relation to the management and maintenance of any Properties delivered to the Senior Loan Facility Agent as a condition subsequent under the Common Terms Agreement or the Mezzanine Loan Facility Agent as a condition subsequent under the Mezzanine Facility Agreement (as applicable).
<b>Initial Sauvegarde Garantie:</b>	means the guarantee dated on or about the Senior Utilisation Date granted by, among others, Onyx Topco S.à r.l. in favour of the

Common Security Agent delivered on or prior to the Senior Utilisation Date pursuant to the conditions subsequent provisions of the Common Terms Agreement.

**Initial Senior LTV:** means the proportion, expressed as a percentage, which the aggregate principal amount outstanding of the Senior Loan on the Senior Utilisation Date bears to the aggregate Market Valuation of the Properties calculated by reference to the Initial Valuation.

**Initial Valuation:** means the valuation report dated on or about 11 September 2018 prepared by Cushman & Wakefield in relation to the Properties delivered on or prior to the Senior Utilisation Date pursuant to the Common Terms Agreement.

**Initiating Noteholder:** has the meaning given to it on page 317.

**Insolvency Act:** means the Insolvency Act 1986 of England and Wales (as amended).

**Insolvency Event:** means the occurrence of any of the following events:

- (a) such company is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or, in the case of the Issuer, Section 509(3) and Section 570 of the Irish Companies Act or equivalent legislation in any applicable jurisdiction; or
- (b) such company admits it is or becomes unable to pay its debts as they fall due; or
- (c) the value of the assets of such company falls to less than the amount of its liabilities; or
- (d) such company otherwise becomes insolvent; or
- (e) the initiation of or consent to insolvency proceedings by such company or any other person or the presentation of a petition or application for the making of an administration or examinership order; or
- (f) the giving of notice of appointment of an administrator or examiner or the making of an administration or examinership order or an administrator or examiner being appointed in relation to such company; or
- (g) an encumbrancer (excluding, in relation to the Issuer, the Issuer Security Trustee or any receiver) taking possession of the whole or any substantial part of the undertaking or assets of such company; or
- (h) any distress, execution, attachment, diligence or other process being levied or enforced or imposed upon or against the whole or any substantial part of the undertaking or assets of such company (excluding, in relation to the Issuer, by the Issuer Security Trustee or any receiver) and such order,

appointment, possession or process (as the case may be) not being discharged or otherwise ceasing to apply within 30 days; or

- (i) the making of an arrangement, composition, scheme of arrangement, reorganisation with or conveyance to or assignment for the creditors of such company generally or the making of an application to a court of competent jurisdiction for protection from the creditors of such company generally; or
- (j) such company has exercised in respect of it one or more of the stabilisation powers pursuant to Part 1 of the Banking Act 2009 and/or has instituted against it a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 or a bank administration proceeding pursuant to Part 3 of the Banking Act 2009; or
- (k) the passing by such company of an effective resolution or the making of an order by a court of competent jurisdiction for the winding-up, liquidation or dissolution of such company (except, in the case of the Issuer, a winding-up for the purpose of a merger, reorganisation or amalgamation the terms of which have previously been approved by an Extraordinary Resolution of the holders of the Most Senior Class of Notes then outstanding); or
- (l) the appointment of an insolvency official in relation to such company or in relation to the whole or any substantial part of the undertaking or assets of such company (excluding, in relation to the Issuer, a receiver); or
- (m) any equivalent or analogous event or circumstances under the law of the jurisdiction in which such company is incorporated or of a jurisdiction in which such company carries on business.

**Insolvency Proceedings:** has the meaning given to it on page 103.

**Insolvency Regulation:** means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

**Instructing Group:** means, at any time:

- (a) prior to the Senior Discharge Date, the Senior Majority Lenders; and
- (b) on or after the Senior Discharge Date and prior to the Mezzanine Discharge Date, the Mezzanine Majority Lenders.

**Insurance Guarantee:** means the insurance guarantee dated 19 September 2018 between Onyx Topco S.à r.l., Onyx German Super Topco S.à r.l. and Onyx Investment Super Topco S.à r.l. as guarantors and the Common Security Agent as beneficiary delivered to the Senior Loan Facility

Agent and the Mezzanine Loan Facility Agent on or prior to the Senior Utilisation Date or the Mezzanine Utilisation Date (as applicable) pursuant to the Common Terms Agreement and the Mezzanine Facility Agreement.

<b>Insurance Mediation Directive:</b>	has the meaning given to it on page viii.
<b>Insurance Policy:</b>	means any policy of insurance or assurance which an Obligor may at any time have an interest entered into in accordance with the insurance provisions of the Common Terms Agreement or the Mezzanine Facility Agreement (as applicable).
<b>Intercreditor Agreement:</b>	means the intercreditor agreement dated 19 September 2018 between, among others, the Senior Company, the Senior Loan Facility Agent, the Mezzanine Loan Facility Agent, the Common Security Agent and the Mezzanine Security Agent.
<b>Interest:</b>	has the meaning given to it on page 241.
<b>Interest Amount:</b>	has the meaning given to it on page 336.
<b>Interest Determination Date:</b>	has the meaning given to it on page 47.
<b>Interest Drawing:</b>	has the meaning given to it on page 269.
<b>Interest Rate Cap Agreement:</b>	has the meaning given to it on page 264.
<b>Interest Rate Cap Confirmation:</b>	has the meaning given to it on page 264.
<b>Interest Rate Cap Transaction:</b>	has the meaning given to it on page 264.
<b>Interest Shortfall:</b>	has the meaning given to it on page 268.
<b>Interim Holding Accounts:</b>	has the meaning given to it on page 179.
<b>Investment Company Act:</b>	has the meaning given to it on page ii.
<b>Investor:</b>	means a Senior Investor or a Mezzanine Investor.
<b>Investor Affiliate:</b>	means a Senior Investor or a Mezzanine Investor, each of its Affiliates, any trust of which a Senior Investor or a Mezzanine Investor or any of its Affiliates is a trustee, any partnership of which a Senior Investor or a Mezzanine Investor or any of its Affiliates is a partner and any trust, fund or other entity which is managed by, or is under the control of, a Senior Investor or a Mezzanine Investor or any of its Affiliates <b>provided that</b> any trust, fund or other entity (other than any trust, fund or other entity in the real estate business segment of the Senior Investors or the Mezzanine Investors) which has been established solely for the purpose of making, purchasing or investing

in loans or debt securities and which is managed or controlled independently from all other trusts, funds or other entities managed or controlled by a Senior Investor or a Mezzanine Investor which have been established for the primary or main purpose of investing in the share capital of companies shall not constitute an Investor Affiliate.

<b>Ireland IGA:</b>	means the intergovernmental agreement between the Governments of Ireland and the United States in relation to the implementation of FATCA in Ireland.
<b>Irish Companies Act:</b>	means the Companies Act 2014 (as amended) of Ireland.
<b>Irish FATCA Regulations:</b>	has the meaning given to it on page 442.
<b>Irish Revenue Commissioners:</b>	means the Revenue Commissioners of Ireland.
<b>Irrecoverable Service Charge Expenses:</b>	<p>means any amount (in each case, including any VAT paid in respect thereof):</p> <ul style="list-style-type: none"> <li>(a) in respect of any management, maintenance, insurance, repair or similar expense or in respect of the provision of services relating to any Property to the extent that such amount is not recoverable from a tenant; or</li> <li>(b) which any Senior Obligor is obliged to discharge in respect of any unlet part of any Property or in respect of any shortfall in Service Charge Proceeds,</li> </ul> <p>other than, in each case, any amount (i) which is funded by a Senior Obligor from a Senior General Account, (ii) in respect of asset management fees or any corporation or other tax on income or profits or (iii) that is recoverable under any Insurance Policy.</p>
<b>ISDA Master Agreement:</b>	means the 1992 ISDA Master Agreement (Multicurrency – Cross-Border) or the 2002 ISDA Master Agreement (Multicurrency – Cross-Border).
<b>Issuer:</b>	has the meaning given to it on page i.
<b>Issuer Account Bank:</b>	means, as at the Closing Date, Elavon Financial Services Limited, UK Branch, in its capacity as the Issuer Account Bank under the Issuer Account Bank Agreement.
<b>Issuer Account Bank Agreement:</b>	means the issuer account bank agreement to be entered into on or about the Closing Date by, among others, the Issuer, the Issuer Cash Manager, the Issuer Account Bank and the Issuer Security Trustee.
<b>Issuer Account Bank Minimum Required Ratings:</b>	has the meaning given to it on page 248.
<b>Issuer Accounts:</b>	means the Issuer Transaction Account, the Issuer Proceeds Account, the Class X Account, DB Issuer Stand-by Account, SG Issuer Stand-

by Account and any other bank account which the Issuer has an interest in from time to time (as permitted under the Issuer Transaction Documents).

<b>Issuer Assets:</b>	has the meaning given to it on page 306.
<b>Issuer Cash Manager:</b>	means Elavon Financial Services Limited, UK Branch, in its capacity as Issuer Cash Manager under the Cash Management Agreement.
<b>Issuer Cash Manager Quarterly Report:</b>	has the meaning given to it on page 246.
<b>Issuer Charged Documents:</b>	means the Issuer Transaction Documents and the Senior Finance Documents to which the Issuer is a party and all other contracts, documents, agreements and deeds to which it is, or may become, a party (other than the Issuer Deed of Charge and the Note Trust Deed).
<b>Issuer Charged Property:</b>	means all the property of the Issuer which is subject to the Issuer Security.
<b>Issuer Deed of Charge:</b>	has the meaning given to it on page 318.
<b>Issuer Intercreditor Accession Deed:</b>	means the accession deed to the Intercreditor Agreement entered into on or about the Closing Date by the Issuer, the Common Security Agent and the Senior Loan Facility Agent.
<b>Issuer Priorities of Payments:</b>	means as applicable, the Pre-Enforcement Priority of Payments and/or the Post-Enforcement Priority of Payments.
<b>Issuer Priority Expenses:</b>	means, with respect to any Note Payment Date, the aggregate of the sum of all amounts due in accordance with items (a) to (e) of the Pre-Enforcement Priority of Payments (including, but without double counting, any relevant Issuer Priority Payments).
<b>Issuer Priority Payments:</b>	has the meaning given to it on page 257.
<b>Issuer Proceeds Account:</b>	means a segregated bank account held by the Issuer in the Issuer's name for the purpose of holding, <i>inter alia</i> , the proceeds of the issued share capital of the Issuer and receiving the Issuer's Profit to be retained by the Issuer and any other replacement account established from time to time for such purpose.
<b>Issuer Related Parties:</b>	means each of the Servicer, the Special Servicer, the Issuer Cash Manager, the Issuer Account Bank, the Liquidity Facility Providers, the Agent Bank, the Principal Paying Agent, any Paying Agent, the Note Trustee (and any Appointee thereof), the Issuer Security Trustee (and any receiver appointed pursuant to the Issuer Deed of Charge or any other Appointee thereof), the Registrar, the Corporate Services Provider, the Deferred Consideration Holders.
<b>Issuer Reserve Amount:</b>	means:  (a) (subject to paragraph (b)) on each Note Payment Date, an amount up to €150,000; and



	(b) on the date on which the Notes are redeemed in full, zero.
<b>Issuer Reserve Ledger:</b>	means the ledger of that name maintained by the Issuer Cash Manager in the Issuer Transaction Account.
<b>Issuer Secured Creditors:</b>	has the meaning given to it on page 326.
<b>Issuer Secured Liabilities:</b>	means all present and future monies, obligations and liabilities (whether actual or contingent) incurred or otherwise payable by or on behalf of the Issuer to the Issuer Secured Creditors under the Notes and the other Issuer Transaction Documents (including payments of interest on and repayments of principal in respect of the Notes).
<b>Issuer Security:</b>	has the meaning given to it on page 315.
<b>Issuer Security Documents:</b>	has the meaning given to it on page 318.
<b>Issuer Security Trustee:</b>	has the meaning given to it on page 318.
<b>Issuer Transaction Account:</b>	means an account so designated in the name of the Issuer opened with the Issuer Account Bank pursuant to the Issuer Account Bank Agreement.
<b>Issuer Transaction Documents:</b>	means any of the following documents and any amendments thereto from time to time: <ul style="list-style-type: none"> <li>(a) the Note Trust Deed;</li> <li>(b) the Issuer Deed of Charge;</li> <li>(c) the German Security Agreement;</li> <li>(d) the Servicing Agreement;</li> <li>(e) the Cash Management Agreement;</li> <li>(f) the Issuer Account Bank Agreement;</li> <li>(g) the Liquidity Facility Agreements;</li> <li>(h) the Corporate Services Agreement;</li> <li>(i) the Common Terms Agreement and each Senior Finance Document the Issuer is a party to;</li> <li>(j) the Securitised Senior Loan Sale Documents;</li> <li>(k) the Master Definitions Schedule;</li> <li>(l) the Agency Agreement; and</li> <li>(m) any other document designated as such by the Issuer and the Issuer Security Trustee.</li> </ul>

<b>Issuer's Profit:</b>	means an amount equal to €1,000 per annum.
<b>KYC List:</b>	means a definitive list of information which is (as at the date on which it is delivered) required to be delivered by a Senior Facility Creditor in order to enable an Approved Person or Approved Persons to comply with the know your customer requirements of that Senior Facility Creditor for the purposes of an Acquisition.
<b>Land Plot:</b>	<p>means any Property that is either:</p> <ul style="list-style-type: none"> <li>(a) not listed in Appendix 2 (The Properties); or</li> <li>(b) any Property Portion,</li> </ul> <p>and in each case that consists of unimproved land with no building on it.</p>
<b>LC Amount:</b>	has the meaning given to it on page 268.
<b>Lead Managers:</b>	means Deutsche Bank AG, London Branch and Société Générale AG, London Branch.
<b>Lease:</b>	means any present or future lease, under lease, sub-lease, licence, tenancy or other right to occupy or use all or any part of any Property, any right to receive rent or other income in respect of all or any part of any Property and any agreement for the grant of any of the foregoing.
<b>Lease Document:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) an Agreement for Lease;</li> <li>(b) an Occupational Lease; or</li> <li>(c) any other document designated as such by the Senior Loan Facility Agent and the Senior Company.</li> </ul>
<b>Legal DD Reports:</b>	has the meaning given to it on page 150.
<b>Legal Reservations:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the principle that equitable or discretionary remedies (or remedies that are similar or equivalent to equitable remedies in any Relevant Jurisdiction) may be granted or refused at the discretion of a court, the limitation of enforcement by laws relating to insolvency, reorganisation, liquidation, bankruptcy, moratoria, administration, court schemes and other laws generally affecting the rights of creditors and similar principles, rights, defences and limitations under the laws of any applicable jurisdiction;</li> <li>(b) the time barring of claims under any applicable limitation laws, the possibility that a court may strike out provisions of a contract as being invalid for reasons of oppression, undue</li> </ul>

influence or similar reasons, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void, defences of set-off or counterclaim and similar principles, rights, defences and limitations under the laws of any applicable jurisdiction;

- (c) any applicable public policy law provision and/or rules of mandatory application and any applicable provisions relating to conflict of law rules and recognition and enforcement of foreign judgments, in each case, including pursuant to EC Regulation No. 593/2008, 44/2001 (and, with regard to legal proceedings instituted on or after January 2015, pursuant to Regulation (EU) No. 1215/2012) and 864/2007; and
- (d) any other general principles, reservations or qualifications, in each case, as to matters of law in any legal opinion delivered to the Senior Loan Facility Agent under or in connection with the Senior Finance Documents.

**Lender:** means a Mezzanine Lender or a Senior Lender.

**Letting Activity:** means each of:

- (a) entering into any Agreement for Lease;
- (b) granting a new Occupational Lease;
- (c) consenting to any assignment or subletting in respect of any Occupational Lease;
- (d) consenting to any change of use in respect of any tenant's interest under any Occupational Lease;
- (e) forfeiting or exercising any right of re-entry, or exercising any option or power to break, determine or extend the term of any Occupational Lease;
- (f) accepting or permitting the surrender of all or any part of any Occupational Lease;
- (g) agreeing to any dilapidations settlement under any Occupational Lease;
- (h) granting any right to use or occupy any part of a Property;
- (i) agreeing to any rent review under an Occupational Lease (other than upward rent review); or
- (j) agreeing to any amendment, extension, supplement, variation, release or waiver in respect of any Occupational Lease.

**LF Commitment Fee:** means the commitment fee paid by the Issuer to each Liquidity Facility Provider under each Liquidity Facility Agreement.

<b>LF Relevant Event:</b>	means: <ul style="list-style-type: none"> <li>(a) a Liquidity Facility Provider ceasing to have the LF Required Rating; or</li> <li>(b) the refusal by a Liquidity Facility Provider to grant an extension of the Liquidity Facility Term Date in accordance with the extension provisions of the relevant Liquidity Facility Agreement or the failure of a Liquidity Facility Provider to respond to an extension request under the relevant Liquidity Facility Agreement within the applicable time periods.</li> </ul>
<b>LF Required Ratings:</b>	has the meaning given to it on page 270.
<b>Liabilities:</b>	means all present and future liabilities and obligations at any time of any Obligor to any Creditor under the Debt Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or guarantor or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations: <ul style="list-style-type: none"> <li>(a) any refinancing, novation, deferral or extension;</li> <li>(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;</li> <li>(c) any claim for damages or restitution; and</li> <li>(d) any claim as a result of any recovery by any Obligor of a Payment on the grounds of preference or otherwise,</li> </ul> <p>and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.</p>
<b>Liabilities Sale:</b>	means a disposal of Liabilities pursuant to the distressed disposals and appropriations provisions of the Intercreditor Agreement.
<b>LIBOR:</b>	means the London Interbank Offered Rate.
<b>Liquidation Event:</b>	means the Securitised Senior Loan is repaid in full or a Final Recovery Determination is made with respect to the Securitised Senior Loan.
<b>Liquidation Fee:</b>	has the meaning given to it on page 70.
<b>Liquidation Proceeds:</b>	means proceeds arising from any sale, which the Issuer would realise in the event of enforcement and liquidation and which shall be net of costs and expenses of sale, if any, of the Securitised Senior Loan, any

direct or indirect interest in a Senior Borrower or any part of the Property Portfolio (plus VAT, if applicable); provided that in the case of a sale of some or all of the Properties, the Special Servicer had a material role in the sale (whether directly or indirectly) including through the appointment of an administrator or receiver, following the enforcement of the security in respect of the Senior Loan (plus VAT, if applicable) which sale shall include a sale made pursuant to any solvent liquidation process that results from a consensual arrangement between the Senior Borrowers and the Servicer, or, as applicable, the Special Servicer.

<b>Liquidity Commitment:</b>	means, in aggregate, €13,500,000 (as adjusted in accordance with each Liquidity Facility Agreement, see " <i>Description of the Liquidity Facility Agreements</i> " for further details).
<b>Liquidity Drawing:</b>	has the meaning given to it on page 269.
<b>Liquidity Facilities:</b>	has the meaning given to it on page 267.
<b>Liquidity Facility Agreement:</b>	means: <ul style="list-style-type: none"> <li>(a) the liquidity facility agreement dated on or about the Closing Date entered into by, among others, the DB Liquidity Facility Provider, the Issuer, the Issuer Cash Manager and the Issuer Security Trustee; and</li> <li>(b) the liquidity facility agreement dated on or about the Closing Date entered into by, among others, the SG Liquidity Facility Provider, the Issuer, the Issuer Cash Manager and the Issuer Security Trustee.</li> </ul>
<b>Liquidity Facility Event of Default:</b>	has the meaning given to it on page 273.
<b>Liquidity Facility Provider:</b>	means each of: <ul style="list-style-type: none"> <li>(a) the DB Liquidity Facility Provider; and</li> <li>(b) the SG Liquidity Facility Provider.</li> </ul>
<b>Liquidity Facility Term Date:</b>	has the meaning given to it on page 267.
<b>Liquidity Repayment Amounts:</b>	means amounts received (on a day other than a Senior Loan Payment Date) by the Issuer under the Securitised Senior Loan representing unpaid and accrued interest.
<b>Liquidity Subordinated Amounts:</b>	has the meaning given to it on page 269.
<b>Listing:</b>	means a listing (or any other sale by way of flotation or public offering in any jurisdiction) by the Initial Investors on a Recognised Stock Exchange of all or any part of the share capital (or equivalent ownership interests) of any Pledgeco, or any Holding Company of any

	Pledgeco.
<b>Loan Default Interest:</b>	has the meaning given to it on page 251.
<b>Loan Seller Share:</b>	means the DB Loan Seller Share and/or the SG Loan Seller Share as the context may require.
<b>Loan Sellers:</b>	means each of: <ul style="list-style-type: none"> <li>(a) Deutsche Bank AG, London Branch; and</li> <li>(b) Société Générale, London Branch.</li> </ul>
<b>Loan Warranty:</b>	has the meaning given to it on page 161.
<b>Lotissement:</b>	has the meaning given to it on page 107.
<b>Loyens Legal DD Report:</b>	has the meaning given to it on page 150.
<b>Loyens VDD Report:</b>	has the meaning given to it on page 150.
<b>LTV Covenant:</b>	has the meaning given to that term on page 196.
<b>LTV Equity Cure Amount:</b>	means an amount to be deposited into the Senior Equity Cure Account or a prepayment of the Senior Loan following breach of the LTV Covenant which is sufficient (but not more than the amount required) to ensure that when taking into account such deposit or prepayment in the calculation of the Senior LTV Ratio the requirements of the LTV Covenant would be met.
<b>LTV Ratio Change of Control Test:</b>	means, for the purposes of calculating the Senior LTV Ratio, disregarding, for the purposes of determining Net Senior Debt, the amount standing to the credit of the Senior Equity Cure Account other than to the extent the Senior Company has elected (such election, if relied on for these purposes, the Senior Company agrees shall be irrevocable) that such amounts standing to the credit of the Senior Equity Cure Account shall be applied in prepayment of the Senior Loan in accordance with the equity cure account provisions of the Common Terms Agreement.
<b>Lux Dutch Propco:</b>	means IT 1 S.à r.l., a private limited liability company ( <i>société à responsabilité limitée</i> ) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L-2453 Luxembourg and registered with the Luxembourg trade and companies register ( <i>Registre de commerce et des sociétés, Luxembourg</i> ), under number B114305.
<b>Luxembourg Account Pledge:</b>	has the meaning given to it on page 156.
<b>Luxembourg Collateral Act:</b>	has the meaning given to it on page 94.
<b>Luxembourg Companies:</b>	has the meaning given to it on page 151.

<b>Luxembourg Insolvency Proceedings:</b>	has the meaning given to it on page 398.
<b>Luxembourg Law Security Agreement:</b>	has the meaning given to it on page 17.
<b>Luxembourg Security Documents:</b>	has the meaning given to it on page 151.
<b>Luxembourg Senior Borrower:</b>	has the meaning given to it on page 9.
<b>Luxembourg Senior Guarantor:</b>	means each Senior Guarantor incorporated under the laws of Luxembourg.
<b>Luxembourg Senior Obligor:</b>	means each Senior Obligor incorporated in Luxembourg.
<b>Luxembourg VAT:</b>	means any VAT imposed by a Tax Authority in Luxembourg.
<b>Major Damage:</b>	has the meaning given to it on page 212.
<b>Management Company:</b>	means the management company ( <i>société de gestion</i> ) of each of Aberdonia Properties SPPICAV, Mistral Properties 1 SPPICAV and Mistral Properties 2 SPPICAV, being Cleaveland, a company licensed <i>es qualité</i> on 1 February 2010 by the <i>Autorité des Marchés Financiers</i> under number GP-10000005, having the form of a <i>société par actions simplifiée</i> whose registered office is at 35 Boulevard des Capucines, 75002 Paris, registered with the Commercial and Companies Registry of Paris under number 481 118 123, or any successor of such company duly approved by the <i>Autorité des Marchés Financiers</i> .
<b>Management Fee:</b>	has the meaning given to it on page 147.
<b>Margin Factor:</b>	has the meaning given to it on page 252.
<b>Market Valuation:</b>	means a valuation of each Property carried out on a "market value" basis (as defined in the then current Statements of Assets Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors (or its successors)).
<b>Master Definitions Schedule:</b>	has the meaning given to it on page 319.
<b>Material Adverse Effect:</b>	means a material adverse effect on: <ul style="list-style-type: none"> <li>(a) the consolidated business, assets or financial condition of the Senior Obligors taken as a whole;</li> <li>(b) the ability of the Senior Obligors taken as a whole to perform their payment obligations under the Senior Finance Document; or</li> </ul>

	(c) subject to the Legal Reservations and the Perfection Requirements, the validity or enforceability of the Common Transaction Security.
<b>Material Breach of Loan Warranty:</b>	has the meaning given to it on page 165.
<b>MEP:</b>	has the meaning given to it on page 108.
<b>Mezzanine Acceleration Event:</b>	means the Mezzanine Loan Facility Agent exercising any of its rights under the Mezzanine Facility Agreement to accelerate the Mezzanine Loans in accordance with the terms of the Mezzanine Facility Agreement.
<b>Mezzanine Allocated Loan Amount:</b>	means, in relation to a Property, the amount of the Mezzanine Loan allocated to that Property as specified in the Mezzanine Facility Agreement.
<b>Mezzanine Borrower:</b>	means each of: <ul style="list-style-type: none"> <li>(a) Spear Mezzco S.à r.l., a private limited liability company (<i>société à responsabilité limitée</i>) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L 2453 Luxembourg being registered with the Luxembourg trade and companies register (<i>Registre de commerce et des sociétés, Luxembourg</i>) in Luxembourg under number B224476;</li> <li>(b) Spear German 2018 Mezzco S.à r.l., a private limited liability company (<i>société à responsabilité limitée</i>) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L 2453 Luxembourg being registered with the Luxembourg trade and companies register (<i>Registre de commerce et des sociétés, Luxembourg</i>) in Luxembourg under number B224537; and</li> <li>(c) Spear Investment 2018 Mezzco S.à r.l., a private limited liability company (<i>société à responsabilité limitée</i>) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L 2453 Luxembourg being registered with the Luxembourg trade and companies register (<i>Registre de commerce et des sociétés, Luxembourg</i>) in Luxembourg under number B224601.</li> </ul>
<b>Mezzanine Borrower Intercompany Loan:</b>	means a loan or other indebtedness which is advanced to a Senior Company as borrower by a Mezzanine Borrower as lender under an intercompany loan or other indebtedness agreement.
<b>Mezzanine Borrower Liabilities:</b>	means all liabilities owed by a Senior Company to a Mezzanine Borrower under any Mezzanine Borrower Intercompany Loan.



**Mezzanine Change of Control:**

means:

- (a) prior to an Approved Person or Approved Persons acquiring control of the Mezzanine Borrowers or the Pledgecos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement, Permitted Holders cease to Control any Mezzanine Holdco unless (in the case of the Initial Investors only) such cessation of Control results directly or indirectly from a Listing;
- (b) prior to an Approved Person or Approved Persons acquiring control of the Mezzanine Borrowers or the Pledgecos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement, the Mezzanine Holdcos (taken together) cease to Control a Mezzanine Borrower or the Mezzanine Borrowers (taken together) cease to Control a Pledgeco;
- (c) on and from the date on which an Approved Person or Approved Persons acquire Control of the Mezzanine Borrowers in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement:
  - (i) such Approved Person or Approved Persons cease to Control any Mezzanine Borrower;
  - (ii) the Mezzanine Borrowers (taken together) cease to Control any Pledgeco; or
  - (iii) the same person or persons exercising Control over or managing (as applicable) the relevant Approved Person or Approved Persons as at the date that such Approved Person or Approved Persons acquired control of the Mezzanine Borrowers ceases or cease to have Control over or manage (as applicable) that Approved Person or Approved Persons;
- (d) on and from the date on which an Approved Person or Approved Persons acquire Control of the Pledgecos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement, such Approved Person or Approved Persons cease to Control any Pledgeco;
- (e) following a Listing, a person or group of persons acting in concert who are not (or, in the case of a group, not all) Permitted Holders own (directly or indirectly) or gain Control of 50 per cent or more of the voting share capital of any Mezzanine Holdco; or
- (f) at any time, other than as a result of a Mezzanine Permitted Property Disposal, the Pledgecos (taken together) cease to control any Senior Obligor (other than any Pledgeco).

<b>Mezzanine Charged Property:</b>	means all of the assets of the members of the Group which from time to time are, or are expressed to be, the subject of the Mezzanine Only Security.
<b>Mezzanine Commitment:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) in relation to an Original Mezzanine Lender, the amount set opposite its name under the heading "Commitment" in Part 1 of Schedule 1 (The Original Parties) and the amount of any other Mezzanine Commitment transferred to it under the Mezzanine Facility Agreement; and</li> <li>(b) in relation to any other Mezzanine Lender, the amount of any Mezzanine Commitment transferred to it under the Mezzanine Facility Agreement,</li> </ul> <p>to the extent not cancelled, reduced or transferred by it under the Mezzanine Facility Agreement.</p>
<b>Mezzanine Company:</b>	means Spear Mezzco S.à r.l., a private limited liability company ( <i>société à responsabilité limitée</i> ) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L 2453 Luxembourg being registered with the Luxembourg trade and companies register ( <i>Registre de commerce et des sociétés, Luxembourg</i> ) in Luxembourg under number B224476.
<b>Mezzanine Company-Borrower Intercompany Loan Agreement:</b>	means any intercompany loan or other indebtedness agreement between a Mezzanine Borrower as borrower and a Mezzanine Company as lender which evidences the terms of a loan or other indebtedness advanced to a Mezzanine Borrower as borrower by a Mezzanine Company as lender.
<b>Mezzanine Control Account:</b>	<p>means each of:</p> <ul style="list-style-type: none"> <li>(a) the Mezzanine Finance Account;</li> <li>(b) the Mezzanine Prepayment Account;</li> <li>(c) the Mezzanine General Accounts;</li> <li>(d) the Mezzanine Hedge Collateral Accounts; and</li> <li>(e) and any account which is required or permitted to be opened and maintained by a Mezzanine Obligor in accordance with the account provisions of the Mezzanine Facility Agreement from time to time.</li> </ul>
<b>Mezzanine Cure Notification:</b>	has the meaning given to it on page 229.
<b>Mezzanine Debt Purchase Transaction:</b>	has the meaning given to the term Debt Purchase Transaction as defined in the Mezzanine Facility Agreement.

<b>Mezzanine Debt Service Blocked Amount:</b>	has the meaning given to it on page 183.
<b>Mezzanine Debtor Accession Deed:</b>	means the debtor accession deed in the form set out in the Mezzanine Subordination Agreement.
<b>Mezzanine Delegate:</b>	means any delegate, agent, attorney, manager or co-trustee appointed by the Mezzanine Loan Facility Agent or the Mezzanine Security Agent.
<b>Mezzanine Discharge Date:</b>	means the first date on which all Mezzanine Facility Liabilities have been fully and finally discharged to the satisfaction of the Mezzanine Loan Facility Agent (acting on the instructions of the Mezzanine Majority Lenders), whether or not as a result of an enforcement, and the Mezzanine Facility Creditors are under no obligation to provide any further financial accommodation to the Mezzanine Obligors under the Mezzanine Finance Documents..
<b>Mezzanine Enforcement Action:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) in relation to any Mezzanine Facility Liabilities: <ul style="list-style-type: none"> <li>(i) the acceleration of any Mezzanine Facility Liabilities or the making of any declaration that any Mezzanine Facility Liabilities are prematurely due and payable;</li> <li>(ii) the making of any declaration that any Mezzanine Facility Liabilities are payable on demand;</li> <li>(iii) the making of a demand in relation to a Mezzanine Facility Liability that is payable on demand;</li> <li>(iv) the making of any demand against any Mezzanine Obligor;</li> <li>(v) the exercise of any right to require any Mezzanine Obligor to acquire any Mezzanine Facility Liability; and</li> <li>(vi) the suing for, commencing or joining of any legal or arbitration proceedings against any Mezzanine Obligor to recover any Mezzanine Facility Liabilities;</li> </ul> </li> <li>(b) the taking of any steps to enforce or require the enforcement of any Mezzanine Only Security;</li> <li>(c) the exercise of any right of set-off, account combination or payment netting against any Mezzanine Obligor in respect of any Mezzanine Facility Liabilities;</li> <li>(d) the entering into of any composition, compromise, assignment or arrangement with any Mezzanine Obligor that owes any Mezzanine Facility Liabilities or has given any Security,</li> </ul>

guarantee or indemnity or other assurance against loss in respect of the Mezzanine Facility Liabilities; or

- (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to the winding-up, dissolution, administration or reorganisation of any Mezzanine Obligor that owes any Mezzanine Facility Liabilities or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Mezzanine Facility Liabilities, or any of such Mezzanine Obligor's assets or any suspension of payments or moratorium of any indebtedness of any such Mezzanine Obligor, or any analogous procedure or step in any jurisdiction.

**Mezzanine Enforcement Notice:**

means a notice from the Mezzanine Loan Facility Agent, on behalf of the relevant Mezzanine Lenders, to the Senior Loan Facility Agent and the Common Security Agent of those Mezzanine Lenders' intention to take Mezzanine Enforcement Action.

**Mezzanine Excluded Expropriation Proceeds:**

means, in relation to a Property, the amount of Disposal Proceeds received by any Mezzanine Obligor pursuant to any Expropriation in respect of that Property which (when aggregated with any Disposal Proceeds received by any Mezzanine Obligor pursuant to a previous Expropriation in respect of that Property) are in excess of the aggregate of:

- (a) if:
  - (i) the whole of a Property is the subject of that Expropriation, the Senior Release Price and Mezzanine Release Price for the relevant Property the subject of that Expropriation; or
  - (ii) part of a Property is the subject of that Expropriation, an amount equal to the aggregate of the Senior Partial Expropriation Release Price and the Mezzanine Partial Expropriation Release Price in relation to that Expropriation; and
- (b) any amounts that will become due and payable pursuant to the prepayment provisions of the Common Terms Agreement and of the Mezzanine Facility Agreement in connection with the prepayment of the amount set out in paragraph (a) above.

**Mezzanine Excluded Insurance Proceeds:**

means:

- (a) any proceeds of insurance claims of up to €50,000 per annum; and
- (b) any proceeds of an insurance claim which the Mezzanine Company notifies the Mezzanine Loan Facility Agent are, or are to be, applied as soon as possible (but in any event within 12 Months after receipt or 24 Months after receipt **provided**

**that** such proceeds are contractually committed to be applied no later than 12 Months after receipt):

- (i) to meet a third party claim to which the relevant insurance proceeds relate; and/or
- (ii) to cover operating losses or loss of rent in respect of which the relevant insurance claim was made; and/or
- (iii) to replace, reinstate and/or repair the relevant assets of a Mezzanine Obligor which have been lost, destroyed or damaged.

**Mezzanine Excluded Recovery Proceeds:**

means:

- (a) any proceeds of a Mezzanine Recovery Claim under an Acquisition Agreement to the extent such Mezzanine Recovery Claim is in respect of Rental Income; and
- (b) any proceeds of a Mezzanine Recovery Claim which the Mezzanine Company notifies the Mezzanine Loan Facility Agent are, or are to be, applied as soon as possible (but in any event within 12 Months after receipt or 24 Months after receipt **provided that** such proceeds are contractually committed to be applied no later than 12 Months after receipt):
  - (i) to satisfy (or reimburse a member of the Group which has discharged) any liability, charge or claim upon a member of the Group by a person which is not a member of the Group nor an Investor Affiliate; and/or
  - (ii) in the replacement, reinstatement and/or repair of assets or property of members of the Group which have been lost, destroyed or damaged and to which the relevant recovery proceeds relate,

in each case in relation to that Mezzanine Recovery Claim.

**Mezzanine Expropriation Prepayment Proceeds:**

means the Disposal Proceeds received by any Mezzanine Obligor pursuant to any Expropriation except for any Mezzanine Excluded Expropriation Proceeds.

**Mezzanine Extra General Account:**

means an additional bank account opened and maintained at any time by a Mezzanine Borrower and designated as a "General Account" **provided that** the account provisions of the Mezzanine Facility Agreement are complied with in respect of such account, and includes the interest of the relevant Obligor in any replacement account or sub division or sub-account of that account.

**Mezzanine Facility:**

means the term loan facility made available under the Mezzanine Facility Agreement.

**Mezzanine Facility**

means the mezzanine facility agreement dated 19 September 2018

<b>Agreement:</b>	between, among others, the Original Mezzanine Lenders, the Mezzanine Borrowers, the Mezzanine Company, the Mezzanine Loan Facility Agent and the Mezzanine Security Agent.
<b>Mezzanine Facility Creditor</b>	means the Mezzanine Loan Facility Agent, the Mezzanine Security Agent, a Mezzanine Loan Arranger or a Mezzanine Lender.
<b>Mezzanine Facility Liabilities:</b>	has the meaning given to it on page 14.
<b>Mezzanine Fee Letter:</b>	means any letter or letters between, as the case may be, the Mezzanine Loan Arranger and one or more Mezzanine Obligors, the Mezzanine Loan Facility Agent and one or more Mezzanine Obligors or the Mezzanine Security Agent and one or more Mezzanine Obligors setting out any of the fees referred to in the Mezzanine Facility Agreement.
<b>Mezzanine Finance Account:</b>	means the account designated as such required to be opened and maintained by the Mezzanine Company in accordance with the provisions of the Mezzanine Facility Agreement and includes the interest of the Mezzanine Company in any replacement account or sub division or sub-account of that account.
<b>Mezzanine Finance Document:</b>	means: <ul style="list-style-type: none"> <li>(a) the Mezzanine Facility Agreement;</li> <li>(b) the Sauvegarde Guarantee;</li> <li>(c) the Insurance Guarantee;</li> <li>(d) each Mezzanine Fee Letter;</li> <li>(e) the Mezzanine Margin Letter;</li> <li>(f) each Mezzanine Property Manager Duty of Care Agreement;</li> <li>(g) each Mezzanine Transfer Agreement;</li> <li>(h) each Mezzanine Utilisation Request;</li> <li>(i) the Mezzanine Subordination Agreement;</li> <li>(j) the Intercreditor Agreement;</li> <li>(k) the Reports Side Letter;</li> <li>(l) any Mezzanine Loan Extension Option Notice;</li> <li>(m) any Mezzanine Resignation Letter;</li> <li>(n) each Mezzanine Debtor Accession Deed;</li> <li>(o) each Mezzanine Subordinated Creditor Accession Deed;</li> </ul>

- (p) each Mezzanine Only Security Document;
- (q) each Common Transaction Security Document; and
- (r) any other document designated as such by the Mezzanine Loan Facility Agent and the Mezzanine Company.

**Mezzanine Finance Party:** means the Mezzanine Loan Facility Agent, the Mezzanine Security Agent, a Mezzanine Loan Arranger and each Mezzanine Lender.

**Mezzanine General Account:** means each of:

- (a) each account designated as such and required or permitted to be opened and maintained by a Mezzanine Borrower in accordance with the provisions of the Mezzanine Facility Agreement and, in each case, includes the interest of that Mezzanine Obligor in any replacement account or sub division or sub-account of that account; and
- (b) each Mezzanine Extra General Account.

**Mezzanine Guarantor:** means each of:

- (a) the Mezzanine Borrowers; and
- (b) the Senior Guarantors other than the French Senior Obligors.

**Mezzanine Hedge Collateral Account:** means each account designated as such and opened and maintained by a Mezzanine Borrower in accordance with the provisions of the Mezzanine Facility Agreement for the receipt of collateral transferred pursuant to a Mezzanine Hedge Document and includes the interest of that Mezzanine Borrower in any replacement account or sub division or sub-account of that account.

**Mezzanine Hedge Document:** means each of the present or future documents entered into by, or in favour of, a Mezzanine Borrower evidencing or relating to the hedging transactions referred to in the Mezzanine Facility Agreement, including, but not limited to, any guarantee or similar instrument granted or to be granted in favour of a Mezzanine Borrower in respect of the counterparty's obligation under any such hedging transaction.

**Mezzanine Holdco:** means each of:

- (a) Spear Topco S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg, having its registered office at 2-4, rue Eugène Ruppert, L-2453 Luxembourg, being registered with the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés, Luxembourg*) under number B 224465;
- (b) Spear German 2018 Topco S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated under

the laws of Luxembourg, having its registered office at 2-4, rue Eugène Ruppert, L-2453 Luxembourg, being registered with the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés, Luxembourg*) under number B224513; and

- (c) Spear Investment 2018 Topco S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg, having its registered office at 2-4, rue Eugène Ruppert, L-2453 Luxembourg, being registered with the Luxembourg trade and companies register (*Registre de Commerce et des Sociétés, Luxembourg*) under number B224506.

**Mezzanine Initial Account Bank:** means each bank or financial institution with a Required Rating as the Mezzanine Company may select prior to the Mezzanine Utilisation Date.

**Mezzanine Initial Repayment Date:** means the second anniversary of the first Mezzanine Loan Payment Date.

**Mezzanine Insurance Prepayment Proceeds:** means the proceeds of any insurance claim received by any member of the Group except for Mezzanine Excluded Insurance Proceeds and after deducting any reasonable fees, costs and expenses in relation to that claim which are incurred by any member of the Group to persons who are neither members of the Group nor Investor Affiliates.

**Mezzanine Intention Notice:** has the meaning given to it on page 231.

**Mezzanine Investor:** means any Approved Person or Approved Persons that acquire(s) control of the Senior Company in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement.

**Mezzanine Lender:** means:

- (a) an Original Mezzanine Lender; and
- (b) any person, that bank, financial institution, trust, fund or other entity which has become a party to the Mezzanine Facility Agreement as a Mezzanine Lender in accordance with the terms of the Mezzanine Facility Agreement,

which in each case has not ceased to be a Mezzanine Lender in accordance with the terms of the Mezzanine Facility Agreement.

**Mezzanine Lender Liabilities:** means the Mezzanine Facility Liabilities owed by the Mezzanine Obligor to the Mezzanine Lenders under the Mezzanine Finance Documents.

**Mezzanine Loan:** means a loan made under the Mezzanine Facility Agreement or the principal amount outstanding for the time being of that loan.

**Mezzanine Loan Arranger:** means Partners Group (Guernsey) Limited in its capacity as mandated



lead arranger under the Mezzanine Facility Agreement.

**Mezzanine Loan Default:**

means:

- (a) a Mezzanine Loan Event of Default; or
- (b) any event or circumstance specified as such under the Mezzanine Facility Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Mezzanine Finance Documents or any combination of any of the foregoing) be a Mezzanine Loan Event of Default.

**Mezzanine Loan  
EURIBOR:**

means, in relation to any Mezzanine Loan:

- (a) the applicable Mezzanine Loan Screen Rate; or
- (b) (if no Mezzanine Loan Screen Rate is available for the Mezzanine Loan Interest Period of the Mezzanine Loan), the Mezzanine Loan Interpolated Screen Rate for the Mezzanine Loan; or
- (c) if:
  - (i) no Mezzanine Loan Screen Rate is available for the Mezzanine Loan Interest Period of the Mezzanine Loan; and
  - (ii) it is not possible to calculate an Mezzanine Loan Interpolated Screen Rate,

the Mezzanine Loan Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (Brussels time) on the Mezzanine Loan Quotation Day for euro and for a period equal in length to the Mezzanine Loan Interest Period of the Mezzanine Loan. If any such applicable Mezzanine Loan Screen Rate, Mezzanine Loan Interpolated Screen Rate or Mezzanine Loan Reference Bank Rate is below zero, Mezzanine Loan EURIBOR will be deemed to be zero.

**Mezzanine Loan Event of  
Default:**

means any event or circumstance specified as an event of default under the Mezzanine Facility Agreement.

**Mezzanine Loan Extension  
Notice:**

has the meaning given to it on page 232.

**Mezzanine Loan Extension  
Option Notice:**

means a document substantially in the form set out as the form of extension notice in the Mezzanine Facility Agreement.

**Mezzanine Loan Facility  
Agent:**

means CBRE Loan Services Limited in its capacity as facility agent under the Mezzanine Facility Agreement.

**Mezzanine Loan Final**

means the latest to occur of:

**Repayment Date:**

- (a) the Mezzanine Initial Repayment Date;
- (b) if each of the First Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of First Mezzanine Loan Extension Option Conditions, the First Mezzanine Loan Extended Repayment Date;
- (c) if each of the Second Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Second Mezzanine Loan Extension Option Conditions, the Second Mezzanine Loan Extended Repayment Date; and
- (d) if each of the Third Mezzanine Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Third Mezzanine Loan Extension Option Conditions, the Third Mezzanine Loan Extended Repayment Date.

**Mezzanine Loan Interest Period:**

means each period determined under the Mezzanine Facility Agreement by reference to which interest on the Mezzanine Loan or interest on any sum due and payable but unpaid by a Mezzanine Obligor is calculated.

**Mezzanine Loan Interpolated Screen Rate:**

means, in relation to Mezzanine Loan EURIBOR for any Mezzanine Loan, the rate (rounded to the same number of decimal places as the two relevant Mezzanine Loan Screen Rates) which results from interpolating on a linear basis between:

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

each as at 11.00 am (Brussels time) on the Mezzanine Loan Quotation Day for the currency of that Mezzanine Loan.

**Mezzanine Loan Margin:**

has the meaning given to it on page 13.

**Mezzanine Loan Maturity Date:**

means the Mezzanine Initial Repayment Date, the First Mezzanine Loan Extended Repayment Date, the Second Mezzanine Loan Extended Repayment Date or the Third Mezzanine Loan Extended Repayment Date.

**Mezzanine Loan Payment Date:**

has the meaning given to it on page 12.

<b>Mezzanine Loan Quotation Day:</b>	means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the first day of that period unless market practice differs in the European interbank market, in which case the Mezzanine Loan Quotation Day will be determined by the Mezzanine Loan Facility Agent in accordance with market practice in the European interbank market (and if quotations for that currency and period would normally be given by leading banks in the European interbank market on more than one day, the Mezzanine Loan Quotation Day will be the last of those days).
<b>Mezzanine Loan Reference Bank Rate:</b>	means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Mezzanine Loan Facility Agent at its request by the Mezzanine Loan Reference Banks as the rate at which the relevant Mezzanine Loan Reference Bank could borrow funds in the European interbank market in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.
<b>Mezzanine Loan Reference Banks:</b>	means the principal office in the Relevant Interbank Market of such banks as may be appointed by the Mezzanine Loan Facility Agent in consultation with the Mezzanine Company.
<b>Mezzanine Loan Related Lender:</b>	<p>means a Lender (other than (i) an Original Senior Lender or any of its Affiliates at any time during the six-month period of primary syndication of the Senior Facilities and (ii) a Senior Lender that holds 100 per cent. of the Senior Total Commitments) or (for the purposes of Condition 14.13 (Disenfranchised Holder)) a Noteholder which:</p> <ul style="list-style-type: none"> <li>(a) beneficially owns (or has an Affiliate that beneficially owns) all, or any portion of, or any direct or indirect debt or equity interest in, any Mezzanine Lender; or</li> <li>(b) beneficially owns (or has an Affiliate which beneficially owns) directly or indirectly all, or any portion of, any Mezzanine Commitment or Mezzanine Loan or is (or has an Affiliate that is) a party to a Mezzanine Debt Purchase Transaction;</li> <li>(c) has (or has an Affiliate that has) entered into a sub-participation relating to a Mezzanine Commitment or a Mezzanine Loan or any other agreement or arrangement having a substantially similar economic effect, and such agreement or arrangement has not been terminated; or</li> <li>(d) (for the purposes of Condition 14.13 (Disenfranchised Holder)) is a Mezzanine Lender.</li> </ul>
<b>Mezzanine Loan Screen Rate:</b>	means, in relation to EURIBOR, the euro interbank offered rate administered by the European Money Market Institute (or any other person that takes over the administration of that rate) for the relevant period, displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that

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

**Mezzanine Majority Lenders:**

means:

- (a) if there are no Mezzanine Loans then outstanding, a Mezzanine Lender or Mezzanine Lenders whose Mezzanine Commitments aggregate more than 66⅔ per cent. of the Mezzanine Total Commitments (or, if the Mezzanine Total Commitments have been reduced to zero, aggregated more than 66⅔ per cent. of the Mezzanine Total Commitments immediately prior to the reduction); or
- (b) at any other time, a Mezzanine Lender or Mezzanine Lenders whose participations in the Mezzanine Loans then outstanding aggregate more than 66⅔ per cent. of all the Mezzanine Loans then outstanding.

**Mezzanine Margin Letter:**

means the letter dated 19 September 2018 between the Mezzanine Loan Facility Agent and the Mezzanine Company setting out how the Mezzanine Loan Margin will be determined.

**Mezzanine Obligor:**

means a Mezzanine Borrower or a Mezzanine Guarantor, in each case, to the extent such Mezzanine Borrower or Mezzanine Guarantor has not resigned as a Mezzanine Obligor in accordance with the provisions of the Mezzanine Facility Agreement.

**Mezzanine Obligor Account Bank:**

means:

- (a) a Mezzanine Initial Account Bank; or
- (b) any other bank or financial institution that becomes a Mezzanine Obligor Account Bank in accordance with the section entitled "*Description of the Mezzanine Facility Agreement – Mezzanine Bank accounts – Mezzanine Obligor Account Bank*".

**Mezzanine Only Security:**

means the Security created or expressed to be created under or pursuant to the Mezzanine Only Security Documents.

**Mezzanine Only Security Document:**

means each of:

- (a) the Luxembourg law governed account pledges granted by each Mezzanine Borrower in respect each of its Mezzanine Control Accounts located in Luxembourg;
- (b) the Luxembourg law governed share pledges granted by each Mezzanine Holdco in respect of the shares it holds in the respective Mezzanine Borrower;

- (c) the Luxembourg law governed share pledges granted by each Mezzanine Borrower in respect of the shares it holds in the respective Pledgeco;
- (d) the Luxembourg law governed receivables pledges granted by each Mezzanine Holdco and each Mezzanine Borrower in respect of any Subordinated Loans;
- (e) the English law governed assignment of rights granted by each Mezzanine Borrower in respect of hedging agreements;
- (f) any other document entered into at any time by any Mezzanine Obligor creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Mezzanine Finance Parties as Security for any of the Mezzanine Secured Liabilities;
- (g) any other document amending, extending and/or ratifying any of the above Mezzanine Only Security Documents; and
- (h) any Security granted under any covenant for further assurance in any of the documents referred to in paragraph (a) to (g) above.

**Mezzanine Partial  
Expropriation Release  
Price:**

means, if part only of a Property is the subject of an Expropriation, an amount equal to:

- (a) the Mezzanine Release Price for that Property divided by the value of that Property (as set out in the Initial Valuation);

multiplied by:

- (b) the value of that Property (as set out in the Initial Valuation) minus the value of that Property following such Expropriation (as set out in the Valuation of that Property commissioned as a result of such Expropriation or, if no Valuation is commissioned in connection with that Expropriation, the good faith estimate by the Mezzanine Company of the lower of the value of that part of the Property or the reduction in value of that Property as a whole as a result of that Expropriation).

**Mezzanine Payment Stop  
Event**

means:

- (a) the occurrence of a Senior Payment Event of Default which is continuing;
- (b) the occurrence of a Senior Financial Covenant Event of Default which is continuing;
- (c) the occurrence of a Senior Insolvency Event of Default which is continuing; or

	(d) the occurrence of any Senior Acceleration Event.
<b>Mezzanine Payment Stop Notice</b>	has the meaning given to it on page 228.
<b>Mezzanine Permitted Land Plot Disposal Prepayment Proceeds:</b>	means, in respect of a Senior Permitted Land Plot Disposal, the Mezzanine Proportion of the Disposal Proceeds for that Senior Permitted Land Plot Disposal.
<b>Mezzanine Permitted Property Disposal:</b>	<p>means a disposal of any Property (or of the shares in a Senior Obligor which, directly or indirectly, owns that Property <b>provided that</b> all Property owned by that Senior Obligor is the subject of that disposal) <b>provided that:</b></p> <p>(a) such disposal constitutes a Senior Permitted Property Disposal; and</p> <p>(b) the proceeds of such disposal are applied in accordance with the terms of the Common Terms Agreement and the Mezzanine Facility Agreement.</p>
<b>Mezzanine Permitted Property Disposal Prepayment Proceeds:</b>	<p>means, in respect of a Mezzanine Permitted Property Disposal the aggregate of:</p> <p>(a) where the disposal is:</p> <p>(i) of a Property (other than a Zero Property), an amount equal to the Mezzanine Release Price in respect of the Property that is the subject of that Mezzanine Permitted Property Disposal; or</p> <p>(ii) of a Zero Property, any amount received by the Mezzanine Obligors in respect of that Mezzanine Permitted Property Disposal (if any) that exceeds the Senior Release Price in respect of the Zero Property that is the subject of that Mezzanine Permitted Property Disposal up to (but not exceeding) the product of:</p> <p>(A) the Market Valuation of that Zero Property (as set out in the Initial Valuation); and</p> <p>(B) the difference between the Initial Mezzanine LTV and the Initial Senior LTV; and</p> <p>(b) in each case, any amounts that will become due and payable pursuant to the prepayments provisions of the Mezzanine Facility Agreement in connection with the prepayment of the amount set out in paragraph (a)(i) or (a)(ii) above.</p>
<b>Mezzanine Permitted Property Manager:</b>	<p>means:</p> <p>(a) any person appointed as property manager by one or more</p>

Senior Obligors under a Property Management Agreement executed on arm's length terms;

- (b) prior to a Permitted Mezzanine Change of Control, any Investor Affiliate whose business is or includes acting as a property manager or managing agent of properties;
- (c) any other person as may be agreed from time to time between the Mezzanine Company (acting reasonably) and the Mezzanine Loan Facility Agent (acting on the instructions of the Mezzanine Majority Lenders (acting reasonably));
- (d) on or after a Permitted Mezzanine Change of Control, any person (or any Subsidiary of such person) whose business is or includes acting as a property manager or managing agent and has:
  - (i) not less than 50 logistics, industrial, warehouse and/or office properties; and/or
  - (ii) 5,000,000 square feet of gross lettable area of logistics, industrial, warehouse and/or office properties,
- (e) under management, in each case, on the date of that Permitted Mezzanine Change of Control; and/or
- (f) any other person that is appointed as a property manager in accordance with the terms of the Mezzanine Facility Agreement prior to a Permitted Mezzanine Change of Control and that remains appointed upon a Permitted Mezzanine Change of Control,

in each case, to the extent appointed as a property manager of any Properties (or any part thereof) pursuant to a Property Management Agreement (which has not been terminated) **provided that** there may be multiple property managers with different responsibilities in relation to any Properties at any time.

**Mezzanine Prepayment Account:**

means the account designated as such required to be opened and maintained by the Mezzanine Company under the Mezzanine Facility Agreement and includes the interest of the Mezzanine Company in any replacement account or sub division or sub-account of that account.

**Mezzanine Prepayment Amount:**

means, on a Senior Loan Payment Date, the amount that will become due and payable under the Mezzanine Facility Agreement, pursuant to the prepayment and cancellation provisions of the Mezzanine Facility Agreement on the Mezzanine Loan Payment Date immediately following that Senior Loan Payment Date.

**Mezzanine Prepayment Blocked Amount:**

has the meaning given to it on page 184.

<b>Mezzanine Principal Increase:</b>	means any increase to the principal amount of the Mezzanine Loans made in accordance with the Intercreditor Agreement.
<b>Mezzanine Property Manager Duty of Care Agreement:</b>	<p>means each agreement executed by a Mezzanine Permitted Property Manager in favour of the Common Security Agent, the Senior Loan Facility Agent and the Mezzanine Loan Facility Agent in relation to the management of all or any part of any Property which is:</p> <ul style="list-style-type: none"> <li>(a) in a form and substance satisfactory to the Mezzanine Loan Facility Agent (acting on the instructions of the Mezzanine Majority Lenders (acting reasonably)); or</li> <li>(b) in form and substance substantially the same as an existing Mezzanine Property Manager Duty of Care Agreement.</li> </ul>
<b>Mezzanine Proportion:</b>	means at any time the proportion that the Mezzanine Loans outstanding under the Mezzanine Facility Agreement bears to the aggregate of the Mezzanine Loans outstanding under the Mezzanine Facility Agreement and the Senior Loan outstanding under the Common Terms Agreement, expressed as a percentage.
<b>Mezzanine Receiver:</b>	means a receiver or receiver and manager or administrative receiver (or any equivalent insolvency official in any jurisdiction) of the whole or any part of the Mezzanine Charged Property.
<b>Mezzanine Recovery Claim:</b>	has the meaning given to it in the definition of Mezzanine Recovery Prepayment Proceeds.
<b>Mezzanine Recovery Prepayment Proceeds:</b>	<p>means the proceeds of a claim (a <b>Mezzanine Recovery Claim</b>) against:</p> <ul style="list-style-type: none"> <li>(a) a Vendor or any of its Affiliates (or any of their respective employees, officers or advisers) in relation to an Acquisition Agreement (provided that such proceeds are attributable to the Properties and/or the Group);</li> <li>(b) the provider of any Report (in its capacity as a provider of that Report); or</li> <li>(c) any counterparty to a construction contract or collateral warranty (in its capacity as counterparty to that construction contract or collateral warranty (as applicable)) with, or benefitting, a Mezzanine Obligor, <p>in each case, except for Mezzanine Excluded Recovery Proceeds, and after deducting:</p> <ul style="list-style-type: none"> <li>(i) any reasonable fees, costs and expenses which are incurred by any member of the Group to any persons who are neither members of the Group nor Investor Affiliates; and</li> <li>(ii) any Tax incurred and required to be paid by a</li> </ul> </li></ul>



member of the Group (on the basis of existing rates and taking into account any available credit, deduction or allowance),

in each case, in relation to that Mezzanine Recovery Claim.

**Mezzanine Release Price:** means, in relation to a Property:

- (a) if the Mezzanine Release Price Threshold has not been met, the amount designated as "Release Price 1" and set out opposite the name of that Property under the Mezzanine Facility Agreement; or
- (b) if the Mezzanine Release Price Threshold has been met, the amount designated as "Release Price 2" and set out opposite the name of that Property under the Mezzanine Facility Agreement,

in each case, **provided that** that amount will be reduced by the same proportion by which the Mezzanine Allocated Loan Amount of the Property has been reduced in accordance with the provisions of the Mezzanine Facility Agreement following the repayment or prepayment, in whole or in part, of any Mezzanine Loan.

**Mezzanine Release Price Threshold:**

means that an aggregate principal amount of the Mezzanine Loans equal to or greater than 15 per cent. of the Mezzanine Total Commitments as at the date of the Mezzanine Facility Agreement has been prepaid as a result of one or more Mezzanine Permitted Property Disposals that have taken place after the date of the Mezzanine Facility Agreement.

**Mezzanine Resignation Letter:**

means a letter substantially in the form set out as the form of resignation letter in the Mezzanine Facility Agreement.

**Mezzanine Secured Liabilities:**

means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by a Mezzanine Transaction Obligor or by some other person) of each Mezzanine Transaction Obligor to the Mezzanine Secured Parties (or any of them) under each of the Mezzanine Finance Documents (other than the Senior Finance Documents), each as amended, varied, supplemented or novated from time to time, including, without limitation, the parallel debt obligation, the joint and several creditor obligation, any increase of principal or interest and any extension of maturity, novation, deferral or extension of such liabilities, in each case together with any and all liabilities arising out of unjust enrichment and tort and other liabilities for damages or restitution in relation to the foregoing.

**Mezzanine Secured Parties:**

means a Mezzanine Finance Party, a Mezzanine Receiver or a Mezzanine Delegate.

**Mezzanine Security Agent:** means CBRE Loan Services Limited.

<b>Mezzanine Subordinated Creditor:</b>	means each of:  (a) the Senior Subordinated Creditors; and  (b) the Mezzanine Holdcos.
<b>Mezzanine Subordinated Creditor Accession Deed:</b>	means the subordinated creditor accession deed in the form set out in the Mezzanine Subordination Agreement.
<b>Mezzanine Subordination Agreement:</b>	means the subordination agreement dated 19 September 2018 between, among others, the Mezzanine Subordinated Creditors and the Mezzanine Loan Facility Agent.
<b>Mezzanine Total Commitments:</b>	means the aggregate of the Mezzanine Commitments.
<b>Mezzanine Transaction Obligor:</b>	means a Mezzanine Obligor, Sauvegarde Guarantee or a Mezzanine Subordinated Creditor.
<b>Mezzanine Transfer Agreement:</b>	means each transfer agreement substantially in the form set out as the form of transfer agreement in the Mezzanine Facility Agreement.
<b>Mezzanine Utilisation:</b>	means a utilisation of the Mezzanine Facility.
<b>Mezzanine Utilisation Date:</b>	means 20 September 2018.
<b>Mezzanine Utilisation Request:</b>	means the utilisation request given by the Mezzanine Company to the Mezzanine Loan Facility Agent in respect of a Mezzanine Utilisation, which was dated 19 September 2018.
<b>MiFID II:</b>	has the meaning given to it on page viii.
<b>Minimum Balance:</b>	has the meaning given to it on page 260.
<b>Mistral 1 Portfolio:</b>	means the French properties owned directly or indirectly by Mistral Properties 1 SPPICAV.
<b>Mistral 2 Portfolio:</b>	means the French properties owned directly or indirectly by Mistral Properties 2 SPPICAV.
<b>Mistral 2 OPCI Contribution of Shares:</b>	means the contribution of shares owned by MPIT France 2 SCI in MPITS 21 SCI and MPITS 22 SCI to MPITS 23 SARL.
<b>Mistral Portfolio:</b>	means together the Mistral 1 Portfolio and the Mistral 2 Portfolio.
<b>Mistral SPA:</b>	has the meaning given to it in the definition of Acquisition Agreement.
<b>Modelling Assumptions:</b>	has the meaning given to it on page 308.
<b>Modification Fee:</b>	has the meaning given to it on page 294.
<b>Month:</b>	means a period starting on one day in a calendar month and ending on

the numerically corresponding day in the next calendar month, except that:

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

The above rules will only apply to the last Month of any period.

**Moody's:**

means Moody's Investors Service Ltd.

**Mortgage:**

means a security document or deed which creates Security over a Property in favour of the Common Security Agent in a form agreed in accordance with the terms of the Senior Finance Documents.

**Most Senior Class of Noteholders:**

means the holders of the then Most Senior Class of Notes.

**Most Senior Class of Notes:**

means at any time:

- (a) the Class A1 Notes or the Class A1 Noteholders (if at that time any Class A1 Notes are outstanding); or
- (b) if no Class A1 Notes are then outstanding, the Class A2 Notes or the Class A2 Noteholders (if at that time any Class A2 Notes are outstanding); or
- (c) if no Class A1 Notes or Class A2 Notes are then outstanding, the Class B Notes or the Class B Noteholders (if at that time any Class B Notes are then outstanding); or
- (d) if no Class A1 Notes or Class A2 Notes or Class B Notes are then outstanding, the Class C Notes or the Class C Noteholders (if at that time any Class C Notes are then outstanding); or
- (e) if no Class A1 Notes or Class A2 Notes or Class B Notes or Class C Notes are then outstanding, the Class D Notes or the Class D Noteholders (if at that time any Class D Notes are then outstanding); or
- (f) if no Class A1 Notes, Class A2 Notes, Class B Notes, Class C Notes or Class D Notes are then outstanding, the Class E Notes or the Class E Noteholders (if at that time any Class E Notes are outstanding); or
- (g) if no Class A1 Notes, Class A2 Notes, Class B Notes, Class C Notes, Class D Notes or Class E Notes are then outstanding, the Class F Notes (if at that time any Class F Notes are then

	outstanding); or
	(h) if no Class A1 Notes, Class A2 Notes, Class B Notes, Class C Notes, Class D Notes, Class E Notes or Class F Notes are then outstanding, the Class X Notes (if at that time the Class X Notes is then outstanding).
<b>Negative Consent:</b>	has the meaning given to it on page 362.
<b>Net Rental Income:</b>	means Rental Income in respect of each Property after deducting (without double counting): <ul style="list-style-type: none"> <li>(a) all Service Charge Proceeds in relation to each Property;</li> <li>(b) any sum representing any VAT chargeable in respect of Rental Income; and</li> <li>(c) all Irrecoverable Service Charge Expenses in relation to each Property.</li> </ul>
<b>Net Senior Debt:</b>	means, on any date, the aggregate principal amount outstanding of the Senior Loan minus the aggregate amount standing to the credit of the Senior Prepayment Account, the Senior Cash Trap Account and the Senior Equity Cure Account, in each case, on that date.
<b>new money privilege:</b>	has the meaning given to it on page 426.
<b>New Property Management Agreement:</b>	means each Property Management Agreement between an Obligor and a Senior Permitted Property Manager or Mezzanine Permitted Property Manager (as applicable) which is contracted on arm's length and is in relation to the management and/or maintenance of any Properties and which replaces an existing Property Management Agreement.
<b>non-CIV funds:</b>	has the meaning given to it on page 74.
<b>Non-Consenting Senior Lender:</b>	means any Senior Lender that does not consent to any amendment, consent, request or waiver requested by a Senior Obligor (including any such consent, request or waiver requested by a Senior Obligor and communicated by the Senior Loan Facility Agent on behalf of that Senior Obligor) to which the Senior Majority Lenders have consented within the previous 90-day period.
<b>Non-Co-operative Jurisdiction:</b>	means a non-co-operative state or territory ( <i>Etat ou territoire non cooperative</i> ) as set out in the list referred to in article 238-0 A of the French Tax Code, as such list may be amended from time to time.
<b>Non-Distressed Disposal:</b>	means a disposal (which is not a Distressed Disposal) to a person or persons outside of the Group of: (a) an asset by an Obligor; or (b) an asset which is subject to the Common Transaction Security.
<b>Non Eligible Dailly Institutions:</b>	means a credit institution which is not an Eligible Dailly Institution.

<b>Note Acceleration Notice:</b>	has the meaning given to it on page 348.
<b>Note Event of Default:</b>	has the meaning given to it on page 349.
<b>Note Factor:</b>	has the meaning given to it on page 347.
<b>Note Interest Period:</b>	has the meaning given to it on page 47.
<b>Note Margin Interest:</b>	has the meaning given to it on page 252.
<b>Note Maturity Plan:</b>	has the meaning given to it on page 292.
<b>Note Payment Date:</b>	has the meaning given to it on page 47.
<b>Note Portion Factor:</b>	has the meaning given to it on page 252.
<b>Note Prepayment Amount:</b>	has the meaning given to it on page 252.
<b>Note Prepayment Fees:</b>	has the meaning given to it on page 335.
<b>Note Reference Banks:</b>	means the principal Eurozone office of any major banks engaged in the Eurozone interbank market selected by the Agent Bank with the approval of the Note Trustee.
<b>Note Taxes:</b>	has the meaning given to it on page 348.
<b>Note Trust Deed:</b>	has the meaning given to it on page 318.
<b>Note Trustee:</b>	has the meaning given to it on page 318.
<b>Note WAC:</b>	has the meaning given to it on page 335.
<b>Noteholder Termination:</b>	has the meaning given to it on page 303.
<b>Noteholder Termination Expense:</b>	has the meaning given to it on page 304.
<b>Noteholder(s):</b>	has the meaning given to it on page 318.
<b>Notes:</b>	has the meaning given to it on page 318.
<b>Obligor:</b>	means a Mezzanine Obligor or a Senior Obligor.
<b>Occupational Lease:</b>	means any Lease to which a Senior Obligor's interest in any of its Properties is subject.
<b>OECD:</b>	has the meaning given to it on page 73.
<b>Offering Circular:</b>	has the meaning given to it on page i.
<b>Official List:</b>	means the official list of Euronext Dublin.

**OPCI:**

means any of:

- (a) Aberdonia Properties, a *société professionnelle de placement à prépondérance immobilière à capital variable* under the form of a *société par actions simplifiée*, incorporated initially under the form of a *société par actions simplifiée* on 19 November 2015 and converted into a SPPICAV on 27 March 2017, approved by the AMF on 18 October 2016 under n° SPI20160049, registered with the Clerk of the Commercial Court of Paris under number 814 789 632, having its registered office at 35, boulevard des Capucines, 75002 Paris;
- (b) Mistral Properties 1, a *société professionnelle de placement à prépondérance immobilière à capital variable* under the form of a *société par actions simplifiée*, incorporated on 14 August 2015, approved by the AMF on 21 July 2015 under n° SPI20150028, registered with the clerk of the Commercial Court in Paris under number 813 064 011, having its registered office at 35, boulevard des Capucines, 75002 Paris; or
- (c) Mistral Properties 2, a *société professionnelle de placement à prépondérance immobilière à capital variable* under the form of a *société par actions simplifiée*, incorporated initially under the form of a *société par actions simplifiée* on 31 May 2016 and converted into a SPPICAV on 23 November 2016, approved by the AMF on 10 June 2016 under n° SPI20160025, registered with the Clerk of the Commercial Court of Paris under number 820 651 032, having its registered office at 35, boulevard des Capucines, 75002 Paris,

and **OPCIs** means all of them.

**OPCI Funding Distribution:**

has the meaning given to it on page 179.

**OPCI Required Distribution:**

means any distribution of cash required to be made by the OPCI pursuant to article L-214-69 of the Financial Code **provided that** the amount of such distribution is not greater than the amount necessary to comply with the SPPICAV regime provided in articles 214-148 *et seq.* and Articles L214-33 *et seq.* of the Financial Code.

**OPCI Subsidiary Propco:**

means a Propco which is a Subsidiary of an OPCI.

**Operating Adviser:**

has the meaning given to it on page 370.

**Operational Management Agreement:**

has the meaning given to it on page 146.

**Operational Manager:**

has the meaning given to it on page 146.

**Ordinary Resolution:**

means, in respect of the Noteholders or any Class or Classes of Noteholders:

- (a) a resolution passed at a meeting duly convened and held in accordance with the Note Trust Deed by a clear majority consisting of not less than 50.1 per cent. of the persons voting thereat on a show of hands or, if a poll is duly demanded, by a simple majority of the votes cast on such poll; or
- (b) a Written Ordinary Resolution (being, a resolution in writing signed by or on behalf of the Noteholders of not less than a clear majority consisting of not less than 50.1 per cent. in aggregate Principal Amount Outstanding of the Notes or of the Notes outstanding of such Class or Classes, which 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 Noteholders); or
- (c) consent given by way of electronic consents through the relevant Clearing System(s) (in a form satisfactory to the Note Trustee) by or on behalf of the Noteholders holding not less than a clear majority consisting of not less than 50.1 per cent. in principal amount of the Notes for the time being outstanding or, as the case may be, of the Notes for the time being outstanding of such Class or Classes,

and in the circumstances set out in Condition 14.18 (Negative Consent) an Ordinary Resolution (other than an Ordinary Resolution relating to a Note Maturity Plan) will be deemed to have been passed unless the holders of Notes outstanding constituting 50 per cent. or more in aggregate Principal Amount Outstanding of the Notes of such Class have informed the Note Trustee in the prescribed manner of their objection to such Ordinary Resolution within 30 days after the date on which a notice containing the text of such Ordinary Resolution, which acts as an invitation to Noteholders of such Class or Classes to object to the same and details the manner in which such objections should be made, has been given to such Class or Classes in accordance with the provisions of Condition 17 (Notice to Noteholders).

**Original Class PAO:**

has the meaning given to it on page 255.

**Original Mezzanine Lender**

means each of:

- (a) Partners Group Access 1029 L.P.;
- (b) Partners Group Belfast Multicredit Investments II S.C.A., SICAV-RAIF;
- (c) Partners Group Global Real Estate FCP; and
- (d) Partners Group Real Estate Income 2014 (EUR), L.P. INC.

**Original Senior Lender:**

means each of:

- (a) Deutsche Bank AG, London Branch; and

(b) Société Générale, London Branch.

**Other Liabilities:** means, in respect of any Obligor, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to a Creditor under the Debt Documents or to another Obligor.

**Outgoing Servicer Expense:** has the meaning given to it on page 304.

**participants:** has the meaning given to it on page 309.

**Party:** means a party to any of the Senior Finance Documents or the Mezzanine Finance Documents.

**Paying Agents:** has the meaning given to it on page 319.

**Payment:** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

**Perfection Requirements:** means:

- (a) the delivery of all certificates of title to securities which are the subject of Common Transaction Security to the Common Security Agent, together with signed but otherwise undated transfer forms, confirmations and notices and acknowledgements duly executed in the form required pursuant to each Common Transaction Security Document; and
- (b) the making or the procuring of registrations, filings (including in any shareholder register or other person's books), endorsements, notarisations, translations, stampings, notifications, acknowledgements and/or acceptances of the Senior Loan Transaction Documents (and/or the Security created thereunder) necessary for the validity, enforceability (as against the relevant Senior Obligor as well as any third party) and/or perfection thereof.

**Permitted Employees:** has the meaning given to it on page 130.

**Permitted Hedging Transaction:** means any Treasury Transaction:

- (a) entered into in accordance with the hedging provisions of the Common Terms Agreement; or
- (b) entered into by one Senior Obligor with any other Senior Obligor in connection with back to back hedging of the Senior Obligors' obligations under the hedging provisions of the Common Terms Agreement **provided that** the rights of a Senior Obligor in respect of any such Treasury Transaction



are made subject to Transaction Security and are subordinated to the Senior Secured Liabilities under the terms of the Senior Subordination Agreement.

**Permitted Holder:**

means:

- (a) the Initial Investors; or
- (b) any Qualifying Transferee(s), subject to compliance with know your customer checks under the Common Terms Agreement.

**Permitted Mezzanine Change of Control:**

occurs when a Qualifying Transferee (other than, for the avoidance of doubt, any Initial Investor) obtains Control, whether directly or indirectly, of the Mezzanine Borrowers or the Pledgees.

**Permitted Mezzanine Distribution:**

means any distribution of cash to a Mezzanine Borrower made:

- (a) pursuant to and in accordance with the debt service account provisions of the Common Terms Agreement;
- (b) pursuant to and in accordance with the prepayment account provisions of the Common Terms Agreement;
- (c) pursuant to and in accordance with the cash trap account provisions of the Common Terms Agreement; or
- (d) unless a Mezzanine Payment Stop Event is outstanding, out of monies standing to the credit of any Senior General Account (other than any monies standing to the credit of any Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms Agreement).

**Permitted Senior Change of Control:**

occurs when a Qualifying Transferee (other than, for the avoidance of doubt, any Initial Investor) obtains Control, whether directly or indirectly, of the Pledgees.

**Permitted Servicer Reorganisation:**

means a reorganisation or restructuring of the terms and the relevant surviving entity of which notification has been provided to the Note Trustee and in relation to which such surviving entity demonstrates to the satisfaction of the Note Trustee that it will, following the completion of the reorganisation or restructuring, not be insolvent, and shall have assumed all of the liabilities and obligations of the Servicer or the Special Servicer, as applicable; provided that, the surviving party meets the requirements with respect to successors contained in the Servicing Agreement with respect to the Servicer or Special Servicer, as applicable.

**PIK:**

has the meaning given to it on page 225.

**Planning Laws:**

means, in relation to a Property, all applicable laws, regulations, by-laws, instructions and standards whether national or local with regard to town, country or city planning, building and construction, space occupation, building fire and safety, demolition or employee

protection (to the extent dealing with building safety) and listed buildings, historical or monumental status, in each case, binding on that Property.

<b>Pledgeco:</b>	means: <ul style="list-style-type: none"><li>(a) Spear Pledgeco S.à r.l.;</li><li>(b) Spear German 2018 Pledgeco S.à r.l.; or</li><li>(c) Spear Investment 2018 Pledgeco S.à r.l.</li></ul>
<b>Post-Enforcement Priority of Payments:</b>	has the meaning given to it on page 261.
<b>Potential Note Event of Default:</b>	has the meaning given to it on page 366.
<b>PPT:</b>	has the meaning given to it on page 73.
<b>Pre-Account Opening Period:</b>	means the period ending on the earlier of: <ul style="list-style-type: none"><li>(a) the Account Opening Backstop Date; and</li><li>(b) the date on which each of the Senior Control Accounts required to be opened on or before the Account Opening Backstop Date have been opened and the Senior Company has provided the Senior Loan Facility Agent with all of the documents and other evidence required pursuant to the conditions subsequent provisions of the Common Terms Agreement in respect of those Senior Control Accounts.</li></ul>
<b>Pre-Enforcement Priority of Payments:</b>	has the meaning given to it on page 258.
<b>Prepayment Fee Factor:</b>	has the meaning given to it on page 252.
<b>PRIPs Regulation:</b>	has the meaning given to it on page viii.
<b>Principal Amount Outstanding:</b>	has the meaning given to it on page 347.
<b>Principal Distribution Amount:</b>	has the meaning given to it on page 254.
<b>Principal Paying Agent:</b>	has the meaning given to it on page 318.
<b>Principal Receipts:</b>	has the meaning given to it on page 253.
<b>Pro Rata Principal Distribution Amount:</b>	has the meaning given to it on page 255.
<b>Propco:</b>	means each Senior Obligor that directly owns a Property.
<b>Property:</b>	has the meaning given to it on page iii.

<b>Property Management Agreement:</b>	means each Initial Property Management Agreement and each New Property Management Agreement, as the case may be.
<b>Property Manager:</b>	means each of: <ul style="list-style-type: none"> <li>(a) the Dutch Property Manager;</li> <li>(b) the French Property Manager; and</li> <li>(c) the German Property Manager.</li> </ul>
<b>Property Manager Duty of Care Agreement:</b>	means a Senior Property Manager Duty of Care Agreement or a Mezzanine Property Manager Duty of Care Agreement.
<b>Property Portfolio:</b>	has the meaning given to it on page iii.
<b>Property Portion:</b>	has the meaning given to that term in the definition of Property Title Split.
<b>Property Protection Drawing:</b>	has the meaning given to it on page 269.
<b>Property Protection Shortfall:</b>	has the meaning given to it on page 269.
<b>Property Title Split:</b>	means the partitioning of any part (each a <b>Property Portion</b> ) of a Property into a separate property in a legal sense in accordance with: <ul style="list-style-type: none"> <li>(a) the relevant laws and requirements of the applicable land registry and/or cadastral registry to register such a partition; and</li> <li>(b) the Property Title Split Conditions.</li> </ul>
<b>Property Title Split Conditions:</b>	means, in respect of a Property Title Split: <ul style="list-style-type: none"> <li>(a) the Senior Company gives at least 10 Business Days' prior notice of the Property Title Split to the Senior Loan Facility Agent, such notification to include the specific boundaries of each Property Portion and copies of the submissions to be made to the relevant land registry in connection with such Property Title Split;</li> <li>(b) no condominium ownership (<i>Wohnungseigentum</i>) or partial ownership (<i>Bruchteils-/Teileigentum</i>) is created as a result of such partitioning (<i>Realteilung</i>);</li> <li>(c) the validity and enforceability of the Common Transaction Security created over the relevant Properties will not be adversely affected by the Property Title Split provided that the relevant Senior Obligors may ratify or confirm the existing Common Transaction Security or grant new Common Transaction Security (on terms equivalent to the pre-existing</li> </ul>

Common Transaction Security Documents over the relevant Properties) in favour of the Senior Finance Parties (and the Senior Obligors will also provide all customary constitutional documents, corporate authorisations and other matters so as to verify that the Senior Obligor's obligations are legally binding, valid and enforceable);

- (d) the relevant Senior Obligor has and will continue to have a good and marketable title to each Property Portion following completion of the Property Title Split (other than in respect of any Property Portion being immediately disposed of as a Senior Permitted Disposal);
- (e) the ownership title of each Property Portion will, upon registration in each land registry, be subject to all easements, public charges, agreements, reservations, restrictions, utility rights, access rights, all other easements necessary to permit any encroachment from these Property Portions, all waivers necessary to waive any encroachment rent otherwise payable by the owners of these Property Portions, conditions or other matters, in each case if and to the extent as required to enjoy and use each Property Portion (including those necessary for the carrying on of the business on each Property Portion) (the **Relevant Rights**) following the Property Title Split;
- (f) any Relevant Rights that were for the benefit of the relevant Properties (as a whole) before the Property Title Split will not be adversely affected by the Property Title Split (or will be replaced with equivalent rights) and will continue to benefit any Property Portion retained by the Senior Obligors following the Property Title Split (or a disposal thereof);
- (g) copies of land register extracts (or equivalent) providing evidence for the registration of the relevant Property Portion as a new property in a legal sense and any other documents formalising the Property Title Split are provided to the Senior Loan Facility Agent;
- (h) all Authorisations are obtained by the relevant Senior Obligors to effect the Property Title Split; and
- (i) no Senior Loan Default is continuing or would arise as a result of the Property Title Split.

**Proportionate Share:** means the DB Proportionate Share and/or the SG Proportionate Share as the context may require.

**Prospectus Directive:** has the meaning given to it on page viii.

**Protective Enforcement Action:** means, to the extent that any Common Insolvency Event is continuing in respect of a Senior Obligor, the taking of any Enforcement Action to exercise any right a Senior Facility Creditor may otherwise have in respect of that Senior Obligor to:

- (a) accelerate any of the Senior Facility Liabilities or declare them prematurely due and payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that Senior Obligor in respect of any Senior Facility Liabilities;
- (c) enter into any composition, compromise, assignment or arrangement with a Senior Obligor in respect of the Senior Facility Liabilities;
- (d) exercise any right of set-off in respect of any Senior Facility Liabilities of that Senior Obligor;
- (e) claim and prove in the liquidation of that Senior Obligor for the Senior Facility Liabilities owing to it; or
- (f) make a call under an Eligible Letter of Credit (Capex) in respect of that Obligor.

**Purchase Event:** has the meaning given to it on page 230.

**Purchaser:** has the meaning given to it on page 447.

**Purchasing Party:** means a Mezzanine Lender or an Affiliate of a Mezzanine Lender.

**Qualifying Bank:** means:

- (a) a person that is resident for tax purposes in a territory that has signed a double taxation treaty with Ireland, under the laws of that territory, or in a member state of the European Union (other than Ireland), under the laws of that territory or member state provided that where the person is a company, it does not enter into a Liquidity Facility Agreement or provide its commitment thereunder through or in connection with a trade or business which is carried on through a branch or agency in Ireland and that person is subject to a tax which generally applies to profits, income or gains from foreign sources received in that territory in respect of amounts receivable by it in connection with the relevant Liquidity Facility Agreement without any deemed or notional deductions calculated by reference to the amount receivable; or
- (b) a bank that is carrying on a bona fide banking business in Ireland for the purposes of Section 264(3)(a) TCA with which the relevant Liquidity Facility Agreement and its commitment thereunder is connected; or
- (c) a US incorporated company that is taxed in the U.S. on its worldwide income provided that interest payable to it in connection with the relevant Liquidity Facility Agreement is not paid in connection with a trade or business which is

carried on through a branch or agency in Ireland.

**Qualifying Lender:**

means a Senior Lender that is beneficially entitled to interest payable to that Senior Lender in respect of an advance under a Senior Finance Document and is, in respect of a Tax Deduction imposed by any Senior Borrower Jurisdiction, any Senior Lender:

- (a) to whom any payment of interest under the Senior Facility can be made without a Tax Deduction being imposed by law in that Senior Borrower Jurisdiction; or
- (b) that is a Senior Treaty Lender for that Senior Borrower Jurisdiction.

**Qualifying Transferee:**

means any person that, at the date on which the relevant person obtains control of the Pledgecons (taken together) directly or indirectly either:

- (a) is listed on a Recognised Stock Exchange and has a market capitalisation of more than €5,000,000,000;
- (b) has total assets (as set out in its most recent financial statements) of more than €5,000,000,000; and/or
- (c) owns, controls and/or manages and/or is advised and/or managed by any person that owns, controls and/or manages, directly or indirectly, commercial real estate assets (excluding the Properties) (A) in Europe which have an aggregate market value of not less than €2,000,000,000 (or its equivalent in another currency) or (B) worldwide which have an aggregate market value of not less than €5,000,000,000,

**provided that** no person shall be a Qualifying Transferee on the date on which it obtains control of the Mezzanine Borrowers (taken together) or the Pledgecons (taken together) directly or indirectly unless on such date:

- (i) the Senior LTV Ratio is lower than 69.7194659921355 per cent. (calculated on the basis of the LTV Ratio Change of Control Test); and
- (ii) that person has provided:
  - (A) a Replacement Sauvegarde Guarantee executed by one or more Sauvegarde Guarantors; and
  - (B) all constitutional documentation, know your customer information, other authorisations and legal opinions in each case in respect of that Replacement Sauvegarde Guarantee and Sauvegarde Guarantors as required by the Senior Loan Facility Agent or the Mezzanine Loan Facility Agent in form and substance

satisfactory to the Senior Loan Facility Agent or the Mezzanine Loan Facility Agent (as applicable).

**Quarterly Management Report:**

means a quarterly management report in respect of the Properties and the business of each of the Senior Obligor, in each case, for the Financial Quarter ending on the Financial Quarter Date falling immediately prior to delivery of that quarterly management report in the agreed form and delivered in accordance with the conditions and subsequent provisions of the Common Terms Agreement.

**Quarterly Mezzanine Interest Capped Amount:**

means, on any Mezzanine Loan Payment Date, **a** times **b** where:

- (a) **a** is the aggregate of:
  - (i) the Mezzanine Loan Margin (as applicable at the date of the Intercreditor Agreement); plus
  - (ii) the lower of:
    - (A) LIBOR for the Mezzanine Loan Interest Period ending on that Mezzanine Loan Payment Date; and
    - (B) the weighted average strike rate of any hedging transactions in place on that Mezzanine Loan Payment Date (each as entered into in accordance with the terms of the Mezzanine Facility Agreement in its original form);
- (b) **b** is **c** minus **d**;
- (c) **c** is the aggregate principal amount of the Mezzanine Loans advanced on the Mezzanine Utilisation Date; and
- (d) **d** is the aggregate principal amount of any prepayments of the Mezzanine Loans made since the Mezzanine Utilisation Date.

**Quasi Security:**

means, with respect to a Senior Obligor:

- (a) the sale, transfer or other disposal of any of a Senior Obligor's assets on terms whereby they are or may be leased to or re-acquired by it;
- (b) the sale, transfer or other disposal of any of a Senior Obligor's receivables on recourse terms;
- (c) the entry into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) the entry into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

<b>quoted Eurobond:</b>	has the meaning given to it on page 433.
<b>Rate(s) of Interest:</b>	has the meaning given to it on page 332.
<b>Rating Agencies:</b>	has the meaning given to it on page 369.
<b>Rating Agency Confirmation:</b>	<p>means a written confirmation from each Rating Agency then rating the Notes that:</p> <ul style="list-style-type: none"><li>(a) the then current ratings of each (or the relevant) Class of Notes rated thereby will not be qualified, downgraded or withdrawn as a result of certain matters; or</li><li>(b) (other than for DBRS) if the original rating of the relevant Class of Notes has been downgraded previously, that certain matters will not prevent the restoration of such original rating of such Class of Notes,</li></ul> <p>it being acknowledged that there is no obligation on any Rating Agency to provide any such confirmation.</p>
<b>rating(s):</b>	has the meaning given to it on page 369.
<b>Receiver:</b>	means a receiver, manager or receiver and manager or administrative receiver of the whole or any part of the Charged Property which is subject to Common Transaction Security governed by a law other than German law.
<b>Receiving Entity:</b>	has the meaning given to it on page 239.
<b>Recognised Stock Exchange:</b>	means a market specified in, or is established under the rules of an exchange specified in, Part II, III or IV of Schedule 3 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (SI 2005/1529).
<b>Record Date:</b>	has the meaning given to it on page 339.
<b>Recoverable Charge Project:</b>	<b>Service</b> means a Senior Capex Project if the entire cost of such Senior Capex Project is recoverable from one or more of the tenants of any Properties by way of Service Charge Proceeds.
<b>Recoveries:</b>	has the meaning given to it on page 242.
<b>Recovery Claim:</b>	has the meaning given to it in the definition of Senior Recovery Prepayment Proceeds.
<b>Register:</b>	has the meaning given to it on page 319.
<b>Registrar:</b>	has the meaning given to it on page 319.



<b>Regulation S:</b>	has the meaning given to it on page 447.
<b>Regulatory Information Service:</b>	means any regulatory information service at Euronext Dublin or the equivalent office of any other stock exchange on which the Notes may be listed.
<b>REIT:</b>	means a Real Estate Investment Trust.
<b>Related Fund:</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to a fund (the <b>first fund</b>), a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund; and</li> <li>(b) in relation to any other person (the <b>first person</b>), each fund which is managed or advised by an investment manager or investment adviser which is the first person or an Affiliate of the first person.</li> </ul>
<b>Relevant Class of Noteholders:</b>	has the meaning given to it on page 303.
<b>relevant date:</b>	has, for the purposes of Condition 9 only, the meaning given to it on page 348.
<b>Relevant Interbank Market:</b>	means in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.
<b>Relevant Jurisdiction:</b>	means, in relation to a Senior Transaction Obligor or Mezzanine Transaction Obligor: <ul style="list-style-type: none"> <li>(a) its jurisdiction of incorporation or formation;</li> <li>(b) the jurisdiction of its Centre of Main Interests;</li> <li>(c) any jurisdiction where any asset subject to or intended to be subject to the Common Transaction Security or Mezzanine Only Security (as applicable) to be created by it is situated;</li> <li>(d) any jurisdiction where it conducts its business; and</li> <li>(e) the jurisdiction whose laws govern the perfection of any of the Common Transaction Security or Mezzanine Only Security Documents (as applicable) entered into by it.</li> </ul>
<b>Relevant Margin:</b>	has the meaning given to it on page 332.
<b>Relevant OPCI:</b>	has the meaning given to it on page 177.
<b>Relevant Period:</b>	means each period of 12 Months commencing on a Financial Quarter

Date and ending on the anniversary of that Financial Quarter Date.

**Relevant Prepayment Fee:** has the meaning given to it on page 252.

**Relevant Rating Requirements:** means the ratings criteria of the Rating Agencies.

**Relevant Senior Interim Repayment Date:** has the meaning given to it on page 232.

**Relibi Law:** has the meaning given to it on page 440.

**Rental Income:** means all amounts paid or payable to or for the benefit of any Senior Obligor arising from the letting, use or occupation of all or any part of a Property, including (without limitation and without double counting):

- (a) rents, licence fees and equivalent amounts in respect of all or any part of a Property;
- (b) sums received or receivable from any deposit held as security for performance of any tenant's obligations under an Occupational Lease to the extent that such sums are not required to be held as deposit or security under such Occupational Lease and are released to the relevant Obligor as landlord under that Occupational Lease;
- (c) any other monies paid or payable in respect of occupation and/or usage of any Properties and any fixture and fitting on any Properties including any fixture on any Properties for display or advertisement, on licence or otherwise;
- (d) proceeds of insurance in respect of loss of rent or interest on rent;
- (e) any Service Charge Proceeds;
- (f) payments made in respect of a breach of covenant or dilapidations under any Occupational Lease in relation to any Properties and for expenses incurred in relation to any such breach;
- (g) any receipts from or the value of consideration given for the surrender or variation of any Occupational Lease;
- (h) interest, damages or compensation in respect of any of the items in this definition;
- (i) any payment from a guarantor or other surety in respect of any of the items listed in this definition;
- (j) any break payments that are received or receivable in the period for which Rental Income is being calculated following the actual exercise of any break option under any

Occupational Lease; and

- (k) any amount in respect of or which represents VAT in respect of any of the sums set out in paragraphs (a) to (j) above,

but, in each case, excluding, for the avoidance of doubt, any amount held or received as deposit or security under an Occupational Lease. For the avoidance of doubt any rental income derived from an Excluded Property shall not constitute Rental Income.

**Repeating Representation:** means each of the representations referred to in "*Status*", "*Binding obligations*", "*Non-conflict with other obligations*", "*Power and authority*", "*Validity and admissibility in evidence*", "*Governing law and enforcement*", "*No filing or stamp taxes*", "*No default*" and paragraphs (a), (b), (c), (d), (e), (f) and (j) of "*Good title to Property*" in the section entitled "*Description of the Common Terms Agreement – Representations and warranties*".

**Replacement Sauvegarde Garantie:** means a guarantee substantially in the form of the Initial Sauvegarde Garantie.

**Reports:** means:

- (a) the Hengeler Legal DD Report;
- (b) the Loyens Legal DD Report;
- (c) the DLA Legal DD Report;
- (d) the Attal Legal DD Report;
- (e) the EHP Corporate DD Report;
- (f) the Financial DD Report;
- (g) the Technical DD Reports;
- (h) the Environmental DD Reports;
- (i) the Franklin Legal DD Report;
- (j) the Hogan Lovells Report;
- (k) the Arendt Corporate DD Report;
- (l) the Loyens VDD Report;
- (m) the Tax Red Flag Report;
- (n) the Tax DD Report; or
- (o) the Tax Structure Paper.

**Reports Side Letter:** means the letter dated 19 September 2018 between The Blackstone Group International Partners LLP, any other addressee of a Report

which is an Investor Affiliate (other than an Obligor) and the Senior Loan Facility Agent and the Mezzanine Loan Facility Agent.

**Repurchase Consideration:** has the meaning given to it on page 166.

**Repurchase Option:** has the meaning given to it on page 165.

**Required Hedging Conditions:** has the meaning given to it on page 174.

**Required Rating:** means the rating for long- or short-term (as appropriate) unsecured debt instruments in issue by a person (which are neither subordinated nor guaranteed) which meet the following requirements:

(a) in relation to a bank or financial institution at which a Senior Obligor Account is held (provided that for the purposes of determining the Required Rating of a Senior Obligor Account Bank, the ratings held by a Holding Company may be used if that Holding Company complies with the Required Ratings):

(i) short-term instruments with the following ratings from the two selected Rating Agencies identified in the securitisation notice (unless DBRS is a selected Rating Agency, in which case no rating is required from DBRS): F1 (or better) by Fitch; and

(ii) long-term instruments with the following ratings from the two selected Rating Agencies identified in the securitisation notice: A (or better) by Fitch and A (or better) by DBRS: (A) a long-term issuer credit rating of A (or better) by S&P Global Ratings; and (B) A (or better) by DBRS;

(b) in relation to any insurance company or underwriter:

(i) if the insurance company or underwriter is rated by DBRS, long-term instruments or insurer financial strength rating of A- (or better) by DBRS, and A- (or better) by Fitch; and

(ii) long-term instruments or an insurer financial strength rating of at least two of the following ratings: A- (or better) by AM Best, A- or better by DBRS, A- (or better) by Fitch, A3 (or better) by Moody's and a long-term issuer credit rating of A- (or better) by S&P Global Ratings,

or any other insurance company or underwriter in accordance with any guidance and/or derogations received from each Rating Agency; and

(c) in relation to a Hedge Counterparty (provided that for the purposes of determining the Required Rating of a Hedge Counterparty, the ratings held by a Holding Company of such

Hedge Counterparty which provides a guarantee of such Hedge Counterparty's obligations under the relevant Hedging Document may be used):

- (i) the ratings of short-term instruments with the following ratings from the two selected Rating Agencies identified in the securitisation notice: F1 (or better) by Fitch (in each case to the extent such rating agency provides a short-term rating for the Hedge Counterparty); and
- (ii) the rating of long-term instruments with the following ratings from the two selected Rating Agencies identified in the securitisation notice: A (or better) by Fitch and A (or better) by DBRS (if such Hedge Counterparty is rated by DBRS),

or any other Hedge Counterparty in accordance with the Relevant Rating Requirements pursuant to any guidance and/or derogations received from each Rating Agency.

**Reserved Matter:** has the meaning given to it on page 287.

**Restricted Lender:** means an Investor Affiliate for so long as it:

- (a) beneficially owns a Senior Commitment or Senior Loan (or beneficially owns all or part of the share capital of a company that is a Senior Lender or a party to a Debt Purchase Transaction of the type referred to in paragraphs (b) or (c) of the definition of Debt Purchase Transaction); or
- (b) has entered into a sub-participation agreement relating to a Senior Commitment or other agreement or arrangement having a substantially similar economic effect and such agreement or arrangement has not been terminated.

**retail investor:** has the meaning given to it on page viii.

**Retention Technical Standards:** has the meaning given to it on page xii.

**Revenue Receipts:** has the meaning given to it on page 253.

**RICS:** means the Royal Institution of Chartered Surveyors.

**Risk Retention U.S. Persons:** has the meaning given to it on page ix.

**Roosendaal Property:** means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).

**S&P:** means S&P Global Ratings.

<b>Safeguard Proceedings:</b>	has the meaning given to it on page 104.
<b>Sales Agent:</b>	has the meaning given to it on page 241.
<b>SAM:</b>	has the meaning given to it on page 131.
<b>Sanctions:</b>	means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by any Sanctions Authority.
<b>Sanctions Authority:</b>	means: <ul style="list-style-type: none"> <li>(a) the United States;</li> <li>(b) the United Nations Security Council;</li> <li>(c) the European Union;</li> <li>(d) the French Republic;</li> <li>(e) the United Kingdom; or</li> <li>(f) the respective governmental institutions of any of the foregoing including, without limitation, Her Majesty's Treasury, the Office of Foreign Assets Control of the US Department of the Treasury (OFAC), the US Department of Commerce, the US Department of State and any other agency of the US government.</li> </ul>
<b>Sauvegarde Guarantee:</b>	means: <ul style="list-style-type: none"> <li>(a) the Initial Sauvegarde Guarantee; or</li> <li>(b) any Replacement Sauvegarde Guarantee.</li> </ul>
<b>Sauvegarde Guarantor:</b>	means each person satisfactory to the Senior Loan Facility Agent (acting upon the instructions of the Senior Majority Lenders) and the Mezzanine Loan Facility Agent (acting upon the instructions of the Mezzanine Majority Lenders) specified from time to time as a party to any Sauvegarde Guarantee.
<b>Schipholweg I Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Schipholweg II Property:</b>	means the Dutch Property designated as such in the "Property" column of the table in Part 3 (The Dutch Properties) of Appendix 2 (The Properties).
<b>Second Extended Expected Note Maturity Date:</b>	has the meaning given to it on page 46.
<b>Second IPD:</b>	has the meaning given to it on page 185.

<b>Second Mezzanine Loan Extended Repayment Date:</b>	means the fourth anniversary of the first Mezzanine Loan Payment Date.
<b>Second Mezzanine Loan Extension Option Conditions:</b>	<p>means each of the following conditions:</p> <ul style="list-style-type: none"> <li>(a) the Mezzanine Company has submitted a Mezzanine Loan Extension Option Notice on any day during the Second Mezzanine Loan Extension Option Period;</li> <li>(b) on the date of delivery to the Mezzanine Loan Facility Agent of the Mezzanine Loan Extension Option Notice and on the First Mezzanine Loan Extended Repayment Date, no Mezzanine Loan Default is continuing under the Mezzanine Facility Agreement; and</li> <li>(c) on or prior to the First Mezzanine Loan Extended Repayment Date: <ul style="list-style-type: none"> <li>(i) the Mezzanine Company has confirmed that, unless the Senior Loan has been repaid in full, the repayment date under the Common Terms Agreement will be extended to a date no earlier than the Second Mezzanine Loan Extended Repayment Date; and</li> <li>(ii) Hedge Documents are entered into that comply with the provisions of the Mezzanine Facility Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Mezzanine Facility Agreement are complied with, in each case, in respect of the period from the First Mezzanine Loan Extended Repayment Date to the Second Mezzanine Loan Extended Repayment Date.</li> </ul> </li> </ul>
<b>Second Mezzanine Loan Extension Option Period:</b>	means the period commencing on the date falling 90 days prior to the First Mezzanine Loan Extended Repayment Date and ending on the date falling 30 days prior to the First Mezzanine Loan Extended Repayment Date.
<b>Second Senior Loan Extended Repayment Date:</b>	means the fourth anniversary of the first Senior Loan Payment Date.
<b>Second Senior Loan Extension Option:</b>	means the Senior Company's second option to extend the Senior Loan Maturity Date by one additional year which is exercised by satisfying the Second Senior Loan Extension Option Conditions.
<b>Second Senior Loan Extension Option Conditions:</b>	<p>means each of the following conditions:</p> <ul style="list-style-type: none"> <li>(a) the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the Second Senior Loan Extension Option Period;</li> </ul>

- (b) on the date of delivery to the Senior Loan Facility Agent of the Senior Loan Extension Option Notice and on the First Senior Loan Extended Repayment Date, no Senior Loan Default is continuing under the Common Terms Agreement; and
- (c) on or prior to the First Senior Loan Extended Repayment Date:
  - (i) the Senior Company has confirmed that, unless the Mezzanine Loan has been repaid in full, the repayment date under the Mezzanine Facility Agreement will be extended to a date no earlier than the Second Senior Loan Extended Repayment Date; and
  - (ii) Hedge Documents are entered into that comply with the provisions of the Common Terms Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Common Terms Agreement are complied with, in each case, in respect of the period from the First Senior Loan Extended Repayment Date to the Second Senior Loan Extended Repayment Date.

**Second Senior Loan Extension Option Period:** means the period commencing on the date falling 90 days prior to the First Senior Loan Extended Repayment Date and ending on the date falling 30 days prior to the First Senior Loan Extended Repayment Date.

**Securities Act:** has the meaning given to it on page ii.

**Securitisation:** means any securitisation (including, without limitation, a synthetic securitisation), repackaging, similar transaction or transaction of broadly equivalent economic effect:

- (a) involving any part of the rights of any Senior Lender under the Common Terms Agreement or any Mezzanine Lender under the Mezzanine Facility Agreement; or
- (b) relating to, or using as a reference, the whole or part of the Senior Loan or Mezzanine Loan (whether alone or in conjunction with other loans) through the issue of notes on the capital markets.

**Securitisation Issuer:** means a Senior Lender or a Mezzanine Lender which:

- (a) is a special purpose vehicle; and
- (b) has issued (or will issue) note instruments in respect of a Securitisation.

**Securitised Assets:** means the Securitised Senior Loan and all right, title and interest of



	the Loan Sellers in respect thereof (including as to security) under the Senior Finance Documents.
<b>Securitised Senior Loan:</b>	has the meaning given to it on page 5.
<b>Securitised Senior Loan Sale Agreement:</b>	means the agreement to be entered into by the Issuer, the Loan Sellers, the Senior Loan Facility Agent and the Issuer Security Trustee on or about the Closing Date.
<b>Securitised Senior Loan Sale Documents:</b>	means the Securitised Senior Loan Sale Agreement, the Issuer Intercreditor Accession Deed, the German Security Trust Accession Agreement and the Transfer Agreements.
<b>Security:</b>	means a mortgage, land charge, charge, pledge, lien, assignment or transfer for security purposes, retention of title arrangements, hypothecation, transfer by way of security ( <i>cession de créances professionnelles á titre de garantie</i> ), retention right ( <i>droit de retention</i> ) or other security interest securing any obligation of any person or any easement or other encumbrance or other agreement or arrangement having a similar effect, in each case, including any encumbrance registered in section II of the land registry pertaining to any German Property.
<b>Security Interest:</b>	means a mortgage, charge, pledge, lien, assignment by way of security, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
<b>Selected Rating Agency Requirements:</b>	means: <ul style="list-style-type: none"> <li>(a) the DBRS Criteria; and</li> <li>(b) the Fitch Criteria.</li> </ul>
<b>Senior Acceleration Event:</b>	means the Senior Loan Facility Agent exercising any of its rights under the acceleration provisions of the Common Terms Agreement.
<b>Senior Allocated Loan Amount:</b>	means, in relation to a Property, the amount specified in the column entitled "Senior Allocated Loan Amount" set opposite the description of that Property in Appendix 2 (The Properties) as reduced from time to time in accordance with the terms of the Common Terms Agreement.
<b>Senior Borrower:</b>	means each of the senior borrowers as listed in the section entitled " <i>The Senior Borrowers and the Senior Guarantors</i> ".
<b>Senior Borrower Jurisdiction:</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of each French Senior Borrower, France;</li> <li>(b) in respect of each Luxembourg Senior Borrower, Luxembourg and Germany; and</li> <li>(c) in respect of each Dutch Senior Borrower, the Netherlands.</li> </ul>

**Senior Capex Project:** means, in relation to a Property, to:

- (a) effect, carry out or permit any demolition, reconstruction, redevelopment or rebuilding of or any structural alteration to that Property; and/or
- (b) incur capital expenditure in respect of works of alteration, addition, maintenance, repair, improvement, refurbishment and/or extension to that Property.

**Senior Cash Trap Account:** means each of:

- (a) the accounts designated as such required to be opened and maintained in Luxembourg by the Senior Company and by Aberdonia France Two S.à r.l. under the Common Terms Agreement; and
- (b) the accounts designated as such required to be opened and maintained in France by each OPCI,

and includes the interest of each of the Senior Company, Aberdonia France Two S.à r.l. and each OPCI in any replacement account or sub division or sub-account of those accounts.

**Senior Change of Control:** means:

- (a) prior to an Approved Person or Approved Persons acquiring Control of the Pledgcos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement, Permitted Holders cease to Control any Pledgeco unless (in the case of the Initial Investors only) such cessation of Control results directly or indirectly from a Listing;
- (b) on and from the date on which an Approved Person or Approved Persons acquire Control of the Pledgcos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement:
  - (i) such Approved Person or Approved Persons cease to Control any Pledgeco; or
  - (ii) the same person or persons exercising Control over or managing (as applicable) the relevant Approved Person or Approved Persons as at the date that such Approved Person or Approved Persons acquired Control of the Pledgcos ceases or cease to have Control over or manage (as applicable) that Approved Person or Approved Persons;
- (c) following a Listing, a person or group of persons acting in concert who are not (or, in the case of a group, not all) Permitted Holders own (directly or indirectly) or gain Control of 50 per cent or more of the voting share capital of any

Pledgeco; or

- (d) other than as a result of a Senior Permitted Property Disposal, the Pledgecos (taken together) cease to Control any Senior Obligor (other than any Pledgeco).

**Senior Commitment:**

means:

- (a) in relation to an Original Senior Lender, the amount set opposite its name under the heading "Commitment" in Part 1 of Schedule 1 (The Original Parties) to the Common Terms Agreement and the amount of any other Senior Commitment transferred to it under the Common Terms Agreement and the French Facility Agreement; and
- (b) in relation to any other Senior Lender, the amount of any Senior Commitment transferred to it under the Common Terms Agreement and under the terms of the French Facility Agreement,

to the extent not cancelled, reduced or transferred by it under the Common Terms Agreement and the French Facility Agreement.

**Senior Company:**

means Spear Pledgeco S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated under the laws of Luxembourg with its registered office at 2-4, rue Eugène Ruppert, L 2453 Luxembourg being registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés, Luxembourg*) in Luxembourg under number B224497.

**Senior Control Account:**

means each of:

- (a) the Senior General Accounts;
- (b) the Senior Hedge Collateral Accounts;
- (c) the Senior Cash Trap Accounts;
- (d) the Senior Debt Service Accounts;
- (e) the Senior Prepayment Accounts;
- (f) the Senior Rent Collection Accounts;
- (g) the Senior Rental Income Accounts;
- (h) the Senior Service Charge Accounts; and
- (i) any account which is required or permitted to be opened and maintained by a Senior Obligor in accordance with the opening of control accounts provisions of the Common Terms Agreement from time to time (other than any Senior Rent Deposit Account or a Senior Existing Account that has not been designated as a Senior Control Account under the

Common Terms Agreement),

**provided that** a Senior Rent Collection Account shall only constitute a Senior Control Account if it is in the name of and held by a Senior Obligor.

**Senior Debt Service Account:**

means each of:

- (a) the accounts designated as such required to be opened and maintained in Luxembourg by the Senior Company and by Aberdonia France Two S.à r.l. under the Common Terms Agreement; and
- (b) the accounts designated as such required to be opened and maintained in France by each OPCI,

and includes the interest of each of the Senior Company, Aberdonia France Two S.à r.l. and each OPCI in any replacement account or sub division or sub-account of those accounts.

**Senior Debtor Accession Deed:**

means the debtor accession deed in the form set out in the Senior Subordination Agreement.

**Senior Delegate:**

means any delegate, agent, attorney, manager or co-trustee appointed by the Senior Loan Facility Agent or the Common Security Agent.

**Senior Discharge Date:**

means the first date on which all Senior Facility Liabilities have been fully and finally discharged to the satisfaction of the Senior Loan Facility Agent (acting on the instructions of all of the Senior Lenders), whether or not as the result of an enforcement, and the Senior Facility Creditors are under no obligation to provide any further financial accommodation to any of the Obligors under the Senior Finance Documents.

**Senior Enforcement Notice:**

has the meaning given to it on page 231.

**Senior Equity Cure Account:**

means each of:

- (a) the accounts designated as such required to be opened and maintained in Luxembourg by the Senior Company and Aberdonia France Two S.à r.l. under the Common Terms Agreement; and
- (b) the accounts designated as such required to be opened and maintained in France by each OPCI,

and includes the interest of each of the Senior Company, Aberdonia France Two S.à r.l. and each OPCI in any replacement account or sub division or sub-account of those accounts.

**Senior Equity Cure Amount:**

means an LTV Equity Cure Amount or a Debt Yield Equity Cure Amount.

**Senior Excluded  
Expropriation Proceeds:**

means, in relation to a Property, the amount of Disposal Proceeds received by any Senior Obligor pursuant to any Expropriation in respect of that Property which (when aggregated with any Disposal Proceeds received by any Senior Obligor pursuant to a previous Expropriation in respect of that Property) is in excess of the aggregate of:

- (a) if:
  - (i) the whole of a Property is the subject of that Expropriation, the Senior Release Price and Mezzanine Release Price for the relevant Property the subject of that Expropriation; or
  - (ii) part of a Property is the subject of that Expropriation, an amount equal to the aggregate of the Senior Partial Expropriation Release Price and the Mezzanine Partial Expropriation Release Price in relation to that Expropriation; and
- (b) any amounts that will become due and payable pursuant to the prepayment provisions of the Common Terms Agreement and of the Mezzanine Facility Agreement in connection with the prepayment of the amount set out in paragraph (a) above.

**Senior Excluded Insurance  
Proceeds:**

means:

- (a) any proceeds of insurance claims of up to €50,000 per annum; and
- (b) any proceeds of an insurance claim which the Senior Company notifies the Senior Loan Facility Agent are, or are to be, applied as soon as possible (but in any event within 12 Months after receipt or 24 Months after receipt **provided that** such proceeds are contractually committed to be applied no later than 12 Months after receipt):
  - (i) to meet a third party claim to which the relevant insurance proceeds relate; and/or
  - (ii) to cover operating losses or loss of rent in respect of which the relevant insurance claim was made; and/or
  - (iii) to replace, reinstate and/or repair the relevant assets of a Senior Obligor which have been lost, destroyed or damaged.

**Senior Excluded Permitted  
Property Disposal  
Proceeds:**

means, in respect of a Senior Permitted Property Disposal, an amount equal to the amount of Disposal Proceeds received by a Senior Obligor for that Senior Permitted Property Disposal minus the aggregate of:

- (a) an amount equal to the Senior Permitted Property Disposal

Prepayment Proceeds for that Senior Permitted Property Disposal; and

- (b) an amount equal to the Mezzanine Permitted Property Disposal Prepayment Proceeds for that Senior Permitted Property Disposal.

**Senior Excluded Proceeds Expiry Period:** has the meaning given to it on page 171.

**Senior Excluded Recovery Proceeds:** means:

- (a) any proceeds of a Recovery Claim under an Acquisition Agreement to the extent such Recovery Claim is in respect of Rental Income; and
- (b) any proceeds of a Recovery Claim which the Senior Company notifies the Senior Loan Facility Agent are, or are to be, applied as soon as possible (but in any event within 12 Months after receipt or 24 Months after receipt **provided that** such proceeds are contractually committed to be applied no later than 12 Months after receipt):
  - (i) to satisfy (or reimburse a member of the Group which has discharged) any liability, charge or claim upon a member of the Group by a person which is not a member of the Group nor an Investor Affiliate; and/or
  - (ii) in the replacement, reinstatement and/or repair of assets or property of members of the Group which have been lost, destroyed or damaged and to which the relevant recovery proceeds relate,

in each case in relation to that Recovery Claim.

**Senior Existing Account:** means each bank account (other than any Senior Control Account or Senior Rent Deposit Account) of a Senior Obligor which was in existence prior to the Senior Utilisation Date **provided that** following the closure or designation as a Senior Control Account of any such account in accordance with the conditions subsequent provisions of the Common Terms Agreement such account will no longer constitute a Senior Existing Account.

**Senior Expropriation Prepayment Proceeds:** means the Disposal Proceeds received by any Senior Obligor pursuant to any Expropriation except for any Senior Excluded Expropriation Proceeds.

**Senior Extra General Account:** means any additional bank account which is opened and maintained by a Senior Obligor at any time and designated as a general account, and includes the interest of the relevant Senior Obligor in any replacement account or sub division or sub-account of that account.

**Senior Facility:** means the term loan facility made available under the Common Terms Agreement and the French Facility Agreement.

<b>Senior Facility Creditor:</b>	means the Senior Finance Parties.
<b>Senior Facility Liabilities:</b>	means the Liabilities owed by the Obligors to the Senior Facility Creditors under the Senior Finance Documents.
<b>Senior Facility Office:</b>	means the office or offices notified by a Senior Lender to the Senior Loan Facility Agent in writing on or before the date it becomes a Senior Lender (or, following that date, by not less than five Business Days' written notice to the Senior Loan Facility Agent) as the office or offices through which it will perform its obligations under the Common Terms Agreement and the French Facility Agreement.
<b>Senior Fee Letter:</b>	means any letter or letters between, as the case may be, the Senior Loan Arranger and one or more Senior Obligors, the Senior Loan Facility Agent and one or more Senior Obligors or the Common Security Agent and one or more Senior Obligors setting out any of the fees referred to in the Common Terms Agreement.
<b>Senior Finance Document:</b>	means: <ul style="list-style-type: none"> <li>(a) the Common Terms Agreement;</li> <li>(b) the French Facility Agreement;</li> <li>(c) the Sauvegarde Guarantee;</li> <li>(d) the Insurance Guarantee;</li> <li>(e) each Senior Fee Letter;</li> <li>(f) the Senior Margin Letter;</li> <li>(g) each Senior Property Manager Duty of Care Agreement;</li> <li>(h) each Transfer Agreement;</li> <li>(i) each Senior Utilisation Request;</li> <li>(j) the Senior Subordination Agreement;</li> <li>(k) the Intercreditor Agreement;</li> <li>(l) the Reports Side Letter;</li> <li>(m) any Senior Loan Extension Option Notice;</li> <li>(n) any Senior Resignation Letter;</li> <li>(o) each Senior Debtor Accession Deed;</li> <li>(p) each Senior Subordinated Creditor Accession Deed;</li> <li>(q) each Common Transaction Security; and</li> </ul>

	(r) any other document designated as such by the Senior Loan Facility Agent and the Senior Company.
<b>Senior Finance Party:</b>	means each of the Senior Loan Facility Agent, the Common Security Agent, each Senior Loan Arranger and each Senior Lender.
<b>Senior Financial Covenant Event of Default:</b>	means a Senior Loan Event of Default as described in the section entitled " <i>Description of the Common Terms Agreement – Senior Loan Events of Default – Financial covenants</i> ".
<b>Senior General Account:</b>	means each of: <ul style="list-style-type: none"> <li>(a) each account designated as such and required or permitted to be opened and maintained by each Senior Obligor in accordance with the Common Terms Agreement and, in each case, includes the interest of that Obligor in any replacement account or sub division or sub-account of that account; and</li> <li>(b) each Senior Extra General Account.</li> </ul>
<b>Senior Guarantor:</b>	means each of the guarantors as listed in the section entitled " <i>The Senior Borrowers and the Senior Guarantors</i> ".
<b>Senior Hedge Collateral Account:</b>	means each account designated as such and opened and maintained by a Senior Obligor for the receipt of collateral transferred pursuant to a Hedge Document and includes the interest of that Senior Obligor in any replacement account or sub division or sub-account of that account.
<b>Senior Holdco:</b>	means each Senior Obligor that it not a Propco.
<b>Senior Initial Account Bank:</b>	means each bank or financial institution with a Required Rating as the Senior Company may select prior to the Senior Utilisation Date.
<b>Senior Initial Repayment Date:</b>	means the second anniversary of the first Senior Loan Payment Date.
<b>Senior Insolvency Event of Default:</b>	means a Senior Loan Event of Default as described under " <i>Description of the Common Terms Agreement – Senior Loan Events of Default – Insolvency</i> " above and " <i>Description of the Common Terms Agreement – Senior Loan Events of Default – Insolvency proceedings</i> " above.
<b>Senior Insurance Prepayment Proceeds:</b>	means the proceeds of any insurance claim received by any member of the Group except for Senior Excluded Insurance Proceeds and after deducting any reasonable fees, costs and expenses in relation to that claim which are incurred by any member of the Group to persons who are neither members of the Group nor Investor Affiliates.
<b>Senior Interim Repayment Default:</b>	means a Senior Loan Event of Default under " <i>Description of the Common Terms Agreement – Senior Loan Events of Default – Non-payment</i> " which occurs as a result of a failure by the Senior Borrowers to extend the Senior Loan Maturity Date.



<b>Senior Investor:</b>	means:
	<ul style="list-style-type: none"> <li>(a) prior to a Permitted Senior Change of Control, an Initial Investor;</li> <li>(b) on or after a Permitted Senior Change of Control, a Qualifying Transferee that has acquired Control of the Senior Borrowers or PledgeCos or any fund, partnership and/or other entity managed, advised, owned and/or controlled by that Qualifying Transferee and/or any of its Affiliates; and</li> <li>(c) on and from the date on which an Approved Person or Approved Persons acquire(s) control of the Senior Borrowers or PledgeCos in accordance with the enforcement of Mezzanine Only Security provisions of the Intercreditor Agreement, a Mezzanine Investor.</li> </ul>
<b>Senior Investor Debt:</b>	means any Financial Indebtedness owed by a PledgeCo to any of its Holding Companies provided that (unless the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders) agrees otherwise in writing) such Financial Indebtedness is subordinated to the Senior Secured Liabilities under the terms of the Senior Subordination Agreement.
<b>Senior Lender:</b>	means:
	<ul style="list-style-type: none"> <li>(a) an Original Senior Lender; and</li> <li>(b) any person, bank, financial institution, trust, fund or other entity which has become a party to the Common Terms Agreement as a Senior Lender in accordance with the terms of the Common Terms Agreement,</li> </ul> <p>which in each case has not ceased to be a Senior Lender in accordance with the terms of the Common Terms Agreement and the French Facility Agreement.</p>
<b>Senior Lender Liabilities:</b>	means the Senior Facility Liabilities owed by the Obligors to the Senior Lenders under the Senior Finance Documents.
<b>Senior Lender Liabilities Transfer:</b>	means a transfer of the Senior Lender Liabilities to the Mezzanine Lenders pursuant to the exercise of the purchase option under the Intercreditor Agreement.
<b>Senior Loan:</b>	has the meaning given to it on page iii.
<b>Senior Loan Arranger:</b>	means each of:
	<ul style="list-style-type: none"> <li>(a) Deutsche Bank AG, London Branch; and</li> <li>(b) Société Générale, London Branch,</li> </ul> <p>each in its capacity as mandated lead arranger under the Common</p>

Terms Agreement.

**Senior Loan Default:**

means:

- (a) a Senior Loan Event of Default; or
- (b) an event or circumstance specified in the Common Terms Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Senior Finance Documents or any combination of any of them) be a Senior Loan Event of Default.

**Senior Loan EURIBOR:**

means, in relation to any Senior Loan:

- (a) the applicable Senior Loan Screen Rate; or
- (b) (if no Senior Loan Screen Rate is available for the Senior Loan Interest Period of the Senior Loan), the Senior Loan Interpolated Screen Rate for the Senior Loan; or
- (c) if:
  - (i) no Senior Loan Screen Rate is available for the Senior Loan Interest Period of the Senior Loan; and
  - (ii) it is not possible to calculate a Senior Loan Interpolated Screen Rate,

the Senior Loan Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (Brussels time) on the Senior Loan Quotation Day for euro and for a period equal in length to the Senior Loan Interest Period of the Senior Loan. If any such applicable Senior Loan Screen Rate, Senior Loan Interpolated Screen Rate or Senior Loan Reference Bank Rate is below zero, Senior Loan EURIBOR will be deemed to be zero.

**Senior Loan EURIBOR  
Excess Amounts:**

means, in respect of interest received or recovered by the Issuer on the Senior Loan after the Senior Loan Maturity Date, the amount of such interest, if any, which results from Senior Loan EURIBOR being in excess of 5 per cent. for the relevant Senior Loan Interest Period.

**Senior Loan Event of  
Default:**

means any event or circumstance specified as such in the Common Terms Agreement, as set out in the section entitled "*Description of the Common Terms Agreement – Senior Loan Events of Default*".

**Senior Loan Extension  
Option:**

means the First Senior Loan Extension Option, the Second Senior Loan Extension Option or the Third Senior Loan Extension Option.

**Senior Loan Extension  
Option Conditions:**

means the First Senior Loan Extension Option Conditions, the Second Senior Loan Extension Option Conditions or the Third Senior Loan Extension Option Conditions.

**Senior Loan Extension**

means a document substantially in the form set out as the form of

<b>Option Notice:</b>	extension notice in the Common Terms Agreement.
<b>Senior Loan Facility Agent:</b>	means Situs Asset Management Limited in its capacity as agent under the Common Terms Agreement.
<b>Senior Loan Final Repayment Date:</b>	<p>means the latest to occur of:</p> <ul style="list-style-type: none"> <li>(a) the Senior Initial Repayment Date;</li> <li>(b) if each of the First Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of First Senior Loan Extension Option Conditions, the First Senior Loan Extended Repayment Date;</li> <li>(c) if each of the Second Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Second Senior Loan Extension Option Conditions, the Second Senior Loan Extended Repayment Date; and</li> <li>(d) if each of the Third Senior Loan Extension Option Conditions is satisfied on the relevant date specified in the definition of Third Senior Loan Extension Option Conditions, the Third Senior Loan Extended Repayment Date.</li> </ul>
<b>Senior Loan Interest Period:</b>	has the meaning given to it on page 48.
<b>Senior Loan Interest Period Date:</b>	has the meaning given to it on page 48.
<b>Senior Loan Interpolated Screen Rate:</b>	<p>means, in relation to Senior Loan EURIBOR for any Senior Loan, the rate (rounded to the same number of decimal places as the two relevant Senior Loan Screen Rates) which results from interpolating on a linear basis between:</p> <ul style="list-style-type: none"> <li>(a) the applicable Senior Loan Screen Rate for the longest period (for which that Senior Loan Screen Rate is available) which is less than the Senior Loan Interest Period of that Senior Loan; and</li> <li>(b) the applicable Senior Loan Screen Rate for the shortest period (for which that Senior Loan Screen Rate is available) which exceeds the Senior Loan Interest Period of that Senior Loan,</li> </ul> <p>each as of 11.00 a.m. (Brussels time) on the Senior Loan Quotation Day for the currency of that Senior Loan.</p>
<b>Senior Loan IPD Payment Amount:</b>	means the amounts that will become due and payable on the next Senior Loan Payment Date in accordance with the provisions of the Common Terms Agreement.
<b>Senior Loan Margin:</b>	has the meaning given to it on page 7.

<b>Senior Loan Maturity Date:</b>	has the meaning given to it on page 47.
<b>Senior Loan Payment Date:</b>	has the meaning given to it on page 48.
<b>Senior Loan Prepayment Fee:</b>	means any fees payable pursuant to the prepayment fees provisions under the Common Terms Agreement.
<b>Senior Loan Quotation Day:</b>	means, in relation to any period for which an interest rate is to be determined, two TARGET Days before the first day of that period.
<b>Senior Loan Reference Bank Rate:</b>	<p>means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Senior Loan Facility Agent at its request by all or, where the circumstances in the absence of quotation provisions of the Common Terms Agreement apply, the remaining Senior Loan Reference Banks:</p> <ul style="list-style-type: none"> <li>(a) (other than where paragraph (b) below applies) as the rate at which the relevant Senior Loan Reference Bank could borrow funds in the European interbank market in the relevant currency and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period; or</li> <li>(b) if different, as the rate (if any and applied to the relevant Senior Loan Reference Bank and the relevant currency and period) which contributors to the Senior Loan Screen Rate are asked to submit to the relevant administrator.</li> </ul>
<b>Senior Loan Reference Banks:</b>	means the principal office in the Relevant Interbank Market of such banks as may be appointed by the Senior Loan Facility Agent in consultation with the Senior Company.
<b>Senior Loan Screen Rate:</b>	means, in relation to EURIBOR, the euro interbank offered rate administered by the European Money Market Institute (or any other person which takes over the administration of that rate) for the relevant period, displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service provider which publishes that rate from time to time in place of Thomson Reuters <b>provided that</b> if such page or service ceases to be available, the Senior Loan Facility Agent may specify another page or service displaying the relevant rate after consultation with the Senior Company.
<b>Senior Loan Transaction Document:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) each Acquisition Agreement;</li> <li>(b) each Senior Finance Document;</li> <li>(c) each Property Management Agreement;</li> </ul>

- (d) each Hedge Document;
- (e) each Occupational Lease;
- (f) each Cash Management Agreement;
- (g) each Agreement for Lease; and
- (h) any other document designated as such by the Senior Loan Facility Agent and the Senior Company.

**Senior LTV Ratio:** means, on any date, the proportion expressed as a percentage which Net Senior Debt on that date bears to the aggregate Market Valuation of the Properties on that date calculated by reference to the then most recent Valuation.

**Senior Majority Lenders:** means:

- (a) if there are no Senior Loan then outstanding, a Senior Lender or Senior Lenders whose Senior Commitments aggregate more than  $66\frac{2}{3}$  per cent. of the Senior Total Commitments (or, if the Senior Total Commitments have been reduced to zero, aggregated more than  $66\frac{2}{3}$  per cent. of the Senior Total Commitments immediately prior to the reduction); or
- (b) at any other time, a Senior Lender or Senior Lenders whose participations in the Senior Loan then outstanding aggregate more than  $66\frac{2}{3}$  per cent. of the Senior Loan then outstanding.

**Senior Margin Letter:** means the letter dated 19 September 2018 (as amended from time to time) between the Senior Loan Facility Agent and the Senior Company setting out how the Senior Loan Margin will be determined.

**Senior Obligor:** means a Senior Borrower or a Senior Guarantor.

**Senior Obligor Account:** means:

- (a) a Senior General Account;
- (b) a Senior Rent Collection Account;
- (c) a Senior Service Charge Account;
- (d) a Senior Rent Deposit Account;
- (e) a Senior Prepayment Account;
- (f) a Senior Equity Cure Account;
- (g) a Senior Cash Trap Account;
- (h) a Senior Debt Service Account;
- (i) a Senior Existing Account;

	<ul style="list-style-type: none"> <li>(j) a Senior Hedge Collateral Account; or</li> <li>(k) any other bank account designated as such by the Senior Loan Facility Agent and the Senior Company.</li> </ul>
<b>Senior Obligor Account Bank:</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) each Senior Initial Account Bank; or</li> <li>(b) any other bank or financial institution which becomes a Senior Obligor Account Bank in accordance with the section entitled "<i>Description of the Common Terms Agreement – Bank accounts – Senior Obligor Account Bank</i>".</li> </ul>
<b>Senior Obligor Acquisition:</b>	means the acquisition of shares set out in each Acquisition Agreement.
<b>Senior Obligor VAT Group:</b>	means a VAT Group consisting only of Senior Obligors.
<b>Senior Partial Expropriation Release Price:</b>	<p>means, if part only of a Property is the subject of an Expropriation, an amount equal to:</p> <ul style="list-style-type: none"> <li>(a) the Senior Release Price for that Property divided by the value of that Property (as set out in the Initial Valuation);</li> </ul> <p>multiplied by:</p> <ul style="list-style-type: none"> <li>(b) the value of that Property (as set out in the Initial Valuation) minus the value of that Property following such Expropriation (as set out in the Valuation of that Property commissioned as a result of such Expropriation or, if no Valuation is commissioned in connection with that Expropriation, the good faith estimate by the Senior Company of the lower of the value of that part of the Property or the reduction in value of that Property as a whole as a result of that Expropriation).</li> </ul>
<b>Senior Payment Event of Default:</b>	means a Senior Loan Event of Default described in the section entitled " <i>Description of the Common Terms Agreement – Senior Loan Events of Default – Non-payment</i> " other than a Senior Interim Repayment Default.
<b>Senior Permitted Capex Project:</b>	<p>means any Senior Capex Project which:</p> <ul style="list-style-type: none"> <li>(a) is a Recoverable Service Charge Project;</li> <li>(b) is required to be undertaken by law or regulation (including health and safety regulation);</li> <li>(c) is required to be undertaken by a Senior Obligor under the terms of any Lease;</li> <li>(d) is made with the prior written consent of the Senior Loan</li> </ul>

Facility Agent (acting on the instructions of the Senior Majority Lenders) (such consent not to be unreasonably withheld, delayed or conditioned);

- (e) is required to be undertaken or permitted to be undertaken by a tenant under the terms of any Lease **provided that** the costs and expenses in connection with such Senior Capex Project are not required to be paid for in whole or in part by any Senior Obligor;
- (f) if, in respect of a Property, as at the date of commencement of such Senior Capex Project, the:
  - (i) projected costs to completion of that Senior Capex Project are less than or equal to €2,500,000; and
  - (ii) total aggregate amount of the projected costs to completion of (A) that Senior Capex Project and (B) all other Senior Capex Projects being undertaken at that time and permitted pursuant to this paragraph (f), does not exceed 3 per cent. of the Market Valuation of the Properties as set out in the most recent Valuation at the time that Senior Capex Project is commenced;
- (g) can be funded from the proceeds of: (A) committed Equity Contributions, Senior Investor Debt and/or Subordinated Loans; (B) Eligible Letter(s) of Credit (Capex); (C) excess Net Rental Income projected to be received by the Senior Obligors during the life of the Senior Capex Project (provided that such amounts are not allocated for another purpose); and/or (D) the aggregate amount standing to the credit of the Senior General Accounts (other than any monies standing to the credit of the Senior General Accounts which have been transferred to a Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms Agreement and/or the Senior Cash Trap Account to the extent permitted under the cash trap provisions of the Common Terms Agreement; or
- (h) is necessary to ensure that no Senior Loan Event of Default described in the section entitled "*Description of the Common Terms Agreement – Senior Loan Events of Default – Major damage*" occurs and which can be (and is) funded from the aggregate amounts then standing to the credit of the Senior General Accounts (provided that such amounts are not allocated towards another purpose) and any Senior Excluded Insurance Proceeds that the relevant insurer has committed to advance under any Insurance Policy.

**Senior Permitted Disposal:** means:

- (a) **provided that** no Senior Loan Event of Default is continuing at the time at which the disposal is contracted (or would occur

as a result of that disposal), a disposal of obsolete non-real estate assets which are no longer required for the operation of the disposing Senior Obligor's business;

- (b) any disposal pursuant to an Expropriation provided that the Senior Expropriation Prepayment Proceeds received in respect of such Expropriation are paid upon receipt by the relevant Senior Obligor into the Senior Prepayment Account in accordance with the provisions of the Common Terms Agreement for application in accordance with prepayment proceeds provisions of the Common Terms Agreement;
- (c) a disposal of any asset (other than of any Senior Control Account, any Property or any shares in a Senior Obligor) made by one Senior Obligor to another Senior Obligor **provided that** such disposal is made while no Senior Loan Event of Default is continuing, would not be prejudicial to the interests of the Senior Finance Parties in respect of any Common Transaction Security and if the relevant Senior Obligor disposing of that asset has granted Common Transaction Security over that asset, the asset must be disposed of subject to that Common Transaction Security or (to the extent not possible under the governing law of the applicable Common Transaction Security) new Common Transaction Security is granted over that asset;
- (d) expenditure of cash for purposes in compliance with the Senior Finance Documents;
- (e) any disposal pursuant to or by way of an Agreement for Lease and/or an Occupational Lease existing on the date of the Common Terms Agreement or permitted pursuant to occupational lease provisions of the Common Terms Agreement;
- (f) a disposal made with the prior written consent of the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders);
- (g) a disposal arising as a result of Senior Permitted Security;
- (h) a Senior Permitted Property Disposal;
- (i) a Senior Permitted Land Plot Disposal;
- (j) a disposal of an Excluded Property;
- (k) any disposal of any person that has ceased to be a Senior Obligor in accordance with the terms of the Senior Finance Documents;
- (l) any disposal which cannot be prohibited under section 1136 of the German Civil Code (*Bürgerliches Gesetzbuch*);



- (m) any disposal of an Excluded Entity;
- (n) any disposal **provided that** the aggregate outstanding principal amount of the Senior Loan is repaid and all other Senior Secured Liabilities are irrevocably discharged in full on or prior to completion of such disposal; and
- (o) any other disposals (other than of any Senior Control Account, any shares in a Senior Obligor or any Property) where the aggregate value of the assets so disposed of by members of the Group (other than in accordance with paragraphs (a) to (m) (inclusive) above) in any Financial Year does not exceed €50,000 (or its currency equivalent).

**Senior Permitted Distribution:**

means:

- (a) a distribution of cash by any Subsidiary of an OPCI to fund that OPCI's OPCI Required Distribution;
- (b) a distribution of cash by any Subsidiary of MPITS 3, MPITS 23 or S.L.P. 1 to fund a SIIC Required Distribution;
- (c) a SIIC Required Distribution;
- (d) an OPCI Required Distribution;
- (e) any Permitted Mezzanine Distribution;
- (f) any distribution made out of the proceeds of any Senior Loan;
- (g) any distribution of cash made by any member of the Group to a person that is not a member of the Group made out of monies which have been received from an Excluded Entity or in respect of the disposal of an Excluded Entity provided that following such distribution an amount equal to any unpaid Excluded Entity/Property Taxes (other than any Excluded Entity/Property Taxes which have been reserved for by the relevant Excluded Entity) is standing to the credit of the Senior General Accounts (excluding any monies standing to the credit of any Senior General Account which have been transferred to a Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms Agreement);
- (h) any distribution of cash:
  - (i) made by a Senior Borrower that is a Subsidiary of an OPCI to another Senior Borrower that is a Subsidiary of that OPCI under the relevant Cash Management Agreement;
  - (ii) made by any member of the Group to another member of the Group;

- (iii) made by a Pledgeco to a person that is not a member of the Group provided that such distribution:
  - (A) may only be made out of monies standing to the credit of any Senior General Account (other than any monies standing to the credit of any Senior General Account which have been transferred to a Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms Agreement);
  - (B) if made by a Pledgeco to a person that is not a member of the Group, is made at a time when no Senior Loan Event of Default is continuing or would occur immediately as a result of the distribution (unless such Senior Loan Event of Default would be remedied as a result of such distribution); and
  - (C) if it is to be funded from Rental Income received by a Senior Obligor since the Senior Loan Payment Date falling immediately prior to the date of that distribution, immediately following such distribution there is an aggregate amount of not less than the aggregate of all payments to be made pursuant to the debt service account provisions of the Common Terms Agreement in each case, on or prior to the next Senior Loan Payment Date, standing to the credit of the Senior Debt Service Account;
- (i) any distribution other than of cash (but not by transfer or disposal of a Senior Control Account, any part of any Property or any of the rights to receive Rental Income or any shares which have been issued prior to the date of the distribution) made by any member of the Group to another member of the Group or by a Pledgeco to any person that is not a member of the Group provided that such distribution is either:
  - (i) other than to the extent paragraph (ii) below is complied with, made or discharged by an issuance of shares permitted pursuant to the share capital provisions of the Common Terms Agreement, an increase in share premium or other equivalent arrangement: or
  - (ii) left outstanding and the amount outstanding in respect of that distribution owed to any such person constitutes Financial Indebtedness incurred by that member of the Group under a Subordinated Loan or

Senior Investor Debt.

**Senior Permitted Financial Indebtedness:**

means any Financial Indebtedness:

- (a) arising under any Senior Finance Document;
- (b) arising under the guarantee and indemnity provisions of the Mezzanine Facility Agreement;
- (c) as permitted by the treasury transaction provisions of the Common Terms Agreement;
- (d) that is Senior Investor Debt; or
- (e) that is a Subordinated Loan.

**Senior Permitted Guarantee:**

means:

- (a) any guarantee arising under any Senior Finance Document;
- (b) any guarantee arising under the guarantee and indemnity provisions of the Mezzanine Facility Agreement;
- (c) any guarantee given in the ordinary course of business not exceeding (when aggregated with the maximum liability under any other guarantee which is a Senior Permitted Guarantee for the purposes of this paragraph (c)) €100,000 (or its currency equivalent) in aggregate at any time;
- (d) any liability arising by operation of law as a result of the existence of a fiscal unity (*fiscale eenheid*) among any of the Dutch Senior Obligors; and
- (e) any liability arising under a declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) as referred to in Section 2:403 of the Dutch Civil Code issued by any Senior Obligor in respect of any other Senior Obligor.

**Senior Permitted Land Plot Disposal:**

means the disposal of a Land Plot provided that:

- (a) if the Land Plot is a Property Portion, all of the Property Title Split Conditions in respect of that Land Plot are (or will be on completion of the disposal) satisfied;
- (b) the disposal is contracted on arm's length terms; and
- (c) an amount not less than the aggregate of:
  - (i) the Senior Permitted Land Plot Disposal Prepayment Proceeds; and
  - (ii) the Mezzanine Permitted Land Plot Disposal Prepayment Proceeds,

is paid into the Senior Prepayment Account on completion of

such disposal.

**Senior Permitted Land Plot Disposal Prepayment Proceeds:**

means, in respect of a Senior Permitted Land Plot Disposal, the Senior Proportion of the Disposal Proceeds for that Senior Permitted Land Plot Disposal.

**Senior Permitted Letting Activity:**

means any Letting Activity which is:

- (a) contracted on arm's length terms;
- (b) the grant (whether by grant of rights, lease, licence or otherwise) of rights of occupation and/or use in respect of any car parking spaces within or upon any Properties;
- (c) the exercise by a Senior Obligor of any right to forfeit or exercise any right of re-entry in respect of, or exercise any option or power to break or determine, any Occupational Lease in circumstances where the tenant of the relevant Occupational Lease is in breach of its obligations under the relevant Occupational Lease to pay rent or is otherwise insolvent;
- (d) an acceptance or agreement to any Letting Activity required to be given pursuant to any applicable law or regulation;
- (e) made in accordance with the terms of any Agreement for Lease or Occupational Lease (**provided that** such Agreement for Lease or Occupational Lease is allowed to subsist, has been entered into in accordance with the terms of the Common Terms Agreement or was entered into prior to the Senior Utilisation Date); or
- (f) made with the prior written consent of the Senior Loan Facility Agent (acting on the instruction of the Senior Majority Lenders (such consent not to be unreasonably withheld, delayed or conditioned)).

**Senior Permitted Loan:**

means:

- (a) any loan made by a Pledgeco to its immediate Holding Company **provided that**:
  - (i) the rights of that Pledgeco in respect of such loan are the subject of Common Transaction Security; and
  - (ii) such loan may only be made:
    - (A) (if made in cash) out of monies standing to the credit of any Senior General Account (other than any monies standing to the credit of any Senior General Account which have been transferred to a Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms

Agreement); and

- (B) at a time when no Senior Loan Default is continuing or would occur immediately as a result of that loan being made (unless such Senior Loan Default would be remedied as a result of such loan being made);
- (b) credit balances held in any Senior Control Account, Senior Existing Account or Senior Permitted Special Purpose Account with any banks or financial institutions;
- (c) any loan made by a Senior Obligor to an Excluded Entity **provided that:**
  - (i) (if made in cash) such loan may only be made out of monies standing to the credit of any Senior General Account (other than any monies standing to the credit of any Senior General Account which have been transferred to a Senior General Account for any purpose expressly specified in the accounts provisions of the Common Terms Agreement); and
  - (ii) such loan is made at a time when no Senior Loan Default is continuing or would occur immediately as a result of the loan; and
- (d) any Subordinated Loan.

**Senior Permitted Property Disposal:**

means a disposal of any Property (or of the shares in a Senior Obligor which, directly or indirectly, owns that Property **provided that** all Property owned by that Senior Obligor is the subject of that disposal) **provided that:**

- (a) on completion (or on any other date in accordance with the relevant closing arrangement) of such disposal an amount not less than the Senior Permitted Property Disposal Prepayment Proceeds in respect of that Property is paid into the Senior Prepayment Account (or any other account specified in the relevant closing arrangement) (such payment being funded from the Disposal Proceeds in respect of that disposal and/or proceeds of Equity Contribution(s) and/or Subordinated Loans and/or monies standing to the credit of a Senior General Account (**provided that** such monies were not transferred to that Senior General Account for another specified purpose) and/or monies standing to the credit of any Senior Control Account of the relevant Senior Obligor(s));
- (b) on completion (or on any other date in accordance with the relevant closing arrangement) of such disposal an amount not less than the Mezzanine Permitted Property Disposal Prepayment Proceeds in respect of that Property is paid into the Senior Prepayment Account (or any other account specified in the relevant closing arrangement) (such payment

being funded from the Disposal Proceeds in respect of that disposal and/or proceeds of Equity Contribution(s) and/or Subordinated Loans and/or monies standing to the credit of a Senior General Account (**provided that** such monies were not transferred to that Senior General Account for another specified purpose) and/or monies standing to the credit of any Senior Control Account of the relevant Senior Obligor(s));

- (c) on completion of such disposal an amount (excluding any amounts that have been deposited for a different particular purpose, including, without limitation, in respect of a Senior Permitted Capex Project or any other Senior Permitted Property Disposal) is standing to the credit of the Senior General Account of the relevant Senior Obligor of not less than the sum of the Disposal Costs and Disposal Taxes (other than any Disposal Costs or Disposal Taxes paid directly to any third party or otherwise discharged, in each case, prior to completion of that disposal) in respect of that disposal;
- (d) if a Cash Trap Event occurred on the Senior Loan Payment Date falling immediately prior to completion of such disposal, an amount equal to the lower of:
  - (i) the Disposal Proceeds of that disposal minus the aggregate of the Senior Permitted Property Disposal Prepayment Proceeds and the Mezzanine Permitted Property Disposal Prepayment Proceeds; and
  - (ii) the amount that, had the Senior Loan been prepaid by such amount on the Financial Quarter Date falling immediately prior to the Senior Loan Payment Date falling immediately prior to the completion of such disposal, would have ensured that no such Cash Trap Event occurred on that Senior Loan Payment Date,

is transferred to the Senior Cash Trap Account.

- (e) on the date such disposal is contracted, no Senior Loan Default is continuing (or, if a Senior Loan Default is continuing, it would be remedied as a result of the completion of that disposal) or would result from completion of that disposal; and
- (f) such disposal is made on arms' length terms.

**Senior Permitted Property Disposal Prepayment Proceeds:**

means, in respect of a Senior Permitted Property Disposal, an amount equal to the aggregate of:

- (a) the Senior Release Price in respect of the Property that is the subject of that Senior Permitted Property Disposal; and
- (b) any amounts that will become due and payable pursuant to the terms of the Common Terms Agreement in connection with the prepayment of the amount set out in paragraph (a) above.

**Senior Permitted Property Manager:**

means:

- (a) any person appointed as property manager by one or more Senior Obligors under a Property Management Agreement executed on arm's length terms;
- (b) any Investor Affiliate whose business is or includes acting as a property manager or managing agent of properties; and/or
- (c) any other person as may be agreed from time to time between the Senior Company (acting reasonably) and the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders (acting reasonably)),

in each case, to the extent appointed as a property manager of any Properties (or any part thereof) pursuant to a Property Management Agreement (which has not been terminated) provided that there may be multiple property managers with different responsibilities in relation to any Properties at any time.

**Senior Permitted Reorganisation:**

means:

- (a) the Mistral 2 OPCI Contribution of Shares; and
- (b) the dissolution without liquidation of MPIT France 2 SCI,

in each case in accordance with step 29 of the Tax Structure Paper and provided that the Senior Company has delivered to the Senior Loan Facility Agent the documents referred to in conditions subsequent provisions of the Common Terms Agreement.

**Senior Permitted Security:**

means:

- (a) (other than in respect of any German Property) any easement or other agreement or arrangement having similar effect which is granted in connection with a Senior Permitted Letting Activity, a Senior Permitted Property Disposal, a Senior Permitted Land Plot Disposal or a disposal of an Excluded Property **provided that** such easement, agreement or arrangement:
  - (i) does not confer rights of occupation in relation to that Property;
  - (ii) does not adversely affect the saleability or transferability of that Property;
  - (iii) is subordinated in ranking to the Common Transaction Security in respect of that Property; and
  - (iv) is terminated or no longer has any force or effect at the end of the term of the lease which is the subject of the relevant Senior Permitted Letting Activity;

- (b) any easement or other agreement or arrangement having similar effect which exists on the Senior Utilisation Date and is disclosed in a Report;
- (c) any Security, easement or other agreement or arrangement that arises at law (**provided that** it does not adversely affect the saleability or transferability of the relevant Property or restrict the rights of any Senior Finance Party under the Common Transaction Security Documents);
- (d) any Security or Quasi Security arising under the Senior Finance Documents;
- (e) any Security or Quasi Security arising by operation of law and in the ordinary course of business and not as a result of any default or omission by any member of the Group **provided that** it is discharged within 60 days of coming into existence;
- (f) any Security or Quasi Security the creation of which cannot be prohibited under section 1136 of the German Civil Code (*Bürgerliches Gesetzbuch*);
- (g) any Security or Quasi Security arising by operation of law and in respect of Taxes being contested in good faith or required to be created in favour of any Tax or other government authority in order to appeal or otherwise challenge Tax assessments and/or claims in good faith;
- (h) any netting or set-off arrangement under the Hedge Documents;
- (i) any Security or Quasi Security entered into by any Senior Obligor in the ordinary course of its banking arrangements (including pursuant to the general banking conditions of the relevant account bank) but only so long as (i) such arrangement does not permit credit balances of any Senior Obligor to be netted or set-off against debit balances of persons who are not Senior Obligors and (ii) such arrangement does not give rise to other Security or Quasi Security over the assets of Senior Obligors in support of liabilities of persons who are not Senior Obligors;
- (j) any land charge over all or any part of a German Property granted in favour of a bank financing the purchase price payable by a third party as purchaser in connection with the disposal of such Property permitted under the terms of the Common Terms Agreement, limited to an amount of 130 per cent. of the agreed purchase price payable (plus *in rem* interest of up to 20 per cent. per annum and a one-off ancillary payment of up to 15 per cent.) provided that:
  - (i) any enforcement right in respect of that land charge is



limited to any amounts paid to the relevant Senior Obligor in discharge of the relevant purchase price only; and

- (ii) that land charge is released if the payment of the purchase price has not occurred within three Months after the creation of that land charge;
- (k) in respect of any German Property, any encumbrance, easement or other agreement or arrangement having similar effect which is registered in section II of the land registry (*Abteilung II des Grundbuchs*) pertaining to that German Property after the date of the land registry extracts used for the Report provided by Hengeler Mueller Partnerschaft von Rechtsanwälten mbB and:
  - (i) which is subordinated in ranking to each German New Land Charge and either:
    - (A) does not adversely affect the value of the relevant German Property (*nicht wertmindernde Belastungen*); or
    - (B) such encumbrance is a priority notice of conveyance in connection with a Senior Permitted Disposal in respect of a German Property **provided that** such Senior Permitted Disposal in respect of that German Property is completed within three Months of the date of registration of such priority notice; or
  - (ii) which is an easement (*Dienstbarkeit*) registered in the land register pertaining to such German Property in favour of an Occupational Lease for commercial lease areas provided that such easement either:
    - (A) ranks behind any German New Land Charge in favour of the Common Security Agent on the German Property; or
    - (B) if ranking in priority to a German New Land Charge in favour of the Common Security Agent on a German Property, the relevant easement complies with the criteria for tenant easements set forth by the committee for tenant easements (*Arbeitskreis Mieterdienstbarkeiten*) of the German association of Pfandbrief banks (*Verband Deutscher Pfandbriefbanken*) in its publication (*Ergebnispapier*) as of 30 July 2009 (Az. 6.410), as amended from time to time (including, without limitation, the specification of a maximum amount

(*Höchstbetrag*) for the value of such easement of not more than EUR25,000);

- (l) in respect of any German Property, any encumbrance, easement or other agreement or arrangement having similar effect which exists on the Senior Utilisation Date, is registered in section II of the land registry (*Abteilung II des Grundbuchs*) and is disclosed in the relevant Report provided by Hengeler Mueller Partnerschaft von Rechtsanwälten mbB;
- (m) until the date falling six Months after the Senior Utilisation Date any German Existing Land Charge;
- (n) any Security or Quasi Security arising by operation of Luxembourg law in favour of tax and other public authorities;
- (o) any Security or Quasi Security arising under any retention of title arrangements, extended retention of title (*verlängerter Eigentumsvorbehalt*), any hire purchase or conditional sale arrangement or arrangements having similar effect in each case, in respect of goods supplied to a Senior Obligor or in the case of an extended retention of title arrangement, receivables resulting from the sale of such goods, in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by a Senior Obligor **provided that** such Security or Quasi Security is discharged within 60 days of coming into existence; and
- (p) any Security for obligations and liabilities owed by an Excluded Entity granted by a Senior Obligor over the shares it holds in, or over any receivables owed to it by, that Excluded Entity **provided that** there is no recourse to that Senior Obligor which is not limited to such assets.

**Senior Permitted Special Purpose Account:**

means each Senior Rent Deposit Account and each account required to be opened and maintained by the Senior Obligors pursuant to the Acquisition Agreements and any account required to be opened and maintained by a Senior Obligor to receive or hold shares or dividends in respect of the share capital of a Senior Obligor

**Senior Prepayment Account:**

means each of:

- (a) the accounts designated as such required to be opened and maintained in Luxembourg by the Senior Company and by Aberdonia France Two S.à r.l. under the Common Terms Agreement; and
- (b) the accounts designated as such required to be opened and maintained in France by each OPCI,

and includes the interest of each of the Senior Company, Aberdonia France Two S.à r.l. and each OPCI in any replacement account or sub division or sub-account of those accounts.

<b>Senior Property LTV Ratio:</b>	means, on any date, and in respect of any Property the proportion expressed as a percentage which the Senior Allocated Loan Amount of that Property on that date bears to the Market Valuation of that Property as set out in the Initial Valuation.
<b>Senior Property Manager Duty of Care Agreement:</b>	<p>means each agreement executed by a Senior Permitted Property Manager in favour of the Common Security Agent and the Senior Loan Facility Agent in relation to the management of all or any part of any Property which is:</p> <ul style="list-style-type: none"> <li>(a) in a form and substance satisfactory to the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders (acting reasonably)); or</li> <li>(b) in form and substance substantially the same as an existing Senior Property Manager Duty of Care Agreement.</li> </ul>
<b>Senior Proportion:</b>	means at any time the proportion that the Senior Loan outstanding under the Common Terms Agreement bears to the aggregate of the Senior Loan outstanding under the Common Terms Agreement and the Mezzanine Loans outstanding under the Mezzanine Facility Agreement, expressed as a percentage.
<b>Senior Purchase Amount:</b>	has the meaning given to it on page 230.
<b>Senior Purchase Completion Date:</b>	has the meaning given to it on page 230.
<b>Senior Purchase Notice:</b>	has the meaning given to it on page 229.
<b>Senior Recovery Prepayment Proceeds:</b>	<p>means the proceeds of a claim (a <b>Recovery Claim</b>) against:</p> <ul style="list-style-type: none"> <li>(a) a Vendor or any of its Affiliates (or any of their respective employees, officers or advisers) in relation to an Acquisition Agreement (<b>provided that</b> such proceeds are attributable to the Properties and/or the Group);</li> <li>(b) the provider of any Report (in its capacity as a provider of that Report); or</li> <li>(c) any counterparty to a construction contract or collateral warranty (in its capacity as counterparty to that construction contract or collateral warranty (as applicable)) with, or benefitting, a Senior Obligor,</li> </ul> <p>in each case, except for Senior Excluded Recovery Proceeds, and after deducting:</p> <ul style="list-style-type: none"> <li>(i) any reasonable fees, costs and expenses which are incurred by any member of the Group to any persons who are neither members of the Group nor Investor Affiliates; and</li> <li>(ii) any Tax incurred and required to be paid by a member of the</li> </ul>

Group (on the basis of existing rates and taking into account any available credit, deduction or allowance),

in each case, in relation to that Recovery Claim.

**Senior Release Price:**

means in relation to a Property:

- (a) if the Senior Release Price Threshold has not been met, the amount designated as "Release Price 1" and set out opposite the name of that Property under Appendix 2 (The Properties); or
- (b) if the Senior Release Price Threshold has been met, the amount designated as "Release Price 2" and set out opposite the name of that Property under Appendix 2 (The Properties),

in each case provided that if the Senior Allocated Loan Amount of the Property has been reduced in accordance with the provisions of the Common Terms Agreement following the repayment or prepayment, in whole or in part, of any Senior Loan, the Senior Release Price will be the maximum of:

- (i) 0.697194659921355 multiplied by the Market Valuation of that Property (as set out in the Initial Valuation) and (if the Senior Release Price Threshold has been met) multiplied by 110 per cent. in respect of any portion of the Senior Release Price which exceeds the Senior Release Price Threshold; and
- (ii) the then Senior Allocated Loan Amount of that Property.

**Senior Release Price Threshold:**

means that an aggregate principal amount of the Senior Loan equal to or greater than 15 per cent. of the Senior Total Commitments as at the date of the Common Terms Agreement has been prepaid as a result of one or more Senior Permitted Property Disposals that have taken place after the date of the Common Terms Agreement.

**Senior Rent Collection Account:**

means an account either:

- (a) designated as such in the name of a Propco; or
- (b) a trust or client account maintained by a Senior Permitted Property Manager for the benefit of a Propco in accordance with any Senior Property Manager Duty of Care Agreement,

which, in each case, includes any interest of that Propco or that Senior Permitted Property Manager in that account or of that Propco or Senior Permitted Property Manager in any replacement or sub division or sub-account of that account, and into which all Rental Income is deposited.

**Senior Rent Deposit Account:**

means any account in which a Senior Obligor has an interest which is solely maintained and used for the purpose of holding rent deposits in

respect of Occupational Leases.

<b>Senior Rental Income Account:</b>	means each account designated as such required to be opened and maintained by each Propco under the Common Terms Agreement and includes the interests of that Obligor in any replacement account or sub division or sub-account of that account.
<b>Senior Resignation Letter:</b>	means a letter substantially in the form set out as the form of resignation letter in the Common Terms Agreement.
<b>Senior Retained Loan:</b>	has the meaning given to it on page 5.
<b>Senior Secured Liabilities:</b>	means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by a Senior Transaction Obligor or by some other person) of each Senior Transaction Obligor to the Senior Finance Parties (or any of them) under or in connection with any of the Senior Finance Documents, each as amended, varied, supplemented or novated from time to time, including, without limitation, the parallel debt obligation, any increase of principal or interest and any extension of maturity, novation, deferral or extension of such liabilities, in each case together with any and all liabilities arising out of unjust enrichment and tort and other liabilities for damages or restitution in relation to the foregoing.
<b>Senior Service Charge Account:</b>	<p>means each of:</p> <ul style="list-style-type: none"><li>(a) the accounts designated as such required to be opened and maintained in Germany by each Luxembourg Senior Borrower (other than the Lux Dutch Propco) under the Common Terms Agreement; and</li><li>(b) the accounts designated as such required to be opened and maintained in the Netherlands by each Dutch Senior Borrower and the Lux Dutch Propco under the Common Terms Agreement,</li></ul> <p>and includes the interest of each of the Luxembourg Senior Borrowers, the Dutch Senior Borrowers and the Lux Dutch Propco in any replacement account or sub division or sub-account of those accounts.</p>
<b>Senior Subordinated Creditor:</b>	<p>means each of:</p> <ul style="list-style-type: none"><li>(a) the Senior Guarantors; and</li><li>(b) the Mezzanine Borrowers.</li></ul>
<b>Senior Subordinated Creditor Accession Deed:</b>	means the subordinated creditor accession deed in the form set out in the Senior Subordination Agreement.
<b>Senior Subordination Agreement:</b>	means the subordination agreement dated 19 September 2018 between, among others, the Senior Subordinated Creditors and the Senior Loan Facility Agent.

<b>Senior Total Commitments:</b>	means the aggregate of the Senior Commitments.
<b>Senior Transaction:</b>	means the transactions contemplated by the Senior Loan Transaction Documents.
<b>Senior Transaction Obligor:</b>	means a Senior Obligor, a Sauvegarde Garant or a Senior Subordinated Creditor.
<b>Senior Treaty Lender:</b>	<p>means, for a Senior Borrower Jurisdiction, a Senior Lender which:</p> <ul style="list-style-type: none"> <li>(a) is resident for Tax purposes in a country which has a double taxation treaty in force with that Senior Borrower Jurisdiction which makes provision for full exemption from Tax imposed on interest payments deriving from that Senior Borrower Jurisdiction; and</li> <li>(b) is entitled to the benefit of such double taxation treaty and consequently such full exemption from Tax (subject to completion of any necessary procedural formalities) (except that for this purpose it shall be assumed that any condition which relates (expressly or by implication) to there being (or not being) a special relationship between any Senior Obligor and a Senior Lender or between the Senior Lender and another person or to the amount or terms of the Senior Loan is satisfied); and</li> <li>(c) does: <ul style="list-style-type: none"> <li>(i) not carry on business in that Senior Borrower Jurisdiction through a permanent establishment; and</li> <li>(ii) not act from a Senior Facility Office in that Senior Borrower Jurisdiction,</li> </ul> <p>in each case, with which that Senior Lender's participation in the Senior Loan is effectively connected.</p> </li> </ul>
<b>Senior Utilisation:</b>	means a utilisation of the Senior Facility.
<b>Senior Utilisation Date:</b>	means 20 September 2018.
<b>Senior Utilisation Request:</b>	means the utilisation request given by the Senior Company to the Senior Loan Facility Agent in respect of a Senior Utilisation, which was dated 19 September 2018.
<b>Sequential Principal Distribution Amount:</b>	has the meaning given to it on page 255.
<b>Sequential Payment Trigger:</b>	has the meaning given to it on page 50.
<b>Service Charge Expenses:</b>	means (including any VAT paid in respect thereof):

- (a) any expense or liability incurred by a tenant under an Occupational Lease:
  - (i) by way of reimbursement of expenses incurred, or on account of expenses to be incurred, by or on behalf of a Senior Obligor in the management, maintenance and repair or similar obligation of, or the provision of services specified in that Occupational Lease in respect of, any Properties and the payment of insurance premiums for any Properties; or
  - (ii) to, or for expenses incurred by or on behalf of, an Obligor for a breach of covenant where such amount is or is to be applied by a Senior Obligor in remedying such breach or discharging such expenses; and
- (b) any contribution to a sinking fund paid by a tenant under its Occupational Lease.

**Service Charge Proceeds:** means any payment for Service Charge Expenses (including any VAT paid in respect thereof).

**Servicer:** means Situs Asset Management Limited, in its capacity as servicer under the Servicing Agreement.

**Servicer Quarterly Report:** has the meaning given to it on page 297.

**Servicer Reporting Period:** each period from (and including) one Senior Loan Payment Date, to (but excluding) the next succeeding Senior Loan Payment Date, provided that the first Servicer Reporting Period will commence on (and include) the Closing Date.

**Servicer Resignation:** has the meaning given to it on page 304.

**Servicer Termination Event:** has the meaning given to it on page 301.

**Servicer Valuation:** has the meaning given to it on page 280.

**Servicing Agreement:** means the servicing agreement dated on or about the Closing Date entered into by the Issuer, the Issuer Security Trustee, the Senior Loan Facility Agent, the Servicer and the Special Servicer.

**Servicing Entities:** means the Servicer and the Special Servicer.

**Servicing Fee:** has the meaning given to it on page 292.

**Servicing Standard:** has the meaning given to it on page 276.

**SG Issuer Stand-by Account** has the meaning given to it on page 244.

<b>SG Liquidity Facility:</b>	has the meaning given to it on page 267.
<b>SG Liquidity Facility Provider:</b>	has the meaning given to it on page 267.
<b>SG Loan Seller Share:</b>	means €146,350,000 in outstanding principal amount of the Securitised Senior Loan.
<b>SG Proportionate Share:</b>	means, at any time, an amount equal to the proportion of the relevant amount which is calculated by dividing (a) the SG Loan Seller Share by (b) the principal amount outstanding of the Securitised Senior Loan as at the Closing Date, being approximately 50 per cent.
<b>Share:</b>	has the meaning given to it on page 124.
<b>Share Trustee:</b>	has the meaning given to it on page 124.
<b>Shortfall:</b>	has the meaning given to it on page 269.
<b>SIIC Funding Distribution:</b>	has the meaning given to it on page 180.
<b>SIIC Required Distribution:</b>	means any distribution of cash required to be made by an entity electing for the SIIC regime provided by articles 208 C <i>et seq.</i> of the French Tax Code <b>provided that</b> the amount of such distribution is not greater than the amount necessary to comply with the SIIC distribution obligation requirements set forth in article 208 C, II and III bis of the French Tax Code.
<b>SIIC Subsidiary Propco:</b>	means each Propco which is a Subsidiary of MPITS 3 SARL or MPITS 23 SARL or S.L.P. 1 SARL and/or the relevant OPCI and elected SIIC tax regime.
<b>Solvency II Regulation:</b>	means Regulation (EU) No. 2015/35.
<b>Special Servicer:</b>	means Situs Asset Management Limited, in its capacity as special servicer under the Servicing Agreement.
<b>Special Servicing Fee:</b>	has the meaning given to it on page 293.
<b>Special Servicing Transfer Event:</b>	has the meaning given to it on page 278.
<b>Specially Serviced Loan:</b>	has the meaning given to it on page 278.
<b>Sponsor:</b>	means The Blackstone Group L.P.
<b>Stand-by Drawing:</b>	has the meaning given to it on page 271.
<b>Subordinated Loan:</b>	<p>means any Financial Indebtedness owed by a member of the Group to another member of the Group <b>provided that:</b></p> <p>(a) such Financial Indebtedness has been subordinated to the Senior Secured Liabilities under the terms of the Senior Subordination Agreement; and</p>



- (b) the rights of the creditor in respect of such Financial Indebtedness are the subject of Common Transaction Security.

**Sub-Participation:** means the sub-participation by any Senior Lender of any or all of its rights and/or obligations under the Senior Finance Documents (or the entry into a similar or equivalent arrangement or transaction (including any total return swap) in respect of those rights and/or obligations) and **sub-participated** and **sub-participant** shall be construed accordingly.

**Subscription Agreement:** means the subscription agreement entered into on or about the Closing Date between, among others, the Issuer and the Lead Managers.

**Subsidiary:** means, in relation to any person, a person:

- (a) which is controlled, directly or indirectly, by the first mentioned person;
- (b) where more than half the issued shares of such person is beneficially owned, directly or indirectly, by the first mentioned person; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned person,

and, for this purpose, a person shall be treated as being controlled by another if that other person is able to direct its affairs and/or to control the composition of its board of directors or equivalent body whether through the ownership of voting shares, by contract or otherwise.

**Substitute Liquidity Facility Provider:** means a replacement Liquidity Facility Provider appointed in accordance with the terms of the relevant Liquidity Facility Agreement.

**Surplus PRPD Amounts:** has the meaning given to it on page 255.

**Target:** means any Subsidiary of Spear Bidco SCA, Spear German 2018 Holdco S.à r.l. and/or Spear Investment 2018 Holdco S.à r.l.

**TARGET Day:** means any day on which TARGET2 is open for the settlement of payments in euro.

**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.

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

**Tax Authority:** means any fiscal, revenue, customs or excise authority anywhere in the world competent to collect, or administer matters relating to, Tax.

<b>Tax Credit:</b>	means a credit against, relief or remission for, or repayment of any Tax.
<b>Tax DD Report:</b>	has the meaning given to it on page 149.
<b>Tax Deduction:</b>	means a deduction or withholding for or on account of Tax from a payment under a Senior Finance Document other than a FATCA Deduction.
<b>Tax Red Flag Report:</b>	has the meaning given to it on page 149.
<b>Tax Structure Paper:</b>	means the tax structuring report dated 19 September 2018.
<b>TCA:</b>	has the meaning given to it on page 81.
<b>Technical DD Reports:</b>	has the meaning given to it on page 149.
<b>Tenant Contributions:</b>	<p>means any amount paid or payable to a Senior Obligor by any tenant under a Lease Document or any other occupier of a Property, by way of:</p> <ul style="list-style-type: none"> <li>(a) contribution to: <ul style="list-style-type: none"> <li>(i) insurance premia;</li> <li>(ii) the cost of an insurance valuation;</li> <li>(iii) any ground rent;</li> <li>(iv) maintenance and property costs;</li> <li>(v) operating expenses (<i>Betriebskosten</i>) including, without limitation, the expenses defined in Section 2 of the German Regulation on Operating Expenses (<i>Betriebskostenverordnung</i>) dated 25 November 2003;</li> <li>(vi) a service charge in respect of an Obligor's costs under any repairing or similar obligation or in providing services to a tenant of, or with respect to, a Property; or</li> <li>(vii) a sinking fund;</li> <li>(viii) local property taxes; or</li> </ul> </li> <li>(b) VAT or similar taxes.</li> </ul>
<b>Termination for Cause:</b>	has the meaning given to it on page 303.
<b>Third Extended Expected Note Maturity Date:</b>	has the meaning given to it on page 46.
<b>Third Mezzanine Loan</b>	means the fifth anniversary of the first Mezzanine Loan Payment

<b>Extended Repayment Date:</b>	Date.
<b>Third Mezzanine Loan Extension Option Conditions:</b>	<p>means each of the following conditions:</p> <ul style="list-style-type: none"> <li>(a) the Mezzanine Company has submitted a Mezzanine Loan Extension Option Notice on any day during the Third Mezzanine Loan Extension Option Period;</li> <li>(b) on the date of delivery to the Mezzanine Loan Facility Agent of the Mezzanine Loan Extension Option Notice and on the Second Mezzanine Loan Extended Repayment Date, no Mezzanine Loan Default is continuing under the Mezzanine Facility Agreement; and</li> <li>(c) on or prior to the Second Mezzanine Loan Extended Repayment Date: <ul style="list-style-type: none"> <li>(i) the Mezzanine Company has confirmed that, unless the Senior Loan has been repaid in full, the repayment date under the Common Terms Agreement will be extended to a date no earlier than the Third Mezzanine Loan Extended Repayment Date; and</li> <li>(ii) Hedge Documents are entered into that comply with the provisions of the Mezzanine Facility Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Mezzanine Facility Agreement are complied with, in each case, in respect of the period from the Second Mezzanine Loan Extended Repayment Date to the Third Mezzanine Loan Extended Repayment Date.</li> </ul> </li> </ul>
<b>Third Mezzanine Loan Extension Option Period:</b>	means the period commencing on the date falling 90 days prior to the Second Mezzanine Loan Extended Repayment Date and ending on the date falling 30 days prior to the Second Mezzanine Loan Extended Repayment Date.
<b>Third Party Payment:</b>	has the meaning given to it on page 285.
<b>Third Senior Loan Extended Repayment Date:</b>	means the fifth anniversary of the first Senior Loan Payment Date.
<b>Third Senior Loan Extension Option:</b>	means the Senior Company's third option to extend the Senior Loan Maturity Date by one additional year which is exercised by satisfying the Third Senior Loan Extension Option Conditions.
<b>Third Senior Loan Extension Option Conditions:</b>	<p>means each of the following conditions:</p> <ul style="list-style-type: none"> <li>(a) the Senior Company has submitted a Senior Loan Extension Option Notice on any day during the Third Senior Loan Extension Option Period;</li> </ul>

- (b) on the date of delivery to the Senior Loan Facility Agent of the Senior Loan Extension Option Notice and on the Second Senior Loan Extended Repayment Date, no Senior Loan Default is continuing under the Common Terms Agreement; and
- (c) on or prior to the Second Senior Loan Extended Repayment Date:
  - (i) the Senior Company has confirmed that, unless the Mezzanine Loan has been repaid in full, the repayment date under the Mezzanine Facility Agreement will be extended to a date no earlier than the Third Senior Loan Extended Repayment Date; and
  - (ii) Hedge Documents are entered into that comply with the provisions of the Common Terms Agreement or, as the case may be, Hedge Documents are amended such that the provisions of the Common Terms Agreement are complied with, in each case, in respect of the period from the Second Senior Loan Extended Repayment Date to the Third Senior Loan Extended Repayment Date.

**Third Senior Loan Extension Option Period:** means the period commencing on the date falling 90 days prior to the Second Senior Loan Extended Repayment Date and ending on the date falling 30 days prior to the Second Senior Loan Extended Repayment Date.

**Total LTV Ratio:** means, on any date, the proportion expressed as a percentage which Total Net Debt on that date bears to the aggregate Market Valuation of the Properties on that date calculated by reference to the then most recent Valuation.

**Total Original Note PAO:** has the meaning given to it on page 255.

**Total Net Debt:** means, on any date, the aggregate of:

- (a) Net Senior Debt; and
- (b) the aggregate principal amount of the Mezzanine Loans outstanding on that date minus the amount standing to the credit of the Mezzanine Prepayment Account on that date.

**Total PRPDA:** has the meaning given to it on page 255.

**Transfer Agreement:** means a transfer agreement executed by each Loan Seller, such transfer agreement being substantially in the form required by the Common Terms Agreement.

**Transferee:** has the meaning given to it on page 239.

<b>Treasury Transaction:</b>	means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (including any currency or interest purchase, cap or collar agreement, forward rate agreement, interest rate or currency future or option contract, foreign exchange or currency purchase or sale agreement, interest rate swap, currency swap or combined interest rate and currency swap agreement and any other similar agreement) (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account).
<b>U.S. Bank National Association:</b>	has the meaning given to it on page 132.
<b>U.S. Persons:</b>	has the meaning given to it on page 447.
<b>U.S. Risk Retention Consent:</b>	has the meaning given to it on page ix.
<b>U.S. Risk Retention Rules:</b>	has the meaning given to it on page ix.
<b>U.S., US or United States:</b>	means the United States of America.
<b>UCITS</b>	means Undertakings for Collective Investment in Transferable Securities.
<b>Unpaid Sum:</b>	means any sum due and payable but unpaid by a Senior Obligor under the Senior Finance Documents.
<b>Utilisation Date:</b>	means the date on which a loan under the Common Terms Agreement or Mezzanine Facility Agreement is drawn down.
<b>Valuation:</b>	means: <ul style="list-style-type: none"> <li>(a) the Initial Valuation; and</li> <li>(b) any subsequent valuation of the Properties instructed by (in accordance with and subject to the Common Terms Agreement) and in form and substance satisfactory to the Senior Loan Facility Agent (acting on the instructions of the Senior Majority Lenders).</li> </ul>
<b>Valuation Reduction Amount:</b>	has the meaning given to it in on page 371.
<b>Valuation Reduction Factor:</b>	means an amount obtained by dividing (i)(x) the outstanding principal balance of the Senior Loan, less (y) the Valuation Reduction Amount, by (ii) the outstanding principal balance of the Senior Loan, in each case as at the date on which a Valuation Reduction Amount is determined.
<b>Valuers:</b>	means: <ul style="list-style-type: none"> <li>(a) each of Cushman &amp; Wakefield, JLL and Knight Frank;</li> </ul>

- (b) such other surveyor or valuer appointed by the Senior Loan Facility Agent in accordance with the terms of the Common Terms Agreement; or
- (c) any other firm of chartered surveyors as may be agreed from time to time between the Senior Company and the Senior Loan Facility Agent (each acting reasonably),

in each case as appointed by the Senior Loan Facility Agent (for and on behalf of the Senior Lenders) to act as valuer for the purposes of the Common Terms Agreement.

**VAT:**

means:

- (a) any tax imposed in compliance with the EC Directive 2006/112 of 28 November 2006 on the common system of value added tax; and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution or replacement for, or levied in addition to, such tax referred to in paragraph (a) above, or elsewhere.

**VAT Group:**

means a group (or fiscal unity) for the purposes of VAT.

**Vendor:**

means each person that is a seller under an Acquisition Agreement.

**Vendor Environmental DD Reports:**

has the meaning given to it on page 149.

**Vendor Insurance Policy:**

has the meaning given to it on page 111.

**Vendor Legal DD Reports:**

has the meaning given to it on page 150.

**Vendor Technical DD Reports:**

has the meaning given to it on page 108.

**Verified Noteholder:**

has the meaning given to it on page 317.

**Volcker Rule:**

has the meaning given to it on page xiii.

**Voting Class:**

has the meaning given to it on page 290.

**WAFR:**

has the meaning given to it on page 252.

**WALB:**

has the meaning given to it on page 139.

**WALT:**

has the meaning given to it on page 139.

**Workout Fee:**

has the meaning given to it on page 70.

**Written Extraordinary Resolution:**

has the meaning given to it on page 40.

**Written Ordinary Resolution:**

has the meaning given to it on page 40.

**Written Resolution:**

means a Written Extraordinary Resolution or a Written Ordinary Resolution.

**ZAC:**

has the meaning given to it on page 107.

**Zero Property:**

means:

- (a) each Property that did not receive any of the Mezzanine Allocated Loan Amount under the Mezzanine Facility Agreement;
- (b) the Property listed at line 5 of Part 1 (The French Properties) of Appendix 2 (The Properties); and
- (c) the Property listed in line 17 of Part 1 (The French Properties) of Appendix 2 (The Properties).

**THE ISSUER**

**ARROW CMBS 2018 DAC**

5th Floor, The Exchange  
George's Dock, I.F.S.C.  
Dublin 1, Ireland

**ARRANGERS AND LEAD MANAGERS**

**Deutsche Bank AG, London Branch**

Winchester House  
1 Great Winchester Street  
London EC2N 2DB  
United Kingdom

**Société Générale, London Branch**

41 Tower Hill  
London EC3N 4SG  
United Kingdom

**NOTE TRUSTEE**

**U.S. Bank Trustees Limited**

125 Old Broad Street  
London EC2N 1AR  
United Kingdom

**ISSUER SECURITY TRUSTEE**

**U.S. Bank Trustees Limited**

125 Old Broad Street  
London EC2N 1AR  
United Kingdom

**COMMON SECURITY AGENT**

**Elavon Financial Services DAC, UK Branch**

125 Old Broad Street  
London EC2N 1AR  
United Kingdom

**THE ISSUER ACCOUNT BANK, THE PRINCIPAL PAYING AGENT,  
THE AGENT BANK AND THE ISSUER CASH MANAGER**

**Elavon Financial Services DAC, UK Branch**

125 Old Broad Street  
Fifth Floor  
London EC2N 1AR  
United Kingdom



## **THE SERVICER AND THE SPECIAL SERVICER**

### **Situs Asset Management Limited**

34th Floor, 25 Canada Square  
Canary Wharf  
London E14 5LB  
United Kingdom

## **THE SENIOR LOAN FACILITY AGENT**

### **Situs Asset Management Limited**

34th Floor, 25 Canada Square  
Canary Wharf  
London E14 5LB  
United Kingdom

## **LISTING AGENT**

### **Walkers Listing Services Limited**

5th Floor, The Exchange  
George's Dock, I.F.S.C.  
Dublin 1, Ireland

## **THE REGISTRAR**

### **Elavon Financial Services DAC**

Building 8, Cherrywood Business Park  
Loughlinstown  
Dublin  
Ireland

## **LEGAL ADVISERS**

**To the Servicer and Special Servicer as to  
English law**

### **Reed Smith LLP**

Broadgate Tower  
20 Primrose Street  
London EC2A 2RS  
United Kingdom

**To the Issuer as to Irish law**

### **Walkers**

5th Floor, The Exchange  
George's Dock, I.F.S.C.  
Dublin 1, Ireland

**To the Issuer Account Bank, the Principal Paying Agent, the Agent Bank, the Issuer Cash  
Manager, the Note Trustee and the Issuer Security Trustee as to English law**

### **Allen & Overy LLP**

One Bishops Square  
London E1 6AD  
United Kingdom

**To the Arrangers and Lead Managers as to English law**

### **Allen & Overy LLP**

One Bishops Square  
London E1 6AD  
United Kingdom