

Offering Memorandum dated 3 April 2014

# **€500,000,000 1.875% Fixed Rate Notes due 2021**

**of**

## **LUNAR FUNDING V PLC**

**Secured by Loan Notes due 2021 of**

## **SWISSCOM AG**

Lunar Funding V PLC (the “**Issuer**”) is offering its €500,000,000 1.875% Fixed Rate Notes due 2021 (the “**Notes**”) secured by the €500,000,000 1.875% Loan Notes due 2021 of Swisscom AG (the “**Original Collateral**”). The Notes will bear interest at a rate of 1.875% per annum. Interest will be paid on the Notes on 8 September in each year, commencing on 8 September 2014. The Notes will mature on 8 September 2021.

The Notes will be redeemable in the circumstances described in this offering memorandum (the “**Offering Memorandum**”).

The Notes are direct, secured, limited recourse obligations of the Issuer.

The Issuer is party to a secured asset-backed medium term note programme (the “**Programme**”) under which the Issuer may from time to time issue notes. Holders of the Notes will not have access to the assets of the Issuer held in connection with any other notes issued pursuant to the Programme and similarly, holders of any other notes issued pursuant to the Programme will not have access to the assets held in connection with the Notes.

**See “Risk Factors” beginning on page 11 for a discussion of certain risks that prospective investors should consider in connection with an investment in the Notes.** This document (including the information incorporated by reference herein) constitutes a prospectus as contemplated by Directive 2003/71/EC (the “**Prospectus Directive**”). This Offering Memorandum has been approved by the Central Bank of Ireland (the “**Central Bank**”), as competent authority (the “**Competent Authority**”) under the Prospectus Directive. The Central Bank only approves this Offering Memorandum as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Such approval relates only to the Notes, which are to be admitted to trading on the regulated market of the Irish Stock Exchange or other regulated markets for the purposes of Directive 2004/39/EC, or which are to be offered to the public in any member state of the European Economic Area. Application has been made to the Irish Stock Exchange for the Notes to be admitted to the Official List and trading on its regulated market.

THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR WITH ANY SECURITIES REGULATORY AUTHORITY OF ANY STATE OR OTHER JURISDICTION OF THE UNITED STATES. SUBJECT TO CERTAIN EXCEPTIONS, THE NOTES MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT (“**REGULATION S**”)).

*Managers*

**The Royal Bank of Scotland**

**Landesbank Baden-Württemberg**

**UniCredit Bank**

**BNP PARIBAS**

**Deutsche Bank AG, London  
Branch**

**UBS Limited**

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

The information contained in Appendix 1 to this Offering Memorandum (the “**Third Party Information**”) includes information in respect of the Original Collateral. The Issuer confirms that the Third Party Information has been accurately reproduced and that, so far as it is aware and is able to ascertain from the Third Party Information published, no facts have been omitted which would render the reproduced Third Party Information inaccurate or misleading.

The Issuer has not conducted extensive due diligence on the Third Party Information, or made any enquiries as to its own possession of non-publicly available information.

The Issuer has only made very limited enquiries in relation to the Third Party Information, and none of the Issuer or the Managers makes any representation or warranty, expressed or implied, as to the accuracy or completeness of the Third Party Information and prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquiries in respect of the same.

No person has been authorised to give any information or to make any representation other than those contained in this Offering Memorandum in connection with the issue or sale of Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or any Manager. Neither the Issuer nor any Manager is making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. Neither the delivery of this Offering Memorandum nor any sale made in connection herewith shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer or the Original Collateral Obligor since the date hereof or that there has been no adverse change in the financial position of the Issuer or the Original Collateral Obligor since the date hereof.

This document is based on information provided by the Issuer, except for the Third Party Information which has been supplied in connection with the Original Collateral. The Managers, and the Issuer in respect of the Third Party Information, are not making any representation or warranty that this information is accurate or complete and the Managers are not responsible for this information. This Offering Memorandum summarises certain documents and other information in a manner the Issuer believes to be accurate, but investors should refer to the actual documents for a more complete understanding of the matters discussed in this Offering Memorandum. In making an investment decision, investors must rely on their own examination of the terms of this offering and the Notes, including the merits and risks involved. This offering is being made on the basis of this Offering Memorandum. Any decision to purchase the Notes in this offering must be based solely on the information contained in this Offering Memorandum.

Investors should contact the Issuer or the Managers with any questions about this offering or if they require additional information to verify the information contained in this document.

Neither the Issuer nor the Managers are making any representation to any purchaser of the Notes regarding the legality of an investment in the Notes by it under any legal investment or similar laws or regulations. Investors should not consider any information in this document to be legal, business or tax advice. Investors should consult their own attorney, business advisor and tax advisor for legal, business and tax advice regarding an investment in the Notes.

The Issuer reserves the right to withdraw this offering of the Notes at any time. The Issuer and the Managers also reserve the right to reject any offer to purchase the Notes in whole or in part for any reason and to allot to any prospective investor less than the full amount of Notes sought by it.

In connection with the issue of the Notes, the Managers may, in accordance with all laws and regulations, over-allot Notes or effect transactions with a view to supporting the market price of the Notes at a level higher than that which might otherwise prevail. However, there is no assurance that the Managers will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Notes and 60 days after the date of the allotment of the Notes. Any stabilisation action or over-allotment must be conducted by the Managers in accordance with all applicable laws and rules.

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This Offering Memorandum does not constitute an offer of, or an invitation by or on behalf of the Issuer or the Managers to subscribe for, or purchase any, Notes or to enter into any other transactions. The distribution of this Offering Memorandum and the offering or sale of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Memorandum comes are required by the Issuer and the Managers to inform themselves about and to observe any such restriction.

To the fullest extent permitted by law, neither The Royal Bank of Scotland plc in its capacity as the arranger (the “**Arranger**”) nor any Manager accepts any responsibility for the contents of this Offering Memorandum or for any other statement, made or purported to be made by the Arranger or any Manager or on its behalf in connection with the Issuer or the issue and offering of the Notes. Each of the Arranger and each Manager accordingly disclaims all and any liability whether arising in tort or contract or otherwise (save as referred to above) which it might otherwise have in respect of this Offering Memorandum or any such statement.

**Purchasers of the Notes should conduct such independent investigation and analysis regarding the Issuer, the Original Collateral and the Original Collateral Obligor, the security arrangements and the Notes as they deem appropriate to evaluate the merits and risks of an investment in the Notes. Purchasers of the Notes should have sufficient knowledge and experience in financial and business matters, and access to, and knowledge of, appropriate analytical resources, to evaluate the information contained in or incorporated by reference into this Offering Memorandum and the merits and risks of investing in the Notes in the context of their financial position and circumstances.**

Any investment in the Notes does not have the status of a bank deposit and is not within the scope of the deposit protection scheme operated by the Central Bank or any other deposit protection scheme. The Issuer is not and will not be regulated by the Central Bank as a result of issuing the Notes or entering into any other Transaction.

The Notes may not be publicly offered, sold or advertised, directly or indirectly, in, into or from Switzerland and will not be listed on the SIX Swiss Exchange or any other exchange or regulated trading facility in Switzerland. Neither this Offering Memorandum nor any other offering or marketing material relating to the Notes constitutes (i) an Offering Memorandum as such term is understood pursuant to article 652a or article 1156 of the Swiss Code of Obligations, (ii) a listing Offering Memorandum within the meaning of the listing rules of the SIX Swiss Exchange or any other regulated trading facility in Switzerland or (iii) an Offering Memorandum as such term is defined in the Swiss Collective Investment Scheme Act, and neither this Offering Memorandum nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this Offering Memorandum nor any other offering and marketing material relating to the offering, the Issuer or the Notes have been or will be filed with or approved by any Swiss regulatory authority. The Notes are not subject to the supervision by any Swiss regulatory authority, e.g., the Swiss Financial Markets Supervisory Authority FINMA (“**FINMA**”), and investors in the Notes will not benefit from protection or supervision by such authority.

The language of this Offering Memorandum is English. Certain legislative references and technical terms have been cited in their original language in order that the correct technical meaning may be ascribed to them under applicable law.

In this Offering Memorandum, unless otherwise specified or the context otherwise requires, references to “euro” and “€” are to the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.

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## OVERVIEW OF THE OFFERING

The following is a brief summary of some of the terms of the Notes. For a more complete description of the terms of the Notes, see the Terms and Conditions of the Notes (the “**Conditions**”).

### PARTIES

<b>Issuer</b>	Lunar Funding V PLC.
<b>Arranger</b>	The Royal Bank of Scotland plc
<b>Managers</b>	The Royal Bank of Scotland plc, Landesbank Baden-Württemberg, UniCredit Bank AG, BNP Paribas, Deutsche Bank AG, London Branch and UBS Limited
<b>Trustee, Managers’ Trustee and Original Collateral Obligor Trustee</b>	BNP Paribas Trust Corporation UK Limited
<b>Enforcement Agent</b>	BNP Paribas Securities Services S.C.A., London Branch
<b>Issuing and Paying Agent</b>	Deutsche Bank AG, London Branch
<b>Custodian</b>	Deutsche Bank AG, London Branch
<b>Registrar and Transfer Agent</b>	Deutsche Bank Luxembourg S.A.
<b>Disposal Agent</b>	The Royal Bank of Scotland plc
<b>Calculation Agent</b>	The Royal Bank of Scotland plc

### CHARACTERISTICS OF THE NOTES

<b>Notes offered</b>	€500,000,000 1.875% Fixed Rate Notes due 2021 of the Issuer secured by the €500,000,000 1.875% Notes due 2021 of Swisscom AG.
<b>Status of Notes</b>	The Notes will be secured, limited recourse obligations of the Issuer ranking <i>pari passu</i> without any preference among themselves and secured in the manner described in the Trust Deed. Recourse in respect of any Series is limited to the Mortgaged Property. Claims of Noteholders, the Custodian, the Issuing and Paying Agent and any other Secured Creditor shall rank in accordance with the priorities specified in the Trust Deed.
<b>Restrictions</b>	So long as any Note remains outstanding, the Issuer will not, without the consent of the Trustee, engage in any business other than the issuance or entry into of bonds, notes or other securities or the entry into of loans or other agreements for the payment or repayment of borrowed money, and provided always that such obligations are entered into on a limited recourse and non-petition basis and are secured on assets of the Issuer other than (i) the Issuer’s share capital, (ii) any fees paid to the Issuer for agreeing to issue, or enter into, or amend, any Obligations (by way of corporate benefit and for its own account), (iii) any other moneys received by the Issuer for the administration and management of the Issuer which do not relate to a specific Series and which are segregated from the assets of each Series, and (iv) those assets securing any other obligations of the Issuer.

**Form of Notes**

The Notes will be issued in registered form only. Registered Notes will be represented by certificates (each a “**Certificate**”), one Certificate being issued in respect of each Noteholder’s entire holding of Registered Notes, and whilst registered in the name of a nominee for one or more clearing systems, will be represented by a Global Certificate.

**Limited Recourse and Non Petition**

The Notes comprise secured, limited recourse, obligations of the Issuer.

The Transaction Parties and the Noteholders shall have recourse only to the Mortgaged Property in respect of the Notes, subject always to the Security, and not to any other assets of the Issuer.

If, after (i) the Mortgaged Property is exhausted, whether following liquidation or enforcement of the Security or otherwise, and (ii) application of the proceeds derived from the Mortgaged Property, any outstanding claim, debt or liability against the Issuer in respect of the Notes or Transaction Documents relating to the Notes remains unpaid, then such outstanding claim, debt or liability, as the case may be, shall be extinguished in accordance with Condition 13 and the Issuer shall have no further obligation in respect thereof.

Following extinguishment in accordance with Condition 13, none of the Transaction Parties (save for the Trustee who may lodge a claim in liquidation of the Issuer which is initiated by another party or take proceedings to obtain a declaration or judgment as to the obligations of the Issuer), the Noteholders, or the persons acting on behalf of any of them shall be entitled to take any further steps against the Issuer or any of its officers, shareholders, members, incorporators, corporate service providers or directors to recover any further sum in respect of the extinguished claim, debt or liability and the Issuer shall have no obligation to any such persons in respect of such further sum in respect of the Notes. None of the Transaction Parties, the Noteholders or the persons acting on behalf of any of them may, at any time, institute or join with any other person in bringing, instituting or joining, insolvency, administration, bankruptcy, winding-up, examinership or any other similar proceedings (whether court-based or otherwise) in relation to the Issuer or any of its officers, shareholders, members, directors or incorporators or any of its assets, and none of them shall have any claim arising with respect to the assets or property attributable to any other notes issued by, or other Obligations entered into by, the Issuer.

Such limited recourse and non-petition provisions shall survive maturity of the Notes and the expiration or termination of the agreements to which the Transaction Parties are party.

**TERMS OF THE NOTES****Maturity**

The Notes will mature on 8 September 2021.

<b>Interest Rate</b>	The Notes will bear interest at a rate of 1.875% per annum.
<b>Interest Payment Dates</b>	Annually on 8 September of each year, commencing on 8 September 2014. There will be a short first coupon payable on the initial Interest Payment Date, in respect of the period from, and including, the Issue Date to, but excluding, such initial Interest Payment Date.
<b>Mortgaged Property</b>	(i) A first fixed charge over the Collateral; (ii) an assignment by way of security of the Issuer's rights, title and interest relating to the Collateral; (iii) an assignment by way of security of the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Collateral; (iv) a first fixed charge over all proceeds of, income from and sums arising from enforcement of any claim under the Purchase Agreement but only to the extent such claim relates to the Issuer's right to acquire the Original Collateral; (v) an assignment by way of security of the Issuer's rights, title and interest against the Custodian and the Disposal Agent, to the extent that they relate to the Collateral; (vi) an assignment by way of security of the Issuer's rights, title and interest under the Trust Deed insofar as the same relates to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets of the Issuer referred to in paragraphs (i) to (v) above; (vii) an assignment by way of security of the Issuer's rights, title and interest under the Agency Agreement, to the extent that they relate to the Notes; (viii) a first fixed charge over all sums held by the Custodian and/or the Issuing and Paying Agent and/or the Disposal Agent and/or the Enforcement Agent to meet payments due in respect of the Secured Payment Obligations; and (ix) a first fixed charge over the Issuer Cash Account, all the Issuer's present future rights, title and interest in or to the Issuer Cash Account and all amounts from time to time standing to the credit thereof (together with all interest accruing from time to time thereon and the debts represented thereby).
<b>Original Collateral</b>	Fixed Rate Loan Notes due 2021 of Swisscom AG. <i>The Information Memorandum relating to the Original Collateral has been reproduced at Appendix 1.</i>
<b>Early redemption of the Notes for Events of Default, tax or other reasons</b>	The Notes may be redeemed prior to or following the Maturity Date upon the occurrence of certain tax events with respect to the Notes or the Original Collateral, upon any of the Original Collateral being called for redemption or repayment prior to its scheduled maturity date, (any redemption following the Maturity Date would be as a result of a redemption being triggered prior to the Maturity Date but with the resultant liquidation process not being completed until after the Maturity Date). In addition, either the Noteholders and/or the Trustee (dependent on the relevant event and subject as specified in the Conditions) may have the

right to direct a redemption of the Notes upon the occurrence of an Event of Default with respect to the Notes and/or the occurrence of certain default events relating to the Original Collateral.

In such circumstances, the Disposal Agent may be required to liquidate some or all of the Collateral. The amount payable or transferable to Noteholders in such circumstances will be the Early Redemption Amount, being an amount per Note equal to that Note's pro rata share of the proceeds of liquidation or realisation of the Collateral and any other assets in respect of the Notes available to the Issuer.

The Early Redemption Amount of a Note may be less than or may have a value of less than the Specified Denomination of that Note and may be zero.

In addition, on a redemption of the Notes other than on their final redemption on the Maturity Date, the Issuer or the Trustee (as the case may be) will apply available sums or assets in accordance with the order of priority set out in Condition 5 (*Security and the Mortgaged Property*). Such sums or assets may not be sufficient to meet the claims of the Secured Creditors against the Issuer in respect of the Notes and, accordingly, following application in accordance with the order of priority there may not be sufficient sums or assets available to satisfy the Issuer's obligation to pay the Early Redemption Amount in full or at all. See further the section of this Offering Memorandum headed "Overview of the Offering – Limited Recourse and Non Petition".

#### **Put Option**

If (i) a person acquires more than 50 per cent. of (a) the voting rights or (b) the ordinary share capital of the Original Collateral Obligor and (ii) the rating of the Original Collateral Obligor falls below pre-determined levels in a 180 day period prior to or following such acquisition date, the Noteholders shall have a put option over the Notes. The Notes will be redeemed at par plus interest accrued thereon.

If Noteholders representing at least 80 per cent. in nominal amount of the Notes exercise the option, the Issuer may redeem the remaining Notes as a whole at par plus interest accrued thereon.

#### **Specified Denominations**

The Notes will be issued in minimum denominations of €100,000 and integral multiples of €1,000 in excess thereof.

#### **Withholding Tax**

All payments in respect of the Notes will be made subject to any withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature that the Issuer or any Agent is required by applicable law to make. In that event, the Issuer or such Agent shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount(s) so required to be withheld

or deducted. This may result in the early redemption of the Notes – see the section of this Base Prospectus headed “Overview of the Offering – Early Redemption of the Notes for Events of Default, tax or other reasons”. Neither the Issuer nor any Agent will be obliged to make any additional payments to holders of Notes in respect of such withholding or deduction.

#### Further Issues

The Issuer may from time to time issue further Notes on the same terms as the existing Notes and such further Notes shall be consolidated and form a single series with the Notes provided that, unless otherwise approved by an Extraordinary Resolution of Noteholders, the Issuer provides additional assets as security for such further Notes.

#### Governing Law

The Notes will be governed by English law.

#### Issuance Details

##### Method of Issue

The Notes will be issued on a syndicated basis.

##### Issue Price of the Notes

99.076%.

##### Clearing Systems

Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, *société anonyme* (“**Clearstream, Luxembourg**”).

##### ISIN

XS1051076922

##### Common Code

105107692

##### Listing and Admission to Trading

The Notes will be listed on the Official List of the Irish Stock Exchange and admitted to trading on the regulated market of the Irish Stock Exchange

#### Rating

The Notes are expected to be rated as follows:

Moody’s Investors Service, Inc.: “A2”

Standard & Poor’s Credit Market Services Europe Limited: “A”

A securities rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time.

Moody’s Investors Service, Inc. is not established in the European Union and has not made an application to be registered for the purposes of the EU Regulation on credit rating agencies (Regulation (EC) No.1060/2009), as amended (the “**CRA Regulation**”).

Standard & Poor’s Credit Market Services Europe Limited is established in the European Union and is registered under the CRA Regulation.

#### Selling Restrictions

The United States, the Public Offer Selling Restriction under the Prospectus Directive, the United Kingdom, Ireland and Switzerland.

The Issuer is Category 2 for the purposes of Regulation S under the Securities Act, as amended

## RISK FACTORS

*An investment in the Notes involves substantial risks and is suitable only for sophisticated investors who have the knowledge and experience in financial and business matters necessary to enable them to evaluate the risks and merits of such an investment. The Notes are not principal protected and purchasers of Notes are exposed to full loss of principal or other amount invested. Only prospective purchasers of Notes who can withstand the loss of their entire investment should buy the Notes.*

*This Offering Memorandum does not describe all of the risks of an investment in the Notes. Prospective investors should consult their own financial and legal advisers as to the risks entailed by an investment in the Notes and the suitability of investing in such Notes in the light of their particular circumstances. Before making an investment decision, prospective investors should carefully consider, among other factors, all the information set forth in this Offering Memorandum, the information memorandum of Swisscom AG dated 3 April 2014 (the “**Original Collateral Obligor’s Information Memorandum**”), which is set out in Appendix 1 to this Offering Memorandum and, in particular, the matters described below and under “**Risk Factors**” in the Original Collateral Obligor’s Information Memorandum attached as Appendix 1 hereto.*

*All capitalised terms that are not defined in this section shall have the meanings given to them in the Conditions.*

### **Risks Related to the Issuer**

#### **The Issuer is a special purpose vehicle**

The Issuer is established in Ireland and its sole business is the raising of money by issuing notes, bonds, warrants, certificates or other securities and entering into other transactions for the purposes of purchasing assets and entering into related derivatives and other contracts. The Issuer has covenanted not, as long as any of the Notes remain outstanding, without the prior written consent of the Trustee and provided that it will not result in any rating assigned to the Notes being adversely affected, as affirmed in writing by the relevant rating agency, to have any subsidiaries or employees, purchase, own, lease or otherwise acquire any real property (including office premises or like facilities), consolidate or merge with any other person, declare any dividends or issue any shares (other than such shares as were in issue on the date of its incorporation). As such, the Issuer has, and will have, no assets other than its issued and paid-up share capital, such fees (as agreed) payable to it in connection with the issue of the Notes and any other notes issued pursuant to the Programme or entry into of other obligations from time to time and any Mortgaged Property, any Managers' Mortgaged Property, any Original Collateral Obligor Mortgaged Property and any other assets on which notes issued pursuant to the Programme or other obligations are secured and the Trustee will not have recourse to any of such assets other than the Mortgaged Property (see “**Risks Related to the Notes – Limited recourse obligations**” below). There is no day-to-day management of the business of the Issuer.

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

The Issuer is not required to be licensed, registered or authorised under any current securities, commodities or banking laws of its jurisdiction of incorporation. There is no assurance, however, that regulatory authorities in one or more jurisdictions would not take a contrary view regarding the applicability of any such laws to the Issuer. The taking of a contrary view by such regulatory authority could have an adverse impact on the Issuer or the holders of the Notes.

Any investment in the Notes does not have the status of a bank deposit and is not within the scope of any deposit protection scheme.

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

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

The holder of a fixed security over the book debts of an Irish tax resident company (that would include 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 that the holder received in payment of debts due to it by the company.

Where the holder of the security has given notice to the Irish Revenue Commissioners of the creation of the security within 21 days of its creation, the holder's liability is limited to the amount of certain outstanding Irish tax liabilities of the company (including liabilities in respect of value added tax) arising after the issuance of the Irish Revenue Commissioners' notice 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 any Irish tax resident company that 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 that are the subject matter of the security in the sense of disposing of such assets or expending or appropriating the moneys or claims constituting such assets and, accordingly, if and to the extent that such liberty is given to the Issuer, any charge constituted by the Trust Deed may operate as a floating rather than a fixed charge.

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

Depending upon the level of control actually exercised by the chargor, there is therefore a possibility that the fixed security over the Issuer's account and the Mortgaged Property would be regarded by the Irish courts as a floating charge.

Floating charges have certain weaknesses, including the following:

- (i) they have weak priority against purchasers (who are not on notice of any negative pledge contained in the floating charge) and the chargees of the assets concerned and against lien holders, execution creditors and creditors with rights of set-off;
- (ii) as discussed above, they rank after certain preferential creditors, such as claims of employees and certain taxes on winding-up;

- (iii) they rank after certain insolvency remuneration expenses and liabilities;
- (iv) the examiner of a company has certain rights to deal with the property covered by the floating charge; and
- (v) they rank after fixed charges.

## **Examinership**

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

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 the examiner's appointment and, in certain circumstances, can avoid a negative pledge given by the company prior to his appointment. Furthermore, the examiner may sell assets that 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 them out of the proceeds of sale.

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

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

The primary risks to such holders of Notes if an examiner were to be appointed to the Issuer are as follows:

- (i) the potential for a scheme of arrangement to be approved involving the writing down of the debt owed by the Issuer to the holders of the Notes as secured by the Trust Deed;
- (ii) the potential for the examiner to seek to set aside any negative pledge in the holders of the Notes prohibiting the creation of security or the incurring of borrowings by the Issuer to enable the examiner to borrow to fund the Issuer during the protection period; and

in the event that a scheme of arrangement is not approved and the Issuer subsequently goes into liquidation, the examiner's remuneration and expenses (including certain borrowings incurred by the examiner on behalf of the Issuer and approved by the Irish High Court) will take priority over the moneys and liabilities that from time to time are or may become due, owing or payable by the Issuer to the holders of the Notes.

## **Risks Related to the Notes**

### **Limited recourse obligations**

The Notes are direct, secured, limited recourse obligations of the Issuer payable solely out of the Mortgaged Property for the Notes granted by the Issuer in favour of the Trustee on behalf of the Noteholders and other secured parties. The Mortgaged Property for the Notes comprises primarily the interests of the Issuer in the Original Collateral. The Issuer will have no other assets or sources of revenue available for payment of any of its obligations under the Notes and in particular, Noteholders will not have access to other assets of the Issuer held in connection with other series of notes issued from time to time by the Issuer. The Noteholders will have no right to take title to, or possession of, the Mortgaged Property. Where the Trustee, having become bound to do so, fails to take action against the Issuer within a reasonable time then the Noteholders may exercise their rights to remove the Trustee, but shall in no circumstances be entitled to proceed directly against the Issuer. No assurance can be made that the proceeds available for and allocated to the repayment of the Notes at any particular time will be sufficient to cover all amounts that would otherwise be due and payable in respect of the Notes. If the proceeds of the realisation of the Security received by the Trustee for the benefit of the Noteholders prove insufficient to make payments on the Notes, no other assets will be available for payment of the deficiency, and, following distribution of the proceeds of such realisation, the Issuer will have no further obligation to pay any amounts in respect of such deficiency.

Further, none of the Trustee, the Noteholders or any other secured party will be entitled at any time to petition or take any other step for the winding-up of, or the appointment of an examiner to, the Issuer, provided that the Trustee may lodge a claim in liquidation of the Issuer which is initiated by another party or take proceedings to obtain a declaration or similar judgment or order as to the obligations and liabilities of the Issuer. No person other than the Issuer will be obliged to make payments on the Notes.

### **Priority of claims**

On liquidation or enforcement of the security granted by the Issuer in favour of the Trustee, the rights of the Noteholders to be paid amounts due under the Notes will be subordinated to (i) payment or satisfaction of all taxes owing by the Issuer, (ii) the operating expenses due and payable to the Trustee, including expenses incurred in the enforcement of the security and (iii) the operating expenses due and payable to the Agents.

### **Early redemption of the Notes**

The Notes may be redeemed prior to their maturity date on the occurrence of any of a Scheduled Original Collateral Event, an Original Collateral Default (a Scheduled Original Collateral Event and an Original Collateral Default relating to the Original Collateral and/or the Original Collateral Obligor), a Note Tax Event, an Original Collateral Tax Event, an Illegality Event or an Event of Default (a Note Tax Event, an Original Collateral Tax Event, an Illegality Event and an Event of Default relating to the Notes and/or the Issuer).

Following the occurrence of any such event, the Original Collateral may be liquidated by the Disposal Agent (where such event constitutes a Liquidation Event) or the Security, including those in respect of the Original Collateral, may be enforced (investors are referred to Condition 5(d) (*Enforcement of Security*) for a description of when the Security may become enforceable), in each case, in order to fund the payment of the Early Redemption Amount on redemption of the Notes.

Investors are referred to Condition 8 (*Redemption and Purchase*) for a description of when the Notes may be redeemed early.

Investors are referred to the sections “**The Notes are linked to the creditworthiness of the Original Collateral Obligor and the Original Collateral**” and “**Any liquidation of the Original Collateral may**

**yield sales proceeds that are substantially below the Nominal Amount of the Notes”** for a description of the risks associated with any early redemption of the Notes.

### **The Notes are linked to the creditworthiness of the Original Collateral Obligor and the Original Collateral**

Investors should note that the Notes differ from ordinary debt securities in that the amount of principal and interest payable by the Issuer in respect of the Notes is dependent on, amongst other things, whether an Original Collateral Default or a Scheduled Original Collateral Event has occurred in respect of the Original Collateral Obligor. Where an Original Collateral Default or a Scheduled Original Collateral Event has occurred, the Notes may be redeemed early, at which point they will cease to bear interest and the value paid to Noteholders on redemption may be less than their original investment or may be zero. The likelihood of an Original Collateral Default or a Scheduled Original Collateral Event occurring in respect of the Original Collateral Obligor will generally fluctuate with, among other things, the financial condition and other characteristics of the Original Collateral Obligor, general economic conditions, the condition of certain financial markets, political events, developments or trends in any particular industry and changes in prevailing interest rates. Investors should have sufficient knowledge and experience in financial and business matters to evaluate the merits and risks of investing in such Notes as well as access to, and knowledge of, appropriate analytical tools to evaluate such merits and risks in the context of their financial situation.

### **Limited Access to Information**

None of the Issuer, the Trustee or the Noteholders or any other person will have any right to receive any information regarding the Original Collateral Obligor or the Original Collateral (save to the extent that the Issuer is entitled to receive information relating to the Original Collateral Obligor by virtue of its holding of the Original Collateral). During the term of the Notes, the Arranger may acquire confidential information with respect to the Original Collateral Obligor or any obligations or duties of the Original Collateral Obligor and it shall not be under any duty to disclose such confidential information to any Noteholder.

### **Trustee indemnity**

In certain circumstances, the Noteholders may be dependent on the Trustee to take certain actions, steps or proceedings in respect of the Notes, in particular if the Security in respect of the Notes becomes enforceable under the Conditions. Prior to taking such action, steps or proceedings the Trustee may require to be indemnified and/or secured and/or pre-funded to its satisfaction. If the Trustee is not indemnified and/or secured and/or pre-funded to its satisfaction, it may decide not to take such action, steps or proceedings and such inaction will not constitute a breach by it of its obligations under the Trust Deed. Consequently, the Noteholders would have to either arrange for such indemnity and/or security and/or pre-funding or accept the consequences of such inaction by the Trustee. Noteholders should be prepared to bear the costs associated with any such indemnity and/or security and/or pre-funding and/or the consequences of any such inaction by the Trustee. Such inaction by the Trustee will not entitle Noteholders to take action directly against the Issuer to pursue remedies for any breach by the Issuer of the Trust Deed or the Notes (although the events giving rise to the need for Trustee action might also permit the Noteholders to exercise certain rights directly under the Conditions).

So long as any Note is outstanding, the Issuer shall pay the Trustee and Agents remuneration for their services. Unless alternative arrangements are in place to finance such remuneration, such remuneration may reduce the amount payable to Noteholders.

**Any liquidation of the Original Collateral may yield sales proceeds that are substantially below the Nominal Amount of the Notes**

Following the occurrence of a Liquidation Event in respect of the Issuer (investors are referred to the Conditions and in particular Condition 8(c) (*Redemption for taxation reasons*) and Condition 8(e) (*Illegality Event*) for a description of the instances where a Liquidation Event may occur), provided that no intervening Original Collateral Default or Scheduled Original Collateral Event occurs, the Early Redemption Amount of the Notes is linked to the proceeds of sale of the Original Collateral. The amount of any Available Proceeds used in the calculation of the Early Redemption Amount may be affected by factors other than the occurrence of such Liquidation Event. The Original Collateral may be illiquid, thereby adversely affecting the market value of such Original Collateral that in turn will impact on the Early Redemption Amount payable on redemption of the Notes. The transfer of the Original Collateral is subject to certain restrictions. In particular, the Original Collateral can only be transferred to certain Qualifying Banks or Permitted Non-Qualifying Lenders (investors are referred to the Original Collateral Obligor's Information Memorandum set out in Appendix 1 to this Offering Memorandum, in particular the restrictions set out in Original Collateral Condition 9(a) (*Transfer*) and Original Collateral Condition 9(b) (*Grants of Security*)).

Such transfer restrictions mean that there is no established trading market in the Original Collateral. As a result, on a Liquidation of the Original Collateral, the Available Proceeds received on such realisation, may be substantially lower than the Nominal Amount of the Notes.

See “**Risks Related to the Original Collateral**” below.

**The Issuer may be substituted in order to avoid certain adverse tax or legal consequences**

On the occurrence of a Note Tax Event, Original Collateral Tax Event or an Illegality Event the Issuer may be substituted in order to avoid the occurrence of certain adverse tax or legal consequences. Such substitution must be approved beforehand in writing by the Trustee and no such substitution may occur where it results in any rating assigned to the Notes being adversely affected. Investors are referred to Condition 8(c) (*Redemption for taxation reasons*) or Condition 8(e) (*Illegality Event*) for a description of when the Issuer may be substituted.

**Payment of additional amounts for Swiss withholding taxes may be null and void**

Although the terms of the Original Collateral provide that, in the event of any withholding or deduction on account of Swiss tax being required by Swiss law, the Original Collateral Obligor shall, subject to certain exceptions, pay additional amounts so that the net amount received by the holders of the Original Collateral shall equal the amount which would have been received by such holder in the absence of such withholding or deduction, such an obligation may contravene Swiss legislation and be null and void.

If the Original Collateral Obligor becomes obliged to pay additional amounts in respect of the Original Collateral following the imposition of any withholding or deduction in respect of payments of principal and interest under the Original Collateral as a result of a change in, or amendment to the laws and regulations of Switzerland, the Original Collateral Obligor may, redeem all of the Original Collateral, which will result in the redemption of all of the Notes in accordance with Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*).

**Withholding on the Notes**

The Issuer expects that payments of principal and interest on the Notes will ordinarily not be subject to withholding tax in Ireland or any other jurisdiction. In the event that tax must be withheld or deducted from payments of principal or interest, the Issuer shall use all reasonable endeavours to arrange the substitution of a company incorporated in another jurisdiction as the principal debtor or to change its residence for taxation purposes to another jurisdiction and, if it is not able to arrange such substitution or change, it shall early

redeem the Notes. In the event that any withholding tax or deduction for tax is imposed on payments of interest on the Notes, the Noteholders will not be entitled to receive grossed-up amounts to compensate for such withholding tax nor be reimbursed for the amount of any shortfall and no Event of Default shall occur as a result of any such withholding or deduction; however, the Notes may be redeemed early pursuant to Condition 8(c) (*Redemption for taxation reasons*).

### **Modification, waivers and substitution**

The conditions of the Notes contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Noteholders, including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

The conditions of the Notes also provide that the Trustee may, without the consent of Noteholders, agree to (i) any modification of any of the provisions of the Notes that is, in its opinion, of a formal, minor or technical nature or is made to correct a manifest error, (ii) any other modification (except as mentioned in Condition 14(a) (*Meetings of Noteholders*)), and any waiver or authorisation of any breach or proposed breach of any of the Conditions or any provisions of the Trust Deed or any other documentation in connection with the issue of the Notes that is in the opinion of the Trustee not materially prejudicial to the interests of the Noteholders or (iii) the substitution of another company as principal debtor under the Notes in place of the Issuer.

### **Meetings of Noteholders and written resolutions**

The Trust Deed contains provisions for calling meetings of Noteholders to consider matters affecting their interests generally and to obtain written resolutions on matters relating to the Notes from Noteholders without calling a meeting. A written resolution signed by or on behalf of the holders of not less than 75 per cent. in principal amount of the Notes who for the time being are entitled to receive notice of a meeting in accordance with the provisions of the Trust Deed and whose Notes are then outstanding shall for all purposes be deemed to be an Extraordinary Resolution. In certain circumstances, where the Notes are held on behalf of a clearing system, the Issuer and the Trustee will be entitled to rely upon approval of a resolution proposed by the Issuer or the Trustee (as the case may be) given by way of electronic consents communicated through the electronic communication systems of the relevant clearing system(s) in accordance with their operating rules and procedures by or on behalf of the holders of not less than 75 per cent. in aggregate nominal amount of the Notes for the time being outstanding, and such electronic consents shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held. A written resolution or an electronic consent described in the previous paragraph may be effected in connection with any matter affecting the interests of Noteholders, including the modification of the Conditions, that would otherwise be required to be passed at a meeting of Noteholders satisfying the special quorum in accordance with the provisions of the Trust Deed. These provisions permit defined majorities to bind all Noteholders including Noteholders who did not attend and vote at the relevant meeting or in respect of the relevant resolution (or participate in the written resolution or electronic consent, as the case may be) and Noteholders who voted in a manner contrary to the majority (either in a meeting or by written resolution).

### **Legality of purchase**

None of the Issuer, the Trustee, the Managers' Trustee, the Original Collateral Obligor Trustee, the Managers or any affiliate of such persons has or assumes responsibility for the lawfulness of the acquisition of the Notes by a prospective purchaser of the Notes (whether for its own account or for the account of any third party), whether under the laws of the jurisdiction of its incorporation or the jurisdiction in which it operates (if different), or for compliance by that prospective purchaser (or any such third party) with any law, regulation or regulatory policy applicable to it.

### **Managers' Security**

The proceeds of the Managers' Security will, in the event that the Managers' Security becomes enforceable, be held by the Managers' Trustee on behalf of itself and the Managers and applied in respect of any Manager's Claims. Noteholders have no direct or indirect interest in the Managers' Security and will not be entitled to the proceeds of enforcement of the Managers' Security. The Original Collateral Obligor and the Original Collateral Obligor Trustee have no direct or indirect interest in the Managers' Security and will not be entitled to the proceeds of enforcement of the Managers' Security.

### **Original Collateral Obligor Security**

The proceeds of the Original Collateral Obligor Security will, in the event that the Original Collateral Obligor Security becomes enforceable, be held by the Original Collateral Obligor Trustee on behalf of itself and the Original Collateral Obligor and applied in respect of any Original Collateral Obligor Claims. Noteholders have no direct or indirect interest in the Original Collateral Obligor Security and will not be entitled to the proceeds of enforcement of the Original Collateral Obligor Security. The Managers and the Managers' Trustee have no direct or indirect interest in the Original Collateral Obligor Security and will not be entitled to the proceeds of enforcement of the Original Collateral Obligor Security.

### **Change of law**

The Conditions are governed by English law in effect as at the Issue Date. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the Issue Date.

### **Provision of information**

None of the Issuer, the Trustee, the Managers' Trustee, the Original Collateral Obligor Trustee nor any affiliate of such persons makes any representation as to the credit quality of the Original Collateral Obligor. Any of such persons may have acquired, or during the term of the Notes may acquire, non-public information with respect to the Original Collateral Obligor. None of such persons is under any obligation to make such information directly available to Noteholders. None of such persons is under any obligation to make available any information relating to, or keep under review on the Noteholders' behalf, the business, financial condition, prospects, creditworthiness or state of affairs of the Original Collateral Obligor or conduct any investigation or due diligence into the Original Collateral (either with respect to the Original Collateral Obligor or the terms and conditions of the Original Collateral).

### **Credit Ratings**

The Notes are rated securities. In addition, rating agencies have assigned ratings to the Original Collateral Obligor. Credit ratings of debt securities represent the rating agencies' opinions regarding their credit quality and are not a guarantee of quality. Rating agencies attempt to evaluate the safety of principal and interest payments and do not evaluate the risks of fluctuations in market value; therefore, credit ratings may not fully reflect the true risks of an investment. Rating agencies may fail to make timely changes in credit ratings in response to subsequent events, so that an issuer's current financial condition may be better or worse than a rating indicates. Rating agencies may change their rating methodology, which could adversely affect the rating of the Notes. No assurance can be given that the Notes will have the same credit rating as the Original Collateral Obligor subsequent to any reduction in the credit rating of an Agent or otherwise.

### **Exchange rate risks and exchange controls**

The Issuer will pay principal and interest on the Notes in euro. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the "**Investor's Currency**") other than euro. These include the risk that exchange rates may significantly change (including changes due to devaluation of the euro or revaluation of the Investor's Currency) and the risk that

authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative to the euro would decrease (i) the Investor's Currency-equivalent yield on the Notes, (ii) the Investor's Currency-equivalent value of the principal payable on the Notes and (iii) the Investor's Currency-equivalent market value of the Notes.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.

### **Risks Related to the Original Collateral**

Risk factors relating to the Original Collateral are provided in the sub-section titled "**Risk Factors**" of the Original Collateral Obligor's Information Memorandum attached at Appendix 1 hereto.

#### **No investigations**

No investigations, searches or other enquiries have been made by or on behalf of the Issuer or the Trustee in respect of the Original Collateral or the Original Collateral Obligor. No representations or warranties, express or implied, have been given by the Issuer, the Managers, the Trustee or any other person on their behalf in respect of the Original Collateral or the Original Collateral Obligor.

#### **Original Collateral**

Noteholders are exposed to the market price of the Original Collateral. The Issuer may have to fund its payments by the sale of some or all of the Original Collateral at a market value. The market price of the Original Collateral will generally fluctuate with, among other things, the liquidity and volatility of the financial markets, general economic conditions, domestic and international political events, developments or trends in a particular industry and the financial condition of the relevant Original Collateral Obligor. The Arranger and the Managers may have acquired, or during the terms of the Notes may acquire, confidential information or enter into transactions with respect to any Original Collateral and it shall not be under any duty to disclose such confidential information to any Noteholder or the Issuer.

In addition, any event that causes the Original Collateral Obligor not to make all or part of any scheduled payments on the Original Collateral, will result in corresponding reductions and delays in respect of principal and interest payable in respect of the Notes.

Noteholders will be subject to whatever early redemption triggers are applicable to the Original Collateral as set out in the terms and conditions thereof. An early redemption of the Original Collateral will result in an early redemption of the Notes. Consequently, if at any time the Original Collateral becomes redeemable or repayable or becomes capable of being declared due and payable prior to the Original Collateral Maturity Date for whatever reason or there is a payment default in respect of the Original Collateral, the Issuer shall redeem each Note on the related Early Redemption Date at its Early Redemption Amount. The amount payable to a Noteholder in such circumstances will be such Note's *pro rata* share of the proceeds of liquidation or realisation of the Collateral and any other assets in respect of the Notes.

The Noteholders will be paid such amounts after payment of any priority claims in accordance with the Conditions. There is no assurance that in such circumstances the proceeds and/or assets available following payment of any such priority claims will be sufficient to pay in full the amounts that holders of the relevant Notes would expect to receive in the event that the Notes redeemed in accordance with their terms on their Maturity Date or that such holders will receive back the amount, or assets with a value equal to the amount, they originally invested.

The transfer of the Original Collateral is subject to certain restrictions, including but not limited to the restrictions set out in Original Collateral Condition 9(a) (*Transfer*) and Original Collateral Condition 9(b) (*Grants of Security*) (the “**Original Collateral Transfer Restrictions**”). The Original Collateral is not listed or admitted to trading on any exchange and has not been accepted for clearance through any clearing system. As a result, there will be no established trading market in the Original Collateral and the Original Collateral will be illiquid. The illiquidity of the Original Collateral may have a severely adverse effect on the market value of the Original Collateral.

#### **Limitations on enforcement against the Collateral Obligor**

In no circumstances shall the Trustee or, as the case may be, the Managers’ Trustee, be permitted when acting in its capacity as trustee for the Noteholders or the other Secured Creditors or, as the case may be, the Managers or the other Managers’ Secured Creditors, nor shall the Noteholders (or the other Secured Creditors) or the Managers (or the other Managers’ Secured Creditors) (when acting in their respective capacities) be permitted, to take any action against the Original Collateral Obligor or enforce any claim that the Issuer may have against the Original Collateral Obligor under the Original Collateral or otherwise whether before, upon, or after any security created by or pursuant to the Trust Deed becoming enforceable (the “**Enforcement Restriction**”).

The Trustee and the Noteholders are subject to the Enforcement Restriction and may not take enforcement action even (in the case of the Trustee) if directed to do so by the Noteholders. The Noteholders will have no right to take possession of the Original Collateral or take any action against the Original Collateral Obligor.

#### **Purchase, Exchange or Retirement of Notes: Tender Offers and Exchange Offers**

The terms of the Notes provide that in certain circumstances (as set out in Condition 8(g) (*Purchases*)), the Issuer may participate in a Tender Offer or an Exchange Offer (each as defined in Condition 8(g) (*Purchases*)) with respect to the Original Collateral. If, in such circumstances, the Collateral Obligor defaults in the performance of its payment obligations under the terms of any such Tender Offer or Exchange Offer, then the Issuer will not be able to satisfy its corresponding payment obligations to Noteholders in respect of any corresponding Issuer Tender Offer or Issuer Exchange Offer (each as defined in Condition 8(g) (*Purchases*)). Any failure by the Issuer to make a payment due in connection with any Issuer Tender Offer or Issuer Exchange Offer shall constitute a default in payment in respect of the Notes for purposes of Condition 8(d) (*Events of Default*), leading to the security for the Notes becoming enforceable. Accordingly, Noteholders must recognise that they will be exposed to the risk of default by the Collateral Obligor in respect of any Tender Offer or Exchange Offer, regardless of whether or not they participate in any corresponding Issuer Tender Offer or Issuer Exchange Offer.

#### **Exercise of the Change of Control Put Option**

If a person acquires more than 50 per cent. of the voting rights or the issued ordinary share capital of the Original Collateral Obligor and, within a period of 180 days prior to or following such acquisition, the rating of the Original Collateral Obligor is downgraded below pre-determined levels and does not recover to the previous level during such 180 day period (a “Change of Control Event” as defined in Original Collateral Condition 5(d) (*Redemption on the occurrence of a Change of Control Event*)), each Noteholder shall have the right to exercise its Put Option to require the Issuer to redeem some or all of the Notes held by such Noteholder. The Notes will be redeemed at par plus interest accrued thereon.

If Noteholders representing at least 80 per cent. in nominal amount of the Notes exercise the option, the Issuer may redeem the remaining Notes as a whole at par plus interest accrued thereon. Therefore, even though the redemption is expressed to be at the option of the Noteholders, the Notes may be compulsorily redeemed by the Issuer.

In relation to the exercise of a Put Option, notices shall be given to Noteholders by the Issuer and notices shall be given by Noteholders to the Issuer via Euroclear and Clearstream, Luxembourg and no assurance can be given that notices given by the Issuer or any Noteholder to such clearing systems shall be transmitted to the Issuer or the Noteholders, as the case may be, in a timely manner. Accordingly, the Issuer takes no responsibility for any failure in exercise of the Put Option by reason of any failure of onward transmission of notices by such clearing system.

### **Exercise of Call Option by the Original Collateral Obligor**

Upon the occurrence of an Event of Default, a Note Tax Event, an Original Collateral Tax Event or an Illegality Event, the Issuer shall give the Call Event Notice to the Original Collateral Obligor required to be given pursuant to Original Collateral Condition 9(b)(iv) stating that as a consequence of the occurrence of such an event the Original Collateral shall be Liquidated or the Security in respect of the Original Collateral has become enforceable. Upon receiving such Call Event Notice, the Original Collateral Obligor may exercise its right under Original Collateral Condition 5(c) (without obligation to do so) to redeem all or some only of the Original Collateral then outstanding. If the Original Collateral Obligor exercises its right to redeem (whether in whole or in part), this shall trigger an early redemption of the Notes.

An early redemption of the Notes may be detrimental to the interests of Noteholders (see “**Risks Related to the Notes – Early redemption of the Notes**” above).

Where the Original Collateral Obligor redeems all (and not some only) of the Original Collateral then outstanding pursuant to its call option, the Noteholders shall receive payment of the nominal amount of the Notes rather than the proceeds of liquidation of the Original Collateral. Such liquidation proceeds may have been greater than the nominal amount of the Notes. Where the Original Collateral Obligor redeems some only of the Original Collateral then outstanding pursuant to its call option, the Noteholders shall receive payment of the nominal amount of the Notes for the portion so redeemed and will receive the proceeds of liquidation of the Original Collateral not so redeemed. Such liquidation proceeds may be less than the nominal amount of the Notes.

Any such payment of the nominal amount is subject to the Issuer receiving such amounts from the Original Collateral Obligor (see “**The Notes are linked to the creditworthiness of the Original Collateral Obligor and the Original Collateral**” above).

## **Risks Related to Counterparties**

### **Failure to appoint a replacement Agent**

If the appointment of any Agent is terminated for any reason whatsoever, upon request from the Issuer, the Original Collateral Obligor (pursuant to the Purchase Agreement) will be required to pay the Issuer’s costs relating to such Agent’s replacement. If the Original Collateral Obligor fails to pay such costs on the Issuer’s behalf, then an Event of Default may occur in respect of the Notes. The Notes may be redeemed prior to their scheduled maturity under Condition 8(d) (*Events of Default*).

### **Potential conflict of interest**

The roles of the Disposal Agent and Calculation Agent (such roles as described in the Conditions) may be performed by the same entity (unless replaced in accordance with the terms and conditions of the Notes) and initially will be performed by The Royal Bank of Scotland plc. This gives rise to a potential conflict of interest.

**No fiduciary role**

None of the Issuer, the Original Collateral Obligor, the Arranger, the Disposal Agent, the Trustee, the Irish Share Trustee or any Agent (each as defined herein and together, in relation to the issue of the Notes, the “**Parties**”), or any of their respective affiliates is acting as an investment adviser, and none of them (other than the Trustee) assumes any fiduciary obligation to any purchaser of Notes or any other party, including the Issuer.

None of the Issuer or any of the Parties assumes any responsibility for conducting or failing to conduct any investigation into the business, financial condition, prospects, creditworthiness, status and/or affairs of the Original Collateral Obligor or the terms thereof.

Investors may not rely on the views or advice of the Issuer or any of the Parties for any information in relation to any person other than such Issuer or Party, respectively.

**Disposal Agent**

The Disposal Agent has been appointed to liquidate the Original Collateral held by the Issuer following a Liquidation Event. In the event that the Disposal Agent fails to sell such Original Collateral in accordance with the Liquidation Procedures, or in the event that the Disposal Agent becomes insolvent, the Agency Agreement and the Conditions contain a mechanism for the appointment of a replacement Disposal Agent. However, there can be no assurance that an appropriate counterparty will be found to perform this role. If no replacement Disposal Agent is appointed or there is a failure to liquidate Original Collateral in certain circumstances, the realisation of the Security following a Liquidation Event would be undertaken by the Trustee, but only to the extent permitted by the Trust Deed, or by a receiver appointed by the Trustee upon enforcement of the Security in accordance with the Conditions and subject to its being indemnified and/or secured and/or pre-funded to its satisfaction, but may be subject to delays and the Trustee is not obliged or required to take any action under the Trust Deed that may involve it in incurring any personal liability or expense unless indemnified and/or secured and/or pre-funded to its satisfaction.

**Calculation Agent determinations and refraining from acting**

In addition to determining interest rates and/or calculating amounts of interest and/or principal, the Calculation Agent may also undertake certain additional duties such as determining the occurrence or otherwise of early redemption events. In such circumstances, the Calculation Agent may not be able to disclose the basis of such determination to Noteholders if it deems such information to be confidential, non-public, price sensitive or of such a nature as otherwise might prohibit it from disclosing the same in accordance with applicable laws, including, without limitation, any insider dealing and/or market abuse laws. Notwithstanding the above, Noteholders should be aware that the Calculation Agent is entitled to refrain from performing any duties expressed to be performed by it where such performance would involve obligations of or to, or assets referencing, persons (including individuals, corporations (including a business trust), partnerships, collective investment schemes, joint ventures, associations, joint stock companies, trusts (including any beneficiary thereof), unincorporated associations or governments or any agency or political subdivision thereof) about which the Calculation Agent or any of its affiliates has information which the Calculation Agent deems confidential, non-public, price sensitive or of such a nature as otherwise might prohibit it from performing such duty in accordance with applicable laws, including, without limitation, any insider dealing and/or market abuse laws. If the Calculation Agent refrains from performing any of its duties on this basis, it shall not be liable in tort or contract or otherwise to any person whatsoever for its failing to perform. Such circumstances might prevent the Calculation Agent from notifying the Issuer and Noteholders of the occurrence of an early redemption event, notwithstanding that the Notes would otherwise have been redeemed early if the Calculation Agent was not compelled to refrain from acting.

## **Risks Related to the Banking Act 2009**

Under the Banking Act 2009 (the “**Banking Act**”), substantial powers have been granted to HM Treasury, the Bank of England and the U.K. Financial Conduct Authority as part of a special resolution regime (the “**SRR**”). The SRR could apply to The Royal Bank of Scotland plc. It is possible that these powers could be exercised prior to the point at which any insolvency proceedings with respect to The Royal Bank of Scotland plc are initiated. The exercise of such powers may, because of the role of The Royal Bank of Scotland plc as Calculation Agent and Disposal Agent in respect of the Notes, adversely affect the rights of Noteholders, the price or value of their investment in the Notes and/or the ability of the Issuer to satisfy its obligations under the Notes. If The Royal Bank of Scotland plc were made subject to the SRR and a partial transfer of its business to another entity were effected, the quality of the assets and the quantum of the liabilities not transferred and remaining with The Royal Bank of Scotland plc may result in a deterioration in the creditworthiness of The Royal Bank of Scotland plc and, as a result, increase the risk that it may be unable to meet its obligations with respect to the various roles it is performing in connection with the Notes and eventually become subject to administration or insolvency proceedings pursuant to the Banking Act. The Issuer has the right, with the approval of the Trustee, to at any time vary or terminate The Royal Bank of Scotland plc’s role in respect to the Notes.

### **No reliance**

A prospective purchaser may not rely on the Issuer, any of the Parties or any of their respective affiliates in connection with its determination as to the legality of its acquisition of the Notes or as to any other matter.

### **No representations**

None of the Issuer or any of the Parties makes any representation or warranty, express or implied, in respect of the Original Collateral or the Original Collateral Obligor or in respect of any information contained in any documents prepared, provided or filed by or on behalf of the Original Collateral Obligor or in respect of such Original Collateral with any exchange, governmental, supervisory or self-regulatory authority or any other person. None of the Issuer nor any of the Parties makes any representation or warranty in respect of the Original Collateral.

### **Third Party Information**

The Issuer has only made very limited enquiries with regards to, and none of the Managers has verified or accepts any responsibility for, the accuracy and completeness of the information in this Offering Memorandum regarding the Third Party Information. Prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquiries in respect of the accuracy and completeness of the Third Party Information.

## **Risks Related to the Market**

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

Although application will be made to admit the Notes to the Official List of the Irish Stock Exchange and admit them to trading on the regulated market of the Irish Stock Exchange, there is currently no secondary market for the Notes. There can be no assurance that a secondary market for any of the Notes will develop, or, if a secondary market does develop, that it will provide the holders of the Notes with liquidity or that it will continue for the life of the Notes. Consequently, any investor of the Notes must be prepared to hold such Notes for an indefinite period of time or until redemption of the Notes. If the Managers begin making a market for the Notes, they are under no obligation to continue to do so and may stop making a market at any time.

## DOCUMENTS INCORPORATED BY REFERENCE

This Offering Memorandum should be read and construed in conjunction with:

- 1 The annual report and financial statements of the Issuer for the periods ending 31 December 2011 (the “**Lunar 2011 Annual Report**”) and 31 December 2012 (the “**Lunar 2012 Annual Report**”) which have been filed with the Central Bank of Ireland.
- 2 The following sections of the Swisscom 2013 Annual Report:
  - Management Commentary (excluding —Supplement and outlook) Pages 12-65; 67-70
  - Corporate Governance Pages 117-136
  - Consolidated Financial Statements Pages 150-221
  - Glossary Pages 239-244(together, the “**Swisscom 2013 Annual Report Excerpts**”).
- 3 The following sections of the Swisscom 2012 Annual Report:
  - Consolidated Financial Statements Pages 148-216
  - Glossary Pages 232-238(together, the “**Swisscom 2012 Annual Report Excerpts**”).

all of which shall be deemed to be incorporated in, and form part of, this Offering Memorandum, save that any statement contained in any of the documents incorporated by reference in, and forming part of, this Offering Memorandum shall be deemed to be modified or superseded for the purpose of this Offering Memorandum to the extent that a statement contained herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this Offering Memorandum.

This Offering Memorandum must be read in conjunction with the documents incorporated by reference (as set out above), and full information on the Issuer and the Notes is only available on the basis of the combination of the provisions set out within this document and the documents incorporated by reference.

Upon the oral or written request therefor, the Issuer will make available a copy of this Offering Memorandum (and any documents incorporated by reference in this Offering Memorandum) free of charge, at the specified offices of the Issuer, the Issuing and Paying Agent and the Registrar. Oral or written requests for such documents should be directed to the specified office of the Issuer, the Issuing and Paying Agent or the Registrar.

You may obtain a copy of the Lunar 2011 Annual Report and the Lunar 2012 Annual Report by visiting:

- (i) [http://www.rns-pdf.londonstockexchange.com/rns/4116C\\_-2012-4-30.pdf](http://www.rns-pdf.londonstockexchange.com/rns/4116C_-2012-4-30.pdf) for the Lunar 2011 Annual Report; and
- (ii) [http://www.rns-pdf.londonstockexchange.com/rns/6488D\\_-2013-4-30.pdf](http://www.rns-pdf.londonstockexchange.com/rns/6488D_-2013-4-30.pdf) for the Lunar 2012 Annual Report.

You may obtain a copy of the Swisscom 2012 Annual Report Excerpts and the Swisscom 2013 Annual Report Excerpts by visiting:

- (i) [http://www.rns-pdf.londonstockexchange.com/rns/7907D\\_-2014-4-1.pdf](http://www.rns-pdf.londonstockexchange.com/rns/7907D_-2014-4-1.pdf) for the Swisscom 2012 Annual Report Excerpts; and
- (ii) [http://www.rns-pdf.londonstockexchange.com/rns/7913D\\_-2014-4-1.pdf](http://www.rns-pdf.londonstockexchange.com/rns/7913D_-2014-4-1.pdf) for the Swisscom 2013 Annual Report Excerpts.

## NOTICE TO INVESTORS FROM ARRANGER

The Royal Bank of Scotland plc, in its capacity as Arranger, has assisted the Issuer in establishing the Programme. Neither the Arranger, nor any of its affiliates is under any legal or regulatory obligation to purchase any Original Collateral or support any losses suffered by the Issuer or the purchasers of any Notes or to repurchase or make a market in any Notes. Neither the Arranger, nor any of its affiliates, guarantees or stands behind the Issuer or the obligations of the Issuer under the Notes, and will not make good and is under no obligation to make good any losses under any Original Collateral or any Notes. The Issuer, the investors and each person into whose possession this document comes will be deemed to have acknowledged and agreed to the foregoing.

**Investors' attention is specifically directed to the section hereof entitled "Risk Factors" and investors should be fully aware that they may be required to hold Notes until maturity since no assurances can be given that a liquid market (or any market at all) will exist in respect of the Notes.**

## TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions that save for the italicised paragraphs, will be incorporated in the Issue Deed. These terms and conditions shall be endorsed on the Certificates relating to the Notes.*

The Notes are issued pursuant to the U.S.\$10,000,000,000 Secured Asset-Backed Programme (the “**Programme**”) of the Issuer and constituted and secured by the Trust Deed (comprised of the Principal Trust Deed as supplemented by provisions of the Issue Deed) entered into between the Issuer, the Trustee, the Managers’ Trustee and the Original Collateral Obligor Trustee. These Conditions include summaries of, and are subject to, the detailed provisions of the Trust Deed. An Agency Agreement has been entered into in relation to the Notes between the Issuer, the Trustee, Deutsche Bank AG, London Branch as issuing and paying agent and the other agents named in it. The Issuer has also entered into a Purchase Agreement with the Original Collateral Obligor in connection with its acquisition of the Original Collateral and a Syndication Agreement with the Managers in connection with the distribution of the Notes.

The issuing and paying agent, the calculation agent, the custodian, the disposal agent, the registrar and the paying agents, the transfer agents and the enforcement agent for the time being in respect of the Notes are referred to below respectively as the “**Issuing and Paying Agent**”, the “**Calculation Agent**”, the “**Custodian**”, the “**Disposal Agent**”, the “**Registrar**”, the “**Paying Agents**” (which expression shall include the Issuing and Paying Agent), the “**Transfer Agents**” (which expression shall include the Registrar) and the “**Enforcement Agent**” and collectively as the “**Agents**”.

Copies of the Programme Deed, the execution of which constitutes the Principal Trust Deed and the Agency Agreement, the Issue Deed, provisions of which supplement and amend the Principal Trust Deed and the Agency Agreement, the Purchase Agreement and the Syndication Agreement are available for inspection during usual business hours at the registered office of the Issuer and the principal office of the Trustee and at the specified offices of the Paying Agents and the Transfer Agents.

The Noteholders are entitled to the benefit of, are bound by and are deemed to have notice of all the provisions of the Trust Deed and are deemed to have notice of those provisions applicable to them of the Agency Agreement.

References to the “**Conditions**” shall be construed in relation to the Notes to be references to these terms and conditions. References in the Conditions to “**Notes**” shall be deemed to be references to the €500,000,000 1.875% Fixed Rate Notes due 2021 of the Issuer secured by the Original Collateral. References to the “**Issuer**” are to Lunar Funding V PLC.

### 1 Definitions and Interpretation

(a) **Definitions:** the following expressions have the following meanings:

“**Actual Currency Proceeds**” means the Available Proceeds as of the Early Redemption Date provided that if any Collateral has not been Liquidated by the Early Redemption Date then the Actual Currency Proceeds in respect of such Collateral not then Liquidated shall be deemed to be the fair market value of such Collateral as of the Early Redemption Date (as determined by the Calculation Agent) net of any taxes, costs or charges that would be incurred on the sale of the Collateral.

“**Affiliate**” means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person or any entity, directly or indirectly, under common control with that person. For this purpose, “control” means ownership of a majority of the voting power of the entity or person.

“**Agency Agreement**” means the agency agreement entered into by, *inter alios*, the Issuer, Deutsche Bank AG, London Branch as initial issuing and paying agent and other agents by execution of the Programme Deed.

“**Agents**” has the meaning given to it in the recitals to these Conditions.

“**Aggregate Nominal Amount**” has the meaning set out in Condition 2 (*Form, Specified Denomination and Title*).

“**Approved Counterparties**” means any three leading banks and/or investment banking firms with international standing as determined by the Issuer.

“**Arranger**” means The Royal Bank of Scotland plc.

“**Available Proceeds**” means, with respect to a Liquidation Event or Enforcement Event and as of a particular day:

- (i) all cash sums derived from any Liquidation of the Collateral for the Notes, any amounts realised by the Trustee on enforcement of the Security and all other cash sums available to the Issuer or the Trustee, as the case may be, derived from the Mortgaged Property for the Notes; less
- (ii) any cash sums which have already been applied by or on behalf of the Issuer pursuant to Condition 5 (*Security and the Mortgaged Property*) on any Issuer Application Date or by the Trustee pursuant to Condition 5 (*Security and the Mortgaged Property*) on any Trustee Application Date, as the case may be.

“**Bankruptcy**”, in relation to any specified entity, means, if such entity (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency, examinership or bankruptcy or any other relief under any bankruptcy, examinership or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up, examinership or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (a) results in a judgment of insolvency, examinership or bankruptcy or the entry of an order for relief or the making of an order for its winding-up, examinership or liquidation or (b) is not dismissed, discharged, stayed or restrained in each case within 30 calendar days of the institution or presentation thereof; (v) has a resolution passed for its winding-up, examinership, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, examiner, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 calendar days thereafter; or (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) (inclusive).

“**Bid Request**” means a bid request substantially in the form set out in the Agency Agreement.

“**Business Centres**” means London and Zurich.

“**Business Day**” means, a day (other than a Saturday or a Sunday) on which (i) banks and foreign exchange markets are open for business in the Business Centres, (ii) TARGET System is operating and (iii) where relevant, banks and foreign exchange markets are open in the place of the specified office of the Paying Agent.

“**Business Day Convention**” has the meaning set out in Condition 6(f) (*Business Day Convention*).

“**Calculation Agent**” means The Royal Bank of Scotland plc and any successor.

“**Calculation Amount**” has the meaning given to it in Condition 7(a) (*Interest on the Notes*).

“**Call Event Notice**” means the “Swisscom Notice” as such term is defined in the Original Collateral Conditions of the Original Collateral.

“**cash**” means, all cash or cash equivalents in any currency.

“**Certificate**” has the meaning given to it in Condition 2 (*Form, Specified Denomination and Title*).

“**Change of Control Event**” shall have the meaning given to such term in the Original Collateral Conditions of the Original Collateral.

“**Clearing System Business Day**” means Monday to Friday inclusive, except 1 January and 25 December.

“**Collateral**” means the Issuer’s rights, title and/or interests in and to the Original Collateral. The term “**Collateral**” shall include the rights, title and/or interests in and to (x) any further Collateral acquired by the Issuer in connection with any further issue of notes that are to be consolidated and form a single series with the Notes, (y) any Collateral acquired by the Issuer by way of substitution or replacement of any Collateral previously held by it and (z) any asset or property (which may, for the avoidance of doubt, include the benefit of contractual rights) into which any of the Collateral is converted or exchanged or that is issued to the Issuer (or any relevant person holding such Collateral for or on behalf of the Issuer) by virtue of its holding thereof.

“**Collateral Obligor**” means Swisscom AG.

“**Conditions**” has the meaning given in the recitals to these Conditions.

“**Creditor**” means each person that is entitled to the benefit of Obligations.

“**Custodian**” means Deutsche Bank AG, London Branch and any successor.

“**Cut-off Date**” means, the later of: (i) the date on which the Notes fall due for early redemption; and (ii) if a replacement Disposal Agent has been appointed pursuant to Condition 10(c) (*Termination and Replacement following a Disposal Agent Bankruptcy*), the date of the appointment of such replacement Disposal Agent.

“**Deed of Accession**” means a deed of accession substantially in the form set out in the Agency Agreement.

“**Default Interest**” has the meaning given to it in Condition 7(a) (*Interest on the Notes*).

“**Disposal Agent**” means The Royal Bank of Scotland plc and any successor.

“**Disposal Agent Bankruptcy**” means a Bankruptcy that occurs in relation to the Disposal Agent.

“**Early Redemption Amount**” means, in respect of each Note outstanding on the relevant Early Redemption Date:

- (i) on the occurrence of a Scheduled Original Collateral Event, an amount equal to such Note's *pro rata* share of any amount payable on redemption or repayment of the Original Collateral (but excluding any amount included in any Original Collateral Interest Amount or any amount payable in connection with any Tender Offer or Exchange Offer) in accordance with the provisions of Original Collateral Condition 5 (*Redemption and Purchase*); or
- (ii) in all other circumstances, an amount in euro payable to Noteholders in accordance with Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*), 8(c) (*Redemption for taxation reasons*), Condition 8(d) (*Events of Default*) or Condition 8(e) (*Illegality Event*), equal to such Note's *pro rata* share of the sum of:
  - (a) the proceeds of redemption of any Collateral in respect of which the Original Collateral Obligor has exercised its right to redeem pursuant to Original Collateral Condition 5(c) (*Swisscom Notice call option*); and
  - (b) the Specified Currency Proceeds arising from either the enforcement of the Security (if the Security has been enforced on or prior to the Early Redemption Date), or the Liquidation of such portion of the Collateral (if the Security has not been so enforced) in respect of which the Original Collateral Obligor has not exercised its right to redeem pursuant to Original Collateral Condition 5(c) (*Swisscom Notice call option*).

**"Early Redemption Date"** means the date designated as the due date for any early redemption of the Notes in accordance with Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*), Condition 8(c) (*Redemption for taxation reasons*), Condition 8(d) (*Events of Default*) or Condition 8(e) (*Illegality Event*).

**"Enforcement Agent"** means BNP Paribas Securities Services S.C.A., London Branch and any successor.

**"Enforcement Agent Bankruptcy"** means a Bankruptcy that occurs in relation to the Enforcement Agent.

**"Enforcement Event"** shall have the meaning given to it in Condition 5(d) (*Enforcement of Security*).

**"Enforcement Notice"** means a notice sent by the Trustee to the Issuer, the Custodian, and any Disposal Agent appointed at that time, that (i) the Trustee intends to enforce the Security constituted by the Trust Deed and (ii) the Disposal Agent is to cease to effect any further Liquidation of the Collateral (if such Liquidation is taking place) save that any transaction entered into in connection with the Liquidation on or prior to the effective date of such Enforcement Notice shall be settled and the Disposal Agent shall take any steps and actions necessary to settle such transaction and/or that are incidental thereto.

**"Equivalent Obligations"** means any Obligations that are issued in fungible form and that share common terms and conditions.

**"euro"** or **"€"** each mean the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.

**"Event of Default"** has the meaning set out in Condition 8(d) (*Events of Default*).

**"Exchange Offer"** has the meaning set out in Condition 8(g) (*Purchases*).

**"Extraordinary Resolution"** has the meaning given to it in the Trust Deed (as amended).

**“Final Cut-off Date”** means the date falling 30 Business Days after the Cut-off Date.

**“Final Redemption Amount”** means, in respect of each Note, its Nominal Amount.

**“Global Certificate”** means a global certificate delivered to a common depositary for Euroclear Bank S.A./N.V. (“Euroclear”) and Clearstream Banking, *société anonyme* (“Clearstream, Luxembourg”).

**“holder”** means, in relation to a Note, the person in whose name such Note is registered.

**“Illegality Event”** has the meaning given to it in Condition 8(e) (*Illegality Event*).

**“Initial Issuer Application Date”** has the meaning given to it in the definition of Issuer Application Date.

**“Interest Accrual Period”** means the period beginning on (and including) the Interest Commencement Date and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date.

**“Interest Amount”** means, in respect of a Note and an Interest Payment Date, the amount of interest calculated as provided in Condition 7(a) (*Interest on the Notes*).

**“Interest Commencement Date”** means the Original Collateral Issue Date.

**“Interest Payment Date”** means 8 September in each year commencing on 8 September 2014. There will be a short first coupon payable on the initial Interest Payment Date, in respect of the period from, and including, the Issue Date to, but excluding, such initial Interest Payment Date.

**“Interest Rate”** means 1.875% per annum.

**“Issue Date”** means 8 April 2014.

**“Issue Deed”** means the issue deed entered into by the Issuer, the Trustee, the Managers’ Trustee, the Original Collateral Obligor Trustee and other agents dated 8 April 2014.

**“Issuer”** has the meaning given in the recitals to these Conditions.

**“Issuer Application Date”** means the Early Redemption Date or, if later, the third Business Day after the earliest date on which the Early Redemption Amount, the Final Redemption Amount and any interest that has become due and payable on the Maturity Date, as applicable, have been determined pursuant to the Conditions and/or the terms of the relevant Transaction Document(s) (the **“Initial Issuer Application Date”**), and in respect of each sum received by the Issuer from the Mortgaged Property that has not already been applied on the Initial Issuer Application Date, the date falling three Business Days following receipt by or on behalf of the Issuer or the Trustee of such sum.

**“Issuer Cash Account”** means, in respect of the Notes, the cash account specified as such in the name of the Issuer maintained by the Custodian.

**“Issuer Exchange Offer”** has the meaning set out in Condition 8(g) (*Purchases*).

**“Issuer Tender Offer”** has the meaning set out in Condition 8(g) (*Purchases*).

**“Issuing and Paying Agent”** means Deutsche Bank AG, London Branch.

**“Liquidation”** means, in respect of the Original Collateral, the realisation of the Original Collateral for cash proceeds in accordance with Condition 11 (*Liquidation*) and “Liquidate”, “Liquidated” and “Liquidating” shall be construed accordingly.

**“Liquidation Commencement Notice”** means a written confirmation from the Issuer to the Disposal Agent, the Custodian, the Trustee, the Managers’ Trustee and the Original Collateral Obligor Trustee, confirming in good faith and in a commercially reasonable manner that a Liquidation Event has occurred and providing publicly available information of the occurrence of such event.

**“Liquidation Event”** means the occurrence of any of the following:

- (i) a Note Tax Event or an Original Collateral Tax Event where no substitution or change in residence for taxation purposes is effected pursuant to Condition 8(c) (*Redemption for taxation reasons*), the Issuer, having taken reasonable measures to arrange such substitution or change in residence for taxation purposes; or
- (ii) an Illegality Event where no substitution or change in legal characteristics is effected pursuant to Condition 8(e) (*Illegality Event*), the Issuer, having taken reasonable measures to arrange such substitution or change in legal characteristics.

**“Liquidation Procedures”** has the meaning set out in Condition 11(b) (*Liquidation Process*).

**“Liquidation Procedures Certificate”** means, in respect of a failed Liquidation, a certificate signed by an authorised representative of the Disposal Agent certifying that the Disposal Agent has complied, in all material respects, with the Liquidation Procedures in respect of the Liquidation.

**“Liquidation Procedures Failure”** means that the Disposal Agent has both:

- (i) failed to arrange Liquidation of any Original Collateral required in accordance with these Conditions on or before the Final Cut-off Date; and
- (ii) failed to send a Liquidation Procedures Certificate to the Issuer within the three Business Days following the Final Cut-off Date.

**“Liquidation Procedures Failure Bid Period”** has the meaning set out in Condition 10(d)(i) (*Liquidation Procedures Failure*).

**“Liquidation Trade Date”** has the meaning set out in Condition 11(c) (*No Fault Liquidation Failure*).

**“Managers”** means each of The Royal Bank of Scotland plc, Landesbank Baden-Württemberg, UniCredit Bank AG, BNP Paribas, Deutsche Bank AG, London Branch and UBS Limited.

**“Manager’s Claim”** has the meaning set out in Condition 5(b) (*Managers’ Security*).

**“Managers’ Security”** has the meaning set out in Condition 5(b) (*Managers’ Security*).

**“Managers’ Secured Creditor”** means each of the Managers, the Managers’ Trustee and the Enforcement Agent.

**“Managers’ Mortgaged Property”** means the assets and contractual rights in respect of the agreements comprising the property over which the Managers’ Security is secured pursuant to the Trust Deed, as described in Condition 5(b) (*Managers’ Security*).

**“Managers’ Trustee”** means BNP Paribas Trust Corporation UK Limited as trustee in respect of the Managers’ Security.

**“Master Trust Terms”** means the master trust terms set out in Annex 1 to the Programme Deed as amended by the Issue Deed.

**“Maturity Date”** means the Original Collateral Maturity Date, which is expected to be 8 September 2021.

“**Moody’s**” means Moody’s Investors Service, Inc., or any successor to the rating agency business of Moody’s Investors Service, Inc..

“**Mortgaged Property**” means the assets and contractual rights in respect of the agreements comprising the property on which the Notes are secured pursuant to the Trust Deed, as described in Condition 5(a) (*Security*).

“**No Fault Liquidation Failure**” means that the Disposal Agent has failed to arrange any Liquidation required in accordance with these Conditions but has sent a Liquidation Procedures Certificate to the Issuer within the three Business Days following the Final Cut-off Date.

“**No Fault Liquidation Failure Bid End Date**” has the meaning set out in Condition 11(c) (*No Fault Liquidation Failure*).

“**No Fault Liquidation Failure Cut-off Date**” has the meaning set out in Condition 11(c) (*No Fault Liquidation Failure*).

“**Nominal Amount**” means in respect of each Note, its Specified Denomination.

“**Noteholder**” means the person in whose name a Note is registered.

“**Noteholder Direction**” means, in each case, a direction in writing by the holders of at least one-fifth in principal amount of the Notes then outstanding, or a direction by an Extraordinary Resolution of the Noteholders.

“**Notes**” has the meaning given in the recitals to these Conditions.

“**Note Tax Event**” has the meaning given to it in Condition 8(c) (*Redemption for taxation reasons*).

“**Obligation**” means (i) any obligation of the Issuer for the payment or repayment of borrowed money, which shall include, without limitation, any Note and any other obligation that is in the form of, or represented by, a bond, note, certificated debt security or other debt security and any obligation that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and (ii) any obligation of the Issuer entered into in accordance with the Programme (as defined in the preamble to these Conditions).

“**Obligee**” means each person that is entitled to the benefit of the obligations and duties of the Issuer pursuant to a Transaction other than an issue of Notes, such obligations and duties being subject to Security for the benefit of each such person.

“**Original Collateral**” means the €500,000,000 1.875% Senior Notes due 2021 of the Original Collateral Obligor. The term “**Original Collateral**” shall include (x) any further Original Collateral acquired by the Issuer in connection with any further issue of notes that are to be consolidated and form a single series with the Notes, (y) any Original Collateral acquired by the Issuer by way of substitution or replacement of any Original Collateral previously held by it and (z) any asset or property (which may, for the avoidance of doubt, include the benefit of contractual rights) into which any of the Original Collateral is converted or exchanged or that is issued to the Issuer (or any relevant person holding such Original Collateral for or on behalf of the Issuer) by virtue of its holding thereof.

“**Original Collateral Conditions**” means the terms and conditions of the Original Collateral as at the Original Collateral Issue Date (without regard to any modification or waiver thereof).

“**Original Collateral Default**” means if at any time the Original Collateral becomes repayable or becomes capable of being declared due and payable prior to the Original Collateral Maturity Date for any reason other than a Scheduled Original Collateral Event including, but without limitation, a

payment default in respect of the Original Collateral or the exercise by the Original Collateral Obligor of the call option as set out in Original Collateral Condition 5(c).

**“Original Collateral Interest Amount”** means any interest amount or other amounts in the nature of interest receivable by or on behalf of the Issuer in respect of the Original Collateral pursuant to the Original Collateral Conditions.

**“Original Collateral Issue Date”** means the “Issue Date” as such term is defined in the Original Collateral Conditions of the Original Collateral.

**“Original Collateral Maturity Date”** means the “Maturity Date” as such term is defined in the Original Collateral Conditions.

**“Original Collateral Obligor”** means Swisscom AG.

**“Original Collateral Obligor Claim”** has the meaning set out in Condition 5(c) (*Original Collateral Obligor Security*).

**“Original Collateral Obligor Mortgaged Property”** means the assets and contractual rights in respect of the agreements comprising the property over which the Original Collateral Obligor Security is secured pursuant to the Trust Deed, as described in Condition 5(c) (*Original Collateral Obligor Security*).

**“Original Collateral Obligor Secured Creditor”** means each of the Original Collateral Obligor, the Original Collateral Obligor Trustee and the Enforcement Agent.

**“Original Collateral Obligor Security”** has the meaning set out in Condition 5(c) (*Original Collateral Obligor Security*).

**“Original Collateral Obligor Trustee”** means BNP Paribas Trust Corporation UK Limited as trustee in respect of the Original Collateral Obligor Security.

**“Original Collateral Obligor’s Information Memorandum”** means the information memorandum of Swisscom AG dated 3 April 2014.

**“Original Collateral Tax Event”** has the meaning given to it in Condition 8(c) (*Redemption for taxation reasons*).

**“outstanding”** means, in relation to the Notes, all the Notes issued except (a) those that have been redeemed in accordance with the Conditions, (b) those in respect of which the date for redemption has occurred and the redemption moneys (including all interest accrued on such Notes to the date for such redemption and any interest payable after such date) have been duly paid to the Trustee or to the Issuing and Paying Agent as provided in Clause 2 of the Master Trust Terms and remain available for payment against presentation and surrender of Certificates, (c) those that have become void or in respect of which claims have become prescribed and (d) those that have been purchased and cancelled as provided in the Conditions, provided that for the purposes of (i) ascertaining the right to attend and vote at any meeting of the Noteholders, (ii) the determination of how many Notes are outstanding for the purposes of Conditions 5 (*Security and the Mortgaged Property*), 8 (*Redemption and Purchase*), 10 (*Agents*), 12 (*Enforcement*) and 14 (*Meetings of Noteholders, Modification, Waiver and Substitution*), Schedule 3 to the Principal Trust Deed and the definition of “Successor” in the Principal Trust Deed and (iii) the exercise of any discretion, power or authority that the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Noteholders, those Notes that are beneficially held by or on behalf of (I) the Issuer and (II) Swisscom AG and its respective subsidiaries and (in each case) not cancelled shall (unless no longer so held) be deemed not to remain outstanding.

**“Principal Trust Deed”** means the principal trust deed entered into by, *inter alios*, the Issuer and the Trustee by execution of the Programme Deed, as amended by the amendments in Schedule 1 to the Issue Deed.

**“Priority of Claims”** has the meaning set out in Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*).

**“Programme Deed”** means the programme deed dated 8 April 2014 between, amongst others, the Issuer and the Trustee, in connection with the issue of the Notes.

**“Purchase Agreement”** means the purchase agreement between the Issuer and the Original Collateral Obligor dated 3 April 2014.

**“Put Date”** means the date specified by the Issuer falling no later than 10 days after the expiration of the Put Period.

**“Qualifying Bank”** means a person or entity which (a) effectively conducts banking activities with its own infrastructure and staff as its principal business purpose and which has a banking licence in full force and effect issued in accordance with the banking laws in force in its jurisdiction of incorporation, or if acting through a branch, issued in accordance with the banking laws in the jurisdiction of such branch and (b) is organised under the laws of a country which is a member of the Organisation for Economic Co-operation and Development (OECD).

**“Rating Agency Confirmation”** means receipt by the Issuer and the Trustee of written confirmation (which form shall include by electronic message) from Standard & Poor’s, Moody’s and/or any other rating agency (as applicable) that the specified amendment will not result in the reduction or withdrawal of the rating currently assigned to the Notes by Standard & Poor’s, Moody’s and/or such other applicable rating agency (as applicable).

**“Record Date”** has the meaning set out in Condition 9(a) (*Method of Payment*).

**“Register”** has the meaning set out in Condition 2 (*Form, Specified Denomination and Title*).

**“Registrar”** means Deutsche Bank Luxembourg S.A..

**“Relevant Date”**, in respect of any Note, means the date on which payment in respect of it first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Noteholders that, upon further presentation of the Note (or relative Certificate) being made in accordance with the Conditions, such payment will be made, provided that payment is in fact made upon such presentation.

**“Residual Amount”** means, with respect to an application of Available Proceeds in connection with a Liquidation Event or an Enforcement Event, as applicable, all remaining proceeds (if any) after the application of the Available Proceeds to satisfy the payments set out in Condition 5(k)(iii)(A) to (F).

**“Scheduled Original Collateral Event”** means if at any time the Original Collateral becomes redeemable or repayable or becomes capable of being declared due and payable prior to the Original Collateral Maturity Date in accordance with the provisions of Original Collateral Condition 5(b) (*Redemption for Taxation and Other Reasons*).

**“Secured Creditor”** means each person that is entitled to the benefit of Secured Payment Obligations.

**“Secured Payment Obligations”** means the payment obligations of the Issuer under the Trust Deed and each Note, together with any obligation of the Issuer to make payment to the Disposal Agent or

any other Agent pursuant to Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*).

“**Security Document**” means the Trust Deed.

“**Security**” has the meaning set out in Condition 5(a) (*Security*).

“**Specified Currency Proceeds**” means the Actual Currency Proceeds, provided that where all or part of such Actual Currency Proceeds are not denominated in euro, such amount (or each such part thereof, as the case may be) shall be converted into euro at a rate determined by the Disposal Agent to be representative of the spot foreign exchange rates prevailing for sale of the relevant non euro currency and purchase of euro.

“**Specified Denomination**” has the meaning set out in Condition 2 (*Form, Specified Denomination and Title*).

“**Standard & Poor’s**” means Standard & Poor’s Credit Market Services Europe Limited or any successor to the rating business of Standard & Poor’s Credit Market Services Europe Limited.

“**Syndication Agreement**” means the syndication agreement entered into between the Issuer and the Managers dated 3 April 2014.

“**TARGET System**” means the Trans-European Automated Real-time Gross settlement Express Transfer (known as TARGET 2) system or any successor thereto.

“**Taxes**” means all taxes, levies, imposts, charges, assessments, deductions, withholdings and related liabilities, including additions to tax, penalties and interest imposed on or in respect of (i) the Original Collateral or any cash, (ii) the transactions effected under the Issue Deed or (iii) the Issuer; provided that “**Taxes**” does not include income or franchise taxes imposed on or measured by the net income of the Custodian or its agents.

“**Tender Offer**” has the meaning set out in Condition 8(g) (*Purchases*).

“**Transaction**” means any financial transaction entered into by the Issuer, including the issue of Notes but not involving the guarantee by it, or its becoming obligated, for the debts of any other person or entity, and including, without limitation, loans, swaps and options, and the incurring by the Issuer of indebtedness in forms other than the Notes, in each case where recourse in respect of such Transactions is limited to the proceeds of enforcement of the Security over the assets of the Issuer on which such Transactions are secured pursuant to a Issue Deed in similar terms, mutatis mutandis, to clause 19 of the Master Trust Terms.

“**Transaction Document**” means, in respect of the Notes, the Trust Deed, the Issue Deed, the Programme Deed, the Agency Agreement, the Purchase Agreement and any other agreement specified as such in the Issue Deed.

“**Transaction Party**” means each party to a Transaction Document other than the Issuer and any other person specified as a Transaction Party in the Issue Deed.

“**Transfer Agent**” means Deutsche Bank Luxembourg S.A. and any successor.

“**Trust Deed**” means the Principal Trust Deed as amended and/or supplemented by the Issue Deed.

“**Trustee**” means BNP Paribas Trust Corporation UK Limited.

## 2 Form, Specified Denomination and Title

The Notes are issued in the specified denomination of €100,000 and integral multiples of €1,000 in excess thereof (each a “**Specified Denomination**”).

The Notes are issued in registered form in an aggregate nominal amount of €500,000,000 (the “**Aggregate Nominal Amount**”) and are represented by registered certificates (“**Certificates**”) and, save as provided in Condition 3(a) (*Transfer of Notes*), each Certificate shall represent the entire holding of Notes by the same holder.

Title to the Notes shall pass by registration in the register that the Issuer shall procure to be kept by the Registrar in accordance with the provisions of the Agency Agreement (the “**Register**”). Except as ordered by a court of competent jurisdiction or as required by law, the holder (as defined in Condition 1 (*Definitions and Interpretation*) above) of any Note shall be deemed to be and may be treated as its absolute owner for all purposes whether or not it is overdue and regardless of any notice of ownership, trust or an interest in it, any writing on the Certificate representing it or the theft or loss of such Certificate, and no person shall be liable for so treating the holder.

## 3 Transfers of Notes

### (a) Transfer of Notes

A holding of Notes may be transferred in whole or in part in a Specified Denomination (provided that, in case of a transfer of part only, both the transferred part and the untransferred balance of the Notes shall be in a Specified Denomination) upon the surrender (at the specified office of the Registrar or any Transfer Agent) of the Certificate representing such Notes to be transferred, together with the form of transfer endorsed on such Certificate (or another form of transfer substantially in the same form and containing the same representations and certifications (if any), unless otherwise agreed by the Issuer) duly completed and executed and any other evidence as the Registrar or Transfer Agent may reasonably require. In the case of a transfer of part only of a holding of Notes represented by one Certificate, a new Certificate shall be issued to the transferee in respect of the part transferred and a further new Certificate in respect of the balance of the holding not transferred shall be issued to the transferor. All transfers of Notes and entries on the Register will be made in accordance with the detailed regulations concerning transfers of Notes scheduled to the Agency Agreement. The regulations may be changed by the Issuer, with the prior written approval of the Registrar and the Trustee. A copy of the current regulations will be made available by the Registrar to any Noteholder upon request.

### (b) Delivery of New Certificates

Each new Certificate to be issued pursuant to Condition 3(a) (*Transfer of Notes*) shall be available for delivery within three business days of receipt of a duly completed form of transfer, the surrender of the Certificate for exchange and provision of such evidence that the Registrar or the Transfer Agents may require under Condition 3(a) (*Transfer of Notes*). Delivery of the new Certificate(s) shall be made at the specified office of the Transfer Agent or of the Registrar (as the case may be) to whom delivery or surrender of such form of transfer or Certificate shall have been made or, at the option of the holder making such delivery or surrender as aforesaid and as specified in the relevant form of transfer or otherwise in writing, be mailed by uninsured post at the risk of the holder entitled to the new Certificate to such address as may be so specified, unless such holder requests otherwise and pays in advance to the relevant Transfer Agent the costs of such other method of delivery and/or such insurance as it may specify. In this Condition 3 (*Transfers of Notes*), “business day” means a day, other than a Saturday or Sunday, on which banks are open for business in the place of the specified office of the relevant Transfer Agent or the Registrar (as the case may be).

**(c) Transfer Free of Charge**

Transfer of Notes and Certificates pursuant to Condition 3(b) (*Delivery of New Certificates*) shall be effected without charge by or on behalf of the Issuer, the Registrar or the Transfer Agents, but upon payment of any tax or other governmental charges that may be imposed in relation to it (or the giving of such indemnity as the Registrar or the relevant Transfer Agent may require).

**(d) Closed Periods**

No Noteholder may require the transfer of a Note to be registered (i) during the period of 15 days ending on (and including) the due date for redemption, (ii) after any such Note has been called for redemption or (iii) during the period of seven days ending on (and including) any Record Date.

**4 Status and Original Collateral**

**(a) Constitution and Status of Notes**

The Notes are constituted and secured by the Trust Deed. The Notes are secured, limited recourse obligations of the Issuer, at all times ranking *pari passu* and without any preference among themselves, secured in the manner described in Condition 5 (*Security and the Mortgaged Property*) and recourse in respect of which is limited in the manner described in Condition 13 (*Limited Recourse and Non-Petition*).

**(b) Collateral**

In connection with the issue of the Notes, and pursuant to the Purchase Agreement, the Issuer will acquire the Original Collateral from the Original Collateral Obligor. The Original Collateral will be registered in the name of the Issuer and security will be granted by the Issuer over the Original Collateral in the manner set out in Condition 5 (*Security and the Mortgaged Property*). The Original Collateral will be held by or on behalf of the Issuer subject to the provisions of Original Collateral Condition 1 (*Form, Denomination, Title and Transfer*) and Original Collateral Condition 9 (*Restrictions on Transfers of Loan Notes and Grants of Security*).

**(c) Payments in respect of the Notes linked to the Original Collateral**

Payments of principal and interest in respect of the Notes are linked to principal and interest payments in respect of the Original Collateral. Any event that causes the Original Collateral Obligor not to make all or part of any scheduled interest or principal payments in respect of the Original Collateral, or to delay any such scheduled interest or principal payments, will result in corresponding reductions or delays to the interest and/or principal payable in respect of the Notes and, if such failure to make all or part of any scheduled interest or principal payment is not remedied, will result in an Original Collateral Default.

**5 Security and the Mortgaged Property**

**(a) Security**

Pursuant to the Trust Deed, the Issuer has secured the Secured Payment Obligations by granting in favour of the Trustee for itself and for the benefit of each Secured Creditor:

- (i) a first fixed charge over the Collateral and all property, assets and sums derived therefrom (from time to time);

- (ii) an assignment by way of security of all the Issuer's rights, title and interest attaching or relating to the Collateral and all property, sums or assets derived therefrom;
- (iii) an assignment by way of security of the Issuer's rights, title and interest under the Purchase Agreement to acquire the Original Collateral;
- (iv) a first fixed charge over all proceeds of, income from and sums arising from enforcement of any claim under the Purchase Agreement but only to the extent such claim relates to the Issuer's right to acquire the Original Collateral;
- (v) an assignment by way of security of the Issuer's rights, title and interest against the Custodian and the Disposal Agent, to the extent that they relate to the Collateral;
- (vi) an assignment by way of security of the Issuer's rights, title and interest under the Trust Deed insofar as the same relates to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets of the Issuer referred to in paragraphs (i) to (v) above;
- (vii) an assignment by way of security of the Issuer's rights, title and interest under the Agency Agreement, to the extent that they relate to any assets held by the Custodian in respect of the Notes;
- (viii) a first fixed charge over all sums held by the Custodian and/or the Issuing and Paying Agent and/or the Disposal Agent and/or the Enforcement Agent to meet payments due in respect of any Secured Payment Obligation; and
- (ix) a first fixed charge over the Issuer Cash Account, all the Issuer's present and future rights, title and interest in or to the Issuer Cash Account and all amounts from time to time standing to the credit thereof (together with all interest accruing from time to time thereon and the debts represented thereby).

None of the Secured Creditors shall benefit from any Security in respect of which it is itself an obligor.

Subject to the above, references in these Conditions to "**Security**" are to the security constituted by the Trust Deed in respect of the Notes as described in sub-paragraphs (i) to (ix) of this Condition 5(a) (*Security*).

**(b) Managers' Security**

Pursuant to the Trust Deed, the Issuer has secured the obligations of the Issuer to the Managers in respect of the Syndication Agreement by:

- (i) an assignment by way of security in favour of the Managers' Trustee, to hold for itself and as trustee for the Managers and the Enforcement Agent, of the Issuer's rights, title and interest under the Purchase Agreement, but excluding the Issuer's right under the Purchase Agreement to acquire the Original Collateral already assigned by way of security to the Trustee pursuant to Condition 5(a)(iii);
- (ii) charging in favour of the Managers' Trustee, to hold for itself and as trustee for the Managers and the Enforcement Agent, by way of a first fixed charge over the proceeds of, income from and sums arising from, the enforcement of any claim under the Purchase Agreement, except for the claim of the Issuer in relation to its right to acquire the Original Collateral already charged in favour of the Trustee pursuant to Condition 5(a)(iv); and
- (iii) an assignment by way of security in favour of the Managers' Trustee, to hold for itself and as trustee for the Managers and the Enforcement Agent, of the Issuer's rights, title and interest

under the Trust Deed insofar as the same relates to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets of the Issuer referred to in paragraphs (i) and (ii) above.

None of the Managers' Secured Creditors shall benefit from any Managers' Security in respect of which it is itself an obligor.

Subject to the above, references in these Conditions to "**Managers' Security**" are to the security constituted by the Trust Deed in respect of the Notes as described in sub-paragraphs (i), (ii) and (iii) above of this Condition 5(b) (*Managers' Security*).

The Managers' Security is granted as continuing security in respect of any claim a Manager may have (a "**Manager's Claim**") against the Issuer under the Syndication Agreement arising from any representation, warranty, covenant or agreement given therein by the Issuer regarding the Original Collateral, the Original Collateral Obligor and the Original Collateral Obligor's Information Memorandum prepared by the Original Collateral Obligor in respect of the Original Collateral.

No person other than the Managers' Secured Creditors shall have any interest in the Managers' Security and the Managers' Security shall not form part of the Mortgaged Property or the Original Collateral Obligor Mortgaged Property. If the Managers' Security becomes enforceable, neither the Security nor the Original Collateral Obligor Security for the Notes shall consequently become enforceable and the Notes shall not be affected thereby and shall accordingly remain outstanding.

Each Manager, in respect of the Managers' Security, is subject to limited recourse provisions equivalent to those set out in Condition 13 (*Limited Recourse and Non-Petition*) in respect of the Managers' Mortgaged Property, in accordance with the provisions of the Syndication Agreement and the Trust Deed in relation to the Notes.

No Manager (when acting in such capacity) is permitted to take any action against the Original Collateral Obligor or to enforce any claim that the Issuer may have against the Original Collateral Obligor under the Original Collateral or the Purchase Agreement or otherwise whether before, upon or after the Managers' Security becoming enforceable. The Managers must rely on similar (but not identical) rights to those of the Noteholders, including (subject to the terms of the Trust Deed) a right of consultation and agreement with the Issuer (or the Enforcement Agent acting as agent of the Issuer) in relation to any such action or the enforcement of any such claim and/or a right to remove the Managers' Trustee, in each case in accordance with the provisions of the Trust Deed in relation to the Notes.

The assignment by way of security in favour of the Trustee of the Issuer's right under the Purchase Agreement to acquire the Original Collateral, and the first fixed charge in favour of the Trustee of all proceeds from, income from and sums arising from enforcement of any claim under the Purchase Agreement shall form part of the Mortgaged Property but only if and to the extent that such claim relates to the Issuer's right to acquire the Original Collateral.

**(c) Original Collateral Obligor Security**

Pursuant to the Trust Deed, the Issuer has secured the obligations of the Issuer to the Original Collateral Obligor in respect of the Purchase Agreement by:

- (i) an assignment by way of security in favour of the Original Collateral Obligor Trustee, to hold for itself and as trustee for the Original Collateral Obligor and the Enforcement Agent, of the Issuer's rights, title and interest under Clause 7.1 (*Indemnity*) of the Syndication Agreement insofar as it relates to an Original Collateral Obligor Claim;

- (ii) charging in favour of the Original Collateral Obligor Trustee, to hold for itself and as trustee for the Original Collateral Obligor and the Enforcement Agent, by way of a first fixed charge over the proceeds of, income from and sums arising from, the enforcement of any claim under Clause 7.1 (*Indemnity*) of the Syndication Agreement insofar as it relates to an Original Collateral Obligor Claim; and
- (iii) an assignment by way of security in favour of the Original Collateral Obligor Trustee, to hold for itself and as trustee for the Original Collateral Obligor and the Enforcement Agent, of the Issuer's rights, title and interest under the Trust Deed insofar as the same relates to the appointment of the Enforcement Agent as the Issuer's agent in connection with the rights and assets of the Issuer referred to in paragraphs (i) and (ii) above.

None of the Original Collateral Obligor Secured Creditors shall benefit from any Original Collateral Obligor Security in respect of which it is itself an obligor.

Subject to the above, references in these Conditions to “**Original Collateral Obligor Security**” are to the security constituted by the Trust Deed in respect of the Notes as described in sub-paragraphs (i), (ii) and (iii) above of this Condition 5(c) (*Original Collateral Obligor Security*).

The Original Collateral Obligor Security is granted as continuing security in respect of any claim the Original Collateral Obligor may have (an “**Original Collateral Obligor Claim**”) against the Issuer under the Purchase Agreement arising from any representation, warranty, covenant or agreement given therein by the Issuer regarding the adherence of the Managers to certain selling restrictions.

No person other than the Original Collateral Obligor Secured Creditors shall have any interest in the Original Collateral Obligor Security and the Original Collateral Obligor Security shall not form part of the Mortgaged Property or the Managers' Mortgaged Property. If the Original Collateral Obligor Security becomes enforceable, neither the Security nor the Managers' Security for the Notes shall consequently become enforceable and the Notes shall not be affected thereby and shall accordingly remain outstanding.

The Original Collateral Obligor, in respect of the Original Collateral Obligor Security, is subject to limited recourse provisions equivalent to those set out in Condition 13 (*Limited Recourse and Non-Petition*) in respect of the Original Collateral Obligor Mortgaged Property, in accordance with the provisions of the Purchase Agreement and the Trust Deed in relation to the Notes.

The Original Collateral Obligor is not permitted to take any action against the Managers or to enforce any claim that the Issuer may have against the Managers under Clause 7.1 (*Indemnity*) of the Syndication Agreement or otherwise whether before, upon or after the Original Collateral Obligor Security becoming enforceable. The Original Collateral Obligor must rely on similar (but not identical) rights to those of the Noteholders, including (subject to the terms of the Trust Deed) a right of consultation and agreement with the Issuer (or the Enforcement Agent acting as agent of the Issuer) in relation to any such action or the enforcement of any such claim and/or a right to remove the Original Collateral Obligor Trustee, in each case in accordance with the provisions of the Trust Deed in relation to the Notes.

**(d) Enforcement of Security**

- (i) The Security over the Mortgaged Property created by or pursuant to the Trust Deed as described in Condition 5(a) (*Security*) shall become enforceable upon the occurrence of (each an “**Enforcement Event**”):
  - (A) an Event of Default;

- (B) an Original Collateral Default;
- (C) a Note Tax Event or an Original Collateral Tax Event, but only in the event that the Issuer fails, in the determination of the Trustee acting on the instructions of a Noteholder Direction, to take reasonable measures to arrange a substitution or change in residence in accordance with the terms of Condition 8(c) (*Redemption for taxation reasons*) and no such substitution or change in residence is effected;
- (D) an Illegality Event, but only in the event that the Issuer fails, in the determination of the Trustee acting on the instructions of a Noteholder Direction, to take reasonable measures to arrange a substitution or change in legal characteristics in accordance with the terms of Condition 8(e) (*Illegality Event*) and no such substitution or change in legal characteristics is effected; or
- (E) both of:
  - (I) a Liquidation Event; and
  - (II) any of the events described in Conditions 10(c)(iii) (*Replacement Event Failure*), 10(d)(ii) (*Failure to appoint replacement Disposal Agent*) or 11(e) (*Failure to liquidate Original Collateral following No Fault Liquidation Failure Bid End Date*),

and for the avoidance of doubt, the Managers' Security and the Original Collateral Obligor Security created by or pursuant to the Trust Deed as described in Condition 5(b) (*Managers' Security*) and Condition 5(c) (*Original Collateral Obligor Security*) shall not become enforceable in such circumstances.

- (ii) In order to enforce any Security, the Trustee may, but shall not be obliged to, estimate the quantum of any claim which is otherwise indeterminable and provided further that the Trustee or any receiver shall not be obliged to take any such estimate into account for the purposes of applying any moneys received by it under the provisions of the Trust Deed in connection with the realisation or enforcement of the Security in accordance with Condition 5(k)(ii) (*Application of Proceeds of Liquidation or Enforcement of the Security*).
- (iii) Prior to taking any steps to enforce the Security, the Trustee shall, acting on the instructions of a Noteholder Direction and subject to it being indemnified and/or secured and/or pre-funded to its satisfaction, provide an Enforcement Notice.

**(e) Enforcement of Managers' Security**

The Managers' Security created by or pursuant to the Trust Deed as described in Condition 5(b) (*Managers' Security*) shall become enforceable upon failure by the Issuer to pay on demand any Manager's Claim and, for the avoidance of doubt, the Security or the Original Collateral Obligor Security created by or pursuant to the Trust Deed as described in Condition 5(a) (*Security*) and Condition 5(c) (*Original Collateral Obligor Security*) respectively shall not become enforceable in such circumstances.

**(f) Enforcement of Original Collateral Obligor Security**

The Original Collateral Obligor Security created by or pursuant to the Trust Deed as described in Condition 5(c) (*Original Collateral Obligor Security*) shall become enforceable upon failure by the Issuer to pay on demand any Original Collateral Obligor Claim and, for the avoidance of doubt, the Security or the Managers' Security created by or pursuant to the Trust Deed as described in Condition

5(a) (*Security*) and Condition 5(b) (*Managers' Security*) respectively shall not become enforceable in such circumstances.

**(g) Realisation of Security**

If any Security becomes enforceable, the Trustee may at its discretion and shall, if it has received a Noteholder Direction to do so, enforce the Security constituted by the Trust Deed in each case provided it has (i) been indemnified and/or secured and/or pre-funded to its satisfaction and (ii) given an Enforcement Notice pursuant to Condition 5(d)(iii). To do this, it may at its discretion realise the Original Collateral subject to the provisions of Condition 12 (*Enforcement*), and/or enforce the Agency Agreement in accordance with its or their terms without any liability as to the consequence of such action and without having regard to the effect of such action on individual Noteholders. The Trustee shall not be required to take any action, step or proceeding in relation to the enforcement of the Security that would involve any personal liability or expense without first being indemnified and/or secured and/or pre-funded to its satisfaction.

Any realisation and/or enforcement of the Security over the Original Collateral or exercise of any right in respect of the Original Collateral shall be subject to the restrictions set forth in the Original Collateral Conditions, including, but not limited to, Original Collateral Condition 1 (*Form, Denomination, Title and Transfer*) and Original Collateral Condition 9 (*Restrictions on Transfers of Loan Notes and Grants of Security*).

Without prejudice to Condition 12 (*Enforcement*), in no circumstances shall the Trustee be permitted when acting in its capacity as trustee for the Noteholders and the other Secured Creditors, nor shall the Noteholders and the other Secured Creditors (when acting in their respective capacities) be permitted, to take any action against the Original Collateral Obligor or enforce any claim that the Issuer may have against the Original Collateral Obligor under the Original Collateral or the Purchase Agreement or otherwise whether before, upon, or after any Security created by or pursuant to the Trust Deed becoming enforceable.

**(h) Enforcement Agent to realise Security**

Notwithstanding Condition 5(g) (*Realisation of Security*) or Condition 11 (*Liquidation*), at any time after the Security has become enforceable in accordance with Condition 5(d) (*Enforcement of Security*), the Enforcement Agent shall, if the Issuer is directed to do so by a Noteholder Direction (subject in each case to the Enforcement Agent being indemnified and/or secured and/or pre-funded to its satisfaction), exercise on behalf of the Issuer as the Issuer's agent any rights of the Issuer in the Issuer's capacity as holder of the Collateral (including to direct the trustee in respect of the Collateral to enforce the terms of the Collateral as contemplated thereby) and/or the Issuer's right under the Purchase Agreement to acquire the Original Collateral, and the Enforcement Agent will act only in accordance with any Noteholder Direction and/or instruct the Disposal Agent, as agent of the Issuer, to arrange for any relevant liquidation, transfer or receipt of securities to be delivered to or by the Issuer in connection therewith, in accordance with the terms of the Agency Agreement. The Enforcement Agent shall have no obligation to supervise the Disposal Agent and shall not be responsible for any loss, liability, cost, claim, action, demand or expense incurred by any person by reason of any action or omission, determination, default, misconduct, negligence or fraud of the Disposal Agent in the performance of its duties under the Agency Agreement.

Any realisation and/or enforcement of the Security over the Collateral or exercise of any right in respect of the Collateral shall be subject to the restrictions set forth in the Original Collateral Conditions, including, but not limited to, Original Collateral Condition 1 (*Form, Denomination, Title*

and Transfer) and Original Collateral Condition 9 (*Restrictions on Transfers of Loan Notes and Grants of Security*).

Notwithstanding Condition 5(g) (*Realisation of Security*), in acting as the Issuer's agent for purposes of this Condition, the Enforcement Agent shall be permitted to take all such action as would have been permitted to be taken by the Trustee upon the Security becoming enforceable if the last sentence of Condition 5(g) (*Realisation of Security*) did not apply.

Neither the Enforcement Agent nor the Disposal Agent is an agent of the Trustee.

All actions and determinations of the Disposal Agent in the performance of its duties shall be made by the Disposal Agent (and not, for the avoidance of doubt, by the Trustee or the Enforcement Agent) and in good faith, and neither the Trustee nor the Enforcement Agent shall incur any liability therefor.

The Enforcement Agent is the agent of the Issuer and the Trustee shall have no responsibility or liability for the actions of the Enforcement Agent or for monitoring or supervising its performance or for directing it in relation to enforcement. Any proceeds realised by the Enforcement Agent pursuant to this Condition 5(h) (*Enforcement Agent to realise Security*) shall, upon receipt thereof, be paid to the Trustee who shall hold such moneys on trust and apply such moneys in accordance with Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*).

**(i) Enforcement Agent to realise Managers' Security**

At any time after the Managers' Security has become enforceable, the Enforcement Agent shall in accordance with the detailed provisions of the Trust Deed (subject to it being indemnified and/or secured and/or pre-funded to its satisfaction) exercise on behalf of the Issuer as the Issuer's agent any rights of the Issuer under the Purchase Agreement (other than the Issuer's right under the Purchase Agreement to acquire the Original Collateral). The provisions of paragraph 5.1.1 (*Limitations on Enforcement of Security and Managers' Security*) of Schedule 1, Part A of the Issue Deed shall apply in relation to any enforcement of the Managers' Security and the Managers' Trustee shall not be permitted to take any enforcement action against the Original Collateral Obligor in accordance therewith.

In acting as the Issuer's agent for the purposes of this Condition, the Enforcement Agent shall be permitted to take all such action as would have been permitted to be taken by the Managers' Trustee upon the Managers' Security becoming enforceable provided that the Enforcement Agent shall be permitted to take enforcement action against the Original Collateral Obligor.

The Enforcement Agent is the agent of the Issuer and the Managers' Trustee shall have no responsibility or liability for the actions of the Enforcement Agent or for monitoring or supervising its performance or for directing it in relation to enforcement.

Any proceeds realised by the Enforcement Agent pursuant to this Condition shall, upon receipt thereof, be paid to the Managers' Trustee who shall hold such moneys on trust and apply such moneys in accordance with Condition 5(l) (*Application of Proceeds of Realisation or Enforcement of the Managers' Security*).

**(j) Enforcement Agent to realise Original Collateral Obligor Security**

At any time after the Original Collateral Obligor Security has become enforceable, the Enforcement Agent shall in accordance with the detailed provisions of the Trust Deed (subject to it being indemnified and/or secured and/or pre-funded to its satisfaction) exercise on behalf of the Issuer as the Issuer's agent any rights of the Issuer under Clause 7.1 (*Indemnity*) of the Syndication Agreement. The

provisions of paragraph 5.1.2 (*Limitations on Enforcement of Original Collateral Obligor Security*) of Schedule 1, Part A of the Issue Deed shall apply in relation to any enforcement of the Original Collateral Obligor Security and the Original Collateral Obligor Trustee shall not be permitted to take any enforcement action against the Managers in accordance therewith.

In acting as the Issuer's agent for the purposes of this Condition, the Enforcement Agent shall be permitted to take all such action as would have been permitted to be taken by the Original Collateral Obligor Trustee upon the Original Collateral Obligor Security becoming enforceable provided that the Enforcement Agent shall be permitted to take enforcement action against the Managers.

The Enforcement Agent is the agent of the Issuer and the Original Collateral Obligor Trustee shall have no responsibility or liability for the actions of the Enforcement Agent or for monitoring or supervising its performance or for directing it in relation to enforcement.

Any proceeds realised by the Enforcement Agent pursuant to this Condition shall, upon receipt thereof, be paid to the Original Collateral Obligor Trustee who shall hold such moneys on trust and apply such moneys in accordance with Condition 5(m) (*Application of Proceeds of Realisation or Enforcement of the Original Collateral Obligor Security*).

**(k) Application of Proceeds of Liquidation or Enforcement of the Security**

- (i) The Disposal Agent shall apply on behalf of the Issuer all Available Proceeds received by the Custodian and direct the payment of such Available Proceeds under the provisions of the Issue Deed in connection with the Liquidation of the Original Collateral in accordance with the order prescribed in Condition 5(k)(iii) below.

Following a Liquidation, the Disposal Agent shall ascertain the claims of each party in accordance with the Priority of Claims. Notwithstanding that there may be outstanding amounts to be collected following the Liquidation, the Disposal Agent shall make a distribution of the Available Proceeds received on each Issuer Application Date.

To the extent that any further proceeds remain to be distributed following the Initial Issuer Application Date, the Disposal Agent will make a further distribution on the immediately following Issuer Application Date.

- (ii) If any Security becomes enforceable, the Trustee (or a receiver appointed by the Trustee in accordance with the Trust Deed) shall apply all moneys received by it under the provisions of the Trust Deed in connection with the realisation or enforcement of the Security relating to the Notes in accordance with the order prescribed in Condition 5(k)(iii) below.

Notwithstanding this Condition, the Trustee or a receiver appointed by it may on any one or more dates selected by the Trustee in its sole discretion prior to it having received all Available Proceeds (each such date, a "**Trustee Application Date**") apply any Available Proceeds that have been received by it prior to that Trustee Application Date in making payments in accordance with the Priority of Claims, provided that the Trustee may not make any payment to any Creditor to the extent that the claims of any prior ranking Secured Creditor under the Priority of Claims have either not been met in full or where further claims may arise in respect of any such prior ranking Secured Creditor. In making any such distribution, the Trustee (or the receiver) may retain such part of the Available Proceeds as the Trustee, in its absolute discretion, sees fit in order to meet any further claims which the Trustee may have under Condition 5(k)(iii) below.

- (iii) In respect of the application of the proceeds of realisation or enforcement of the Security, but not the application of the proceeds of realisation or enforcement of the Managers' Security or the Original Collateral Obligor Security, the proceeds shall be held on trust and applied in accordance with the following priority of claims (the "**Priority of Claims**"):
- (A) first, in payment or satisfaction of all taxes owing by the Issuer;
  - (B) second, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Trustee or any receiver in relation to the Notes in preparing and executing the trusts under the Trust Deed and the Issue Deed (including any Taxes required to be paid, the costs of realising any such security and the Trustee's remuneration);
  - (C) third, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Enforcement Agent in acting as enforcement agent of the Issuer in respect of the Security for the Notes under the terms of the Trust Deed and the Issue Deed (including any Taxes required to be paid, the costs of realising or enforcing any such security and the Enforcement Agent's remuneration);
  - (D) fourth, in payment or satisfaction of any fee charged by, or any other amounts owed to, the Disposal Agent for the performance of its duties specified in, or incidental to, the Conditions;
  - (E) fifth, *pari passu*, in payment of (I) any amounts owing to the Custodian for reimbursement in respect of payments properly made by it in accordance with the terms of the Agency Agreement relating to sums receivable on or in respect of the relevant Mortgaged Property, (II) any amounts owing to the Issuing and Paying Agent for reimbursement in respect of payments properly made by it in accordance with the terms of the Agency Agreement to any person in discharge of a Secured Payment Obligation and (III) any fees, costs, charges, expenses and liabilities then due and payable to the Agents under the Agency Agreement;
  - (F) sixth, *pari passu* in payment of (I) any Early Redemption Amount then due and payable, (II) any Final Redemption Amount then due and payable and/or (III) any interest that remains due and payable, as applicable, and, in each case, any interest accrued thereon (which, for the avoidance of doubt, shall include Default Interest) to the holders of Notes; and
  - (G) seventh, in payment rateably of the Residual Amount to the Issuer.

If the moneys received following Liquidation of the Mortgaged Property or the enforcement of Security (as applicable) are not enough to pay in full all amounts to persons whose claims rank rateably, the Disposal Agent or the Trustee (or any receiver appointed by the Trustee) (as applicable) shall apply the moneys *pro rata* on the basis of the amount due to each party entitled to such payment.

**(I) Application of Proceeds of Realisation or Enforcement of the Managers' Security**

In respect of the application of the proceeds of realisation or enforcement of the Managers' Security, the proceeds shall be held on trust and applied:

- (i) first, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Managers' Trustee in preparing and executing the trusts under the Trust Deed

and the Issue Deed (including any Taxes required to be paid, the costs of realising any such security and the Managers' Trustee's remuneration);

- (ii) secondly, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Enforcement Agent in acting as enforcement agent of the Issuer in respect of the Managers' Security under the Trust Deed and the Issue Deed (including any Taxes required to be paid, the costs of realising or enforcing any such security and the Enforcement Agent's remuneration);
- (iii) thirdly, *pari passu*, in meeting any Manager's Claims; and
- (iv) fourthly, in payment of the balance (if any) to the Issuer.

If the moneys received following Liquidation of the Managers' Mortgaged Property or the enforcement of the Managers' Security (as applicable) are not enough to pay in full all amounts to persons whose claims rank rateably, the Disposal Agent or the Managers' Trustee (or any receiver appointed by the Managers' Trustee) (as applicable) shall apply the moneys *pro rata* on the basis of the amount due to each party entitled to such payment.

**(m) Application of Proceeds of Realisation or Enforcement of the Original Collateral Obligor Security**

In respect of the application of the proceeds of realisation or enforcement of the Original Collateral Obligor Security, the proceeds shall be held on trust and applied:

- (i) first, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Original Collateral Obligor Trustee in preparing and executing the trusts under the Trust Deed and the Issue Deed (including any Taxes required to be paid, the costs of realising any such security and the Original Collateral Obligor Trustee's remuneration);
- (ii) secondly, in payment or satisfaction of the fees, costs, charges, expenses and liabilities properly incurred by the Enforcement Agent in acting as enforcement agent of the Issuer in respect of the Original Collateral Obligor Security under the Trust Deed and the Issue Deed (including any Taxes required to be paid, the costs of realising or enforcing any such security and the Enforcement Agent's remuneration);
- (iii) thirdly, *pari passu*, in meeting any Original Collateral Obligor Claims; and
- (iv) fourthly, in payment of the balance (if any) to the Issuer.

If the moneys received following Liquidation of the Original Collateral Obligor Mortgaged Property or the enforcement of the Original Collateral Obligor Security (as applicable) are not enough to pay in full all amounts to persons whose claims rank rateably, the Disposal Agent or the Original Collateral Obligor Trustee (or any receiver appointed by the Original Collateral Obligor Trustee) (as applicable) shall apply the moneys *pro rata* on the basis of the amount due to each party entitled to such payment.

**(n) Issuer's Rights in Respect of Security**

- (i) Issuer's Rights as Beneficial Owner of Collateral

The Issuer may (subject in each case to its being indemnified to its satisfaction) exercise any rights in its capacity as holder of the Collateral (including to direct the Enforcement Agent to enforce the terms of the Collateral as contemplated thereby, or its right under the Purchase Agreement to acquire the Original Collateral) only with the consent of the Trustee or as directed by a Noteholder Direction or, where applicable, in accordance with Condition 8(g) (*Purchases*)

or Condition 14(a) (*Meetings of Noteholders*) and, if such consent or direction is given, the Issuer will act only in accordance with such consent or direction. In particular, the Issuer will not attend or vote at any meeting of holders of the Collateral, or give any consent or notification or make any declaration in relation to the Collateral, unless the Trustee gives its consent or by direction of a Noteholder Direction or, where applicable, in accordance with Condition 8(g) (*Purchases*) or Condition 14(a) (*Meetings of Noteholders*).

(ii) Issuer's Rights as Party to the Purchase Agreement

The Issuer shall in good faith consult with the Managers to agree the manner in which the Issuer will exercise any of its rights under the Purchase Agreement (other than its right under the Purchase Agreement to acquire the Original Collateral) and shall (subject to its being indemnified to its satisfaction) act in accordance with any such agreement.

(iii) Issuer's Rights as Party to the Syndication Agreement

The Issuer shall in good faith consult with the Original Collateral Obligor to agree the manner in which the Issuer will exercise any of its rights under Clause 7.1 (*Indemnity*) of the Syndication Agreement) and shall (subject to its being indemnified to its satisfaction) act in accordance with any such agreement.

(iv) Release of Security to effect Liquidation

(A) Notwithstanding Condition 5(n)(i) (*Issuer's Rights as Beneficial Owner of Collateral*), following the effective delivery of a Liquidation Commencement Notice to the Disposal Agent (copied to each of the other Secured Creditors), the Disposal Agent, on behalf of the Issuer, shall have the right to undertake any action as contemplated by the Conditions and the Agency Agreement as it considers appropriate, and any actions in furtherance thereof or ancillary thereto as they relate to the Original Collateral, without requiring any sanction referred to therein.

(B) Pursuant to the terms of the Trust Deed and following the delivery of a Liquidation Commencement Notice to the Disposal Agent:

(I) the Security described in Condition 5(a) (*Security*) corresponding to the Original Collateral that is Liquidated in accordance with Condition 11 (*Liquidation*) on the relevant day shall be automatically released without further action on the part of the Trustee to the extent necessary to effect the settlement of such Original Collateral, as the case may be; provided that nothing in this Condition 5(n)(iv)(B)(I) will operate to release the charges and other security interests over the proceeds of the Liquidation of the relevant Original Collateral;

(II) notwithstanding the foregoing, the Security described in Condition 5(a) (*Security*) (including, for the avoidance of doubt, any charges or security interests over the proceeds of the Liquidation of the relevant Original Collateral) shall be automatically released without further action on the part of the Trustee to the extent necessary to effect the Initial Issuer Application Date in accordance with Condition 5(k)(i) above, provided that nothing in this Condition 5(n)(iv)(B)(II) will operate to release the charges and other security interests over any other proceeds of the Liquidation of the Original Collateral which are not distributed on the Initial Issuer Application Date; and

- (III) notwithstanding the foregoing, all Security described in Condition 5(a) (*Security*) (including, for the avoidance of doubt, any charges or security interests over the proceeds of the Liquidation of the relevant Original Collateral) shall be automatically released to effect early redemption of the Notes on an Early Redemption Date.

## 6 Restrictions

So long as any of the Notes remain outstanding, the Issuer shall not, without the prior written consent of the Trustee, except as provided for or contemplated in the Conditions or any Transaction Document:

- (i) engage in any business other than the issuance or entry into of Obligations, the entry into related agreements and transactions and the performing of acts incidental thereto or necessary in connection therewith, provided that (A) such Obligations are secured on assets of the Issuer other than the Issuer's share capital, any fees received by the Issuer for agreeing to issue, or enter into, or amend, any Obligations (by way of corporate benefit and for its own account) and any assets securing any other Obligations (other than Equivalent Obligations), and (B) such Obligations and any related agreements contain provisions that limit the recourse of any holder of, or counterparty to, such Obligations and of any party to any related agreement to assets other than those to which any other Obligations (other than Equivalent Obligations) have recourse;
- (ii) sell, transfer or otherwise dispose of any of the Mortgaged Property or any right or interest therein or create any mortgage, charge or other security or right of recourse in respect thereof;
- (iii) cause or permit the priority of the Security created by the Trust Deed to be amended, terminated or discharged;
- (iv) release any party to the Principal Trust Deed or the Issue Deed from any existing obligations thereunder;
- (v) have any subsidiaries;
- (vi) consent to any variation of, or exercise any powers of consent or waiver pursuant to, the terms of the Conditions, the Principal Trust Deed, the Issue Deed or any other Transaction Document;
- (vii) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entity to any person;
- (viii) have any employees;
- (ix) issue any shares (other than such shares as are in issue at the date hereof) or make any distribution to its shareholders;
- (x) open or have any interest in any account with a bank or financial institution unless (i) such account relates to the issuance or entry into of Obligations and such Obligations have the benefit of security over the Issuer's interest in such account or (ii) such account is opened in connection with the administration and management of the Issuer and only moneys necessary for that purpose (including, without limitation and for the avoidance of doubt, the Issuer's issued share capital and any fees paid to the Issuer for agreeing to issue, or enter into, any Obligations (by way of corporate benefit and for its own account)) are credited to it;
- (xi) declare any dividends;

- (xii) purchase, own, lease or otherwise acquire any real property (including office premises or like facilities);
- (xiii) guarantee, act as surety for or become obligated for the debts of any other entity or person or enter into any agreement with any other entity or person whereby it agrees to satisfy the obligations of such entity or person or any other entity or person;
- (xiv) acquire any securities or shareholdings whatsoever from its shareholders or enter into any agreements whereby it would be acquiring the obligations and/or liabilities of its shareholders;
- (xv) except as required in connection with the issuance or entry into of Obligations, advance or lend any of its moneys or assets, including but not limited to the Mortgaged Property, to any other entity or person; or
- (xvi) approve, sanction or propose any amendment to its constitutional documents.

## 7 Interest and Other Calculations

### (a) Interest on the Notes

Each Note bears interest from the Interest Commencement Date at the Interest Rate calculated by reference to the principal amount thereof and payable in arrear on each Interest Payment Date. Each Note will cease to bear interest from (and including) the due date for redemption unless, upon due presentation, payment of principal is improperly withheld or refused. In such event each Note shall continue to bear interest at such rate (both before and after judgment) until (but excluding) whichever is the earlier of (a) the day on which all sums due in respect of that Note up to that day are received by or on behalf of the relevant Noteholder, and (b) the day seven days after the Paying Agent has notified holders of receipt of all sums due in respect of all the Notes up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant Noteholders under these Conditions) (such interest, the “**Default Interest**”).

Where interest is to be calculated in respect of a period which is equal to or shorter than an Interest Accrual Period, the day-count fraction used will be the number of days in the relevant period, from and including the date from which interest begins to accrue to but excluding the date on which it falls due, divided by the number of days in the Interest Accrual Period in which the relevant period falls (including the first such day but excluding the last).

Interest payable in respect of each Note for each relevant period shall be calculated per €1,000 in principal amount of the Notes (the “**Calculation Amount**”). The amount of interest payable per Calculation Amount for any period shall be equal to the product of the Interest Rate, the Calculation Amount and the day count fraction for the relevant period.

### (b) Rounding

For the purposes of any calculations required pursuant to the Conditions, (a) all percentages resulting from such calculations shall be rounded, if necessary, to the nearest one hundred thousandth of a percentage point (with 0.000005 of a percentage point being rounded up to 0.00001) and (b) all currency amounts that fall due and payable shall be rounded, if necessary, to the nearest unit of such Currency (with one half of the lowest unit of the currency being rounded up). For these purposes, “**unit**” means one cent.

**(c) Calculations**

- (i) In respect of each Interest Payment Date, the Calculation Agent shall, subject to Condition 7(c)(ii) below, calculate the Interest Amount due and payable on such Interest Payment Date in respect of each Note outstanding on such Interest Payment Date.
- (ii) In order to enable the Calculation Agent to perform its functions under these Conditions, the Issuer shall provide to the Calculation Agent (or procure the provision of) any information required in order to enable the Calculation Agent to determine any Interest Amount, Early Redemption Amount, Final Redemption Amount or other amount payable hereunder. The Calculation Agent shall not be liable for any failure to comply with its obligations under these Conditions as a result of any failure of the Issuer to provide any such information.

**(d) Determination or Calculation by Trustee**

If the Calculation Agent does not at any time for any reason determine or calculate the Interest Amount, Final Redemption Amount, Early Redemption Amount or other amount payable hereunder, the Trustee may (but shall not be obliged to) make such determinations and calculations in place of the Calculation Agent (or may appoint an agent on its behalf to do so). Any such determination or calculation so made by the Trustee (or its agent) shall, for the purposes of the Conditions and the Transaction Documents, be deemed to have been made by the Calculation Agent. In doing so, the Trustee shall apply the provisions of the Conditions and/or the relevant Transaction Document(s), with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and, in all other respects, it shall do so in such manner as it shall deem fair and reasonable in all the circumstances. In the absence of wilful misconduct or fraud, no liability shall attach to the Trustee for any calculation so made by it or its agent and the Trustee may, in good faith, rely on the advice of a professional adviser in making such calculation.

**(e) Calculation Agent**

The Issuer shall procure that there shall at all times be a Calculation Agent and for so long as any Note is outstanding. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to establish the Interest Amount, Final Redemption Amount, Early Redemption Amount or any other amount, as the case may be, or to comply with any other requirement, the Issuer shall (if directed by an Extraordinary Resolution of the Noteholders) appoint a replacement calculation agent in accordance with such direction to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid. Except to the extent that the Calculation Agent has been grossly negligent or has acted fraudulently or is in wilful breach of its duties, the Calculation Agent shall not be liable to the Trustee or the Noteholders for any expense, loss or damage suffered by or occasioned to them. In any event, the Calculation Agent shall not be responsible for any direct loss or indirect consequential losses, notwithstanding it having been advised of the possibility of such loss.

**(f) Business Day Convention**

If any date referred to in these Conditions that is specified to be subject to adjustment in accordance with a “**Business Day Convention**” would otherwise fall on a day that is not a Business Day, then such date shall be postponed to the next day that is a Business Day.

## 8 Redemption and Purchase

### (a) Final Redemption

Unless previously redeemed, purchased and/or cancelled in accordance with Condition 8 (*Redemption and Purchase*) as provided below, each Note shall become due and payable on the Maturity Date at its Final Redemption Amount.

Notwithstanding any provision to the contrary, if at any time prior to the redemption of the Notes pursuant to this Condition, notice of an Original Collateral Default or a Scheduled Original Collateral Event is given pursuant to Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*), notice of an Early Redemption Date is given pursuant to Condition 8(c) (*Redemption for taxation reasons*), the Notes are declared immediately due and payable pursuant to Condition 8(d) (*Events of Default*) or notice of an Early Redemption Date is given pursuant to Condition 8(e) (*Illegality Event*), then the Notes shall not be redeemed in accordance with this Condition 8(a) (*Final Redemption*) and the provisions of Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*), Condition 8(c) (*Redemption for taxation reasons*), Condition 8(d) (*Events of Default*) or Condition 8(e) (*Illegality Event*) shall apply as appropriate.

### (b) Early Redemption following Original Collateral Default or Scheduled Original Collateral Event

- (i) Upon the occurrence of an Original Collateral Default, the Issuer shall give no more than 30 days' notice to the Trustee and the Noteholders and upon the giving of such notice all of the Notes shall become due for redemption on the date specified in such notice (which for the avoidance of doubt shall be deemed to be the date designated as the Early Redemption Date on the occurrence of the relevant Original Collateral Default) at their Early Redemption Amount.
- (ii) Upon the occurrence of a Scheduled Original Collateral Event, the Issuer shall give notice in writing to the Trustee and to the Noteholders and upon the giving of such notice the Issuer shall redeem each Note on the date designated as the early redemption date of the Original Collateral (which for the avoidance of doubt shall be deemed to be the date designated as the Early Redemption Date) at its Early Redemption Amount.

No amount in addition to the Early Redemption Amount shall be due on account of interest from the Interest Payment Date immediately preceding the Early Redemption Date (or if there is no such immediately preceding Interest Payment Date, from the Issue Date) to and including the Early Redemption Date.

### (c) Redemption for taxation reasons

If the Issuer satisfies the Trustee that, either:

- (i) on the occasion of the next payment due in respect of the Notes, the Issuer would be required by the law of its jurisdiction of incorporation to withhold or account for tax or would suffer tax in respect of its income so that it would be unable to make payment of the full amount due in respect of the Notes; and/or
- (ii) as a result of any change in, or proposed change in, or amendment to or proposed amendment to, the accounting standards, practices or guidelines applicable in the Republic of Ireland (“**Applicable Accounting Standards**”) or applicable tax law, practices or guidelines applicable in the Republic of Ireland (“**Applicable Tax Laws**”) or any change in, or proposed change in

the application of, the official or generally published interpretation of the Applicable Accounting Standards or Applicable Tax Laws, which change or amendment would become effective on or after the Issue Date, the Issuer may have a liability to account for tax or may suffer tax that would, in either case, result in it being unable to make payment of the full amount due in respect of the Notes; and/or

- (iii) the Issuer (a) is or will be unable to receive any payment due in respect of any Original Collateral forming part of the Mortgaged Property in full on the due date therefor without deduction for or on account of any withholding tax, back-up withholding or other tax, duties or charges of whatsoever nature imposed by any authority of any jurisdiction, or (b) is required to pay any tax duty or charge of whatsoever nature by any authority of any jurisdiction in respect of any payment received in respect of any Original Collateral forming part of the Mortgaged Property (that would result in it being unable to make payment of the full amount due in respect of the Notes), or (c) is required to comply with any reporting requirement of any authority of any jurisdiction other than ordinary course tax returns in the jurisdiction, except in any case where the Issuer is able to obtain such payment in full on the due date therefor or gain exemption from such payment or reporting requirement by filing a declaration that it is not a resident of such jurisdiction and/or by executing any certificate, form or other document in order to make a claim under a double taxation treaty or other exemption available to it and such filing or execution does not involve, in the opinion of the Issuer, any material expense and is not unduly onerous, or such reporting requirement does not involve, in the opinion of the Issuer, any material expense and is not unduly onerous, and

in any case, such obligation cannot be avoided by the Issuer taking reasonable measures available to it (in the case of paragraphs (i) and (ii) above, a “**Note Tax Event**” and in the case of paragraph (iii) above, an “**Original Collateral Tax Event**”), then the Issuer shall so inform the Trustee in writing, and shall use all reasonable endeavours to arrange, in accordance with the Trust Deed, the substitution of a company incorporated in another jurisdiction approved beforehand in writing by the Trustee (provided that such substitution will not, at the time of substitution, result in any rating assigned to the Notes at that time being adversely affected, as confirmed in writing by Moody’s, Standard & Poor’s and/or any other applicable rating agency that has assigned such a rating) as the principal obligor or to change (to the satisfaction of the Trustee and provided that such change will not, at the time of such change, result in any rating assigned to the Notes at that time being adversely affected, as confirmed in writing by Moody’s, Standard & Poor’s and/or any other applicable rating agency that has assigned such a rating) its residence for taxation purposes to another jurisdiction approved beforehand in writing by the Trustee and if:

- (A) it is unable to arrange such substitution or change in residence subsequent to taking reasonable measures to do so before the next payment is due in respect of the Notes, then the Issuer shall give no more than 30 days’ notice to the Trustee and the Noteholders and upon the giving of such notice all of the Notes shall become due for redemption on the date specified in such notice (which for the avoidance of doubt shall be the date designated as the Early Redemption Date in respect of the relevant Note Tax Event or Original Collateral Tax Event) at their Early Redemption Amount and such Note Tax Event or Original Collateral Tax Event shall constitute a Liquidation Event; or
- (B) it is unable to arrange such substitution or change in residence and it fails, in the determination of the Trustee (acting on the instructions of a Noteholder Direction), to take reasonable measures to do so before the next payment date is due in respect of the Notes, then: (i) upon making such determination, the Trustee shall give notice to the

Issuer and the Noteholders of such determination; (ii) upon giving such notice all of the Notes shall immediately become due and payable (which for the avoidance of doubt the date of such notice shall be the date designated as the Early Redemption Date in respect of the relevant Note Tax Event or Original Collateral Tax Event) at their Early Redemption Amount; and (iii) the Security shall become enforceable and the Trustee shall so enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or pre-funded to its satisfaction and subject to it receiving a Noteholder Direction to do so) in accordance with Condition 5(g) (*Realisation of Security*).

In respect of this Condition, if a Tax deduction or withholding (collectively, a “**Tax Deduction**”) is required by law to be made by the Original Collateral Obligor in respect of any payment of principal or interest in respect of the Original Collateral for any Taxes, duties, assessments or governmental charges of whatever nature imposed by or on behalf of Switzerland, Condition 8(c)(iii) shall not apply to such Tax Deduction if there is an actual payment by the Original Collateral Obligor of a corresponding payment of additional amounts pursuant to Original Collateral Condition 7 (*Taxation*).

Notwithstanding any provision to the contrary, if at any time prior to the redemption of the Notes pursuant to this Condition: (a) (I) an Original Collateral Default occurs and the Issuer gives notice of an Early Redemption Date pursuant to Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*) or (II) a Scheduled Original Collateral Event occurs pursuant to Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*); and (b) (I) the Issuer, or the Disposal Agent on the Issuer’s behalf, has not entered into any binding agreement to effect a Liquidation of any Original Collateral; and (II) the Trustee has not enforced the Security under Condition 8(c)(B), then the notice of redemption given pursuant to this Condition shall be deemed to be void and the Notes shall be redeemed pursuant to the provisions of Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*).

Prior to the publication of any notice of redemption pursuant to this Condition, the Issuer shall deliver to the Trustee a certificate signed by two directors of the Issuer stating that the obligations referred to in Condition 8(c)(i), (ii) or (iii), as the case may be, have arisen and cannot be avoided by the Issuer taking reasonable measures available to it, and the Trustee shall be entitled to accept and rely on such certificate as sufficient evidence of the satisfaction of the conditions precedent set out in this Condition, in which event such acceptance shall be conclusive and binding on the Noteholders.

Pursuant to the Issue Deed, the Issuer is obliged to: (a) send the Original Collateral Obligor the Call Event Notice required to be given pursuant to Original Collateral Condition 9(b)(iv) following the occurrence of a Note Tax Event or an Original Collateral Tax Event where no substitution or change in residence for taxation purposes is effected pursuant to this Condition 8(c) notifying the Original Collateral Obligor that as a consequence of the occurrence of such an event the Original Collateral shall be Liquidated or the Security in respect of the Original Collateral has become enforceable; and (b) upon sending such notice to the Original Collateral Obligor, notify the Disposal Agent, the Enforcement Agent and the Trustee of the occurrence of such an event accordingly.

Notwithstanding the foregoing, if any of the Taxes referred to in this Condition arises by reason of:

- (I) any Noteholder's connection with its jurisdiction of incorporation otherwise than by reason only of the holding of any Note or receiving or being entitled to any Early Redemption Amount or Final Redemption Amount or interest in respect thereof; or
- (II) a payment being made to an individual pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- (III) laws enacted by Switzerland providing for taxation of payments according to principles similar to those laid down in the draft legislation proposed by the Swiss Federal Council on 24 August 2011, in particular to have a person other than the Issuer withhold or deduct the tax, including without limitation, any paying agent;
- (IV) where such withholding or deduction is required to be made pursuant to any agreements between Switzerland and other countries on final withholding taxes levied by Swiss paying agents in respect of persons resident in the other country on income of such person on and booked or deposited with a Swiss paying agent (*Abgeltungssteuer*) and any law or other governmental regulation implementing or complying with, or introduced in order to conform to, such agreements; or
- (V) the presentation of a Note for payment by or on behalf of a Noteholder who would have been able to avoid the Taxes referred to in this Condition by presenting the relevant Note to another paying agent in a Member State of the European Union,

then this Condition 8(c) (*Redemption for taxation reasons*) shall not apply. The Issuer shall deduct such Taxes from the amounts payable to such Noteholder, all other Noteholders shall receive the due amounts payable to them and the Notes shall not be redeemed as provided in the previous provisions. Any such deduction shall not constitute an Event of Default under Condition 8(d) (*Events of Default*).

No amount in addition to the Early Redemption Amount shall be due on account of interest from the Interest Payment Date immediately preceding the Early Redemption Date (or if there is no such immediately preceding Interest Payment Date, from the Issue Date) to and including the Early Redemption Date.

**(d) Events of Default**

If any of the following events (each an “**Event of Default**”) occur, the Trustee at its discretion may, and if so directed by a Noteholder Direction shall (provided in each case that the Trustee shall have been indemnified and/or secured and/or pre-funded to its satisfaction), give notice to the Issuer (which notice shall be copied to the Disposal Agent) that the Notes are, and they shall immediately become due and payable (for the avoidance of doubt the date of such notice shall be the date designated as the Early Redemption Date in respect of the relevant Event of Default) at their Early Redemption Amount:

- (i) if default is made for more than 14 days in the payment of any sum due in respect of any Note; or
- (ii) if the Issuer does not perform or comply with any one or more of its other obligations under the Notes or the Trust Deed which default is incapable of remedy or, if in the opinion of the Trustee capable of remedy, is not in the opinion of the Trustee remedied within 30 days (or such longer period as the Trustee may permit) after notice of such default shall have been given to the Issuer

by the Trustee and, in each case, that the Trustee considers such a default to be materially prejudicial to the interests of the Noteholders; or

- (iii) if any order shall be made by any competent court or authority or any resolution passed for the winding-up, (forced or voluntary) liquidation or dissolution of the Issuer or the appointment of an examiner, liquidator or similar official in relation to the Issuer save for the purposes of amalgamation, merger, consolidation, reorganisation or other similar arrangement on terms previously approved in writing by the Trustee or by an Extraordinary Resolution of Noteholders.

Pursuant to the Issue Deed, the Issuer is obliged to: (a) send the Original Collateral Obligor the Call Event Notice required to be given pursuant to Original Collateral Condition 9(b)(iv) following the occurrence of an Event of Default notifying the Original Collateral Obligor that as a consequence of the occurrence of such an event the Original Collateral shall be Liquidated or the Security in respect of the Original Collateral has become enforceable; and (b) upon sending such notice to the Original Collateral Obligor, notify the Disposal Agent, the Enforcement Agent and the Trustee of the occurrence of such an event accordingly.

Notwithstanding any provision to the contrary, if at any time prior to the redemption of the Notes pursuant to this Condition: (a) a Scheduled Original Collateral Event occurs pursuant to Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*); and (b) the Trustee has not enforced the Security, then any notice given by the Trustee to the Issuer pursuant to this Condition shall be deemed to be void and the Notes shall be redeemed pursuant to the provisions of Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*).

No amount in addition to the Early Redemption Amount shall be due on account of interest from the Interest Payment Date immediately preceding the Early Redemption Date (or if there is no such immediately preceding Interest Payment Date, from the Issue Date) to and including the Early Redemption Date.

**(e) Illegality Event**

If, due to the adoption of, or any change in, any applicable law after the Issue Date, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful for the Issuer (i) to perform any absolute or contingent obligation to make a payment or delivery in respect of any of the Agency Agreement, the Trust Deed, the Issue Deed or the Notes or (ii) to hold any Original Collateral or to receive a payment or delivery in respect of any Original Collateral or (iii) to comply with any other material provision of any of the Agency Agreement, the Trust Deed, the Issue Deed or the Notes (an “**Illegality Event**”), and such Illegality Event cannot be avoided by the Issuer taking reasonable measures available to it, then the Issuer shall so inform the Trustee in writing, and shall use all reasonable endeavours to arrange, in accordance with the Trust Deed, the substitution of a company, being a company whose legal characteristics are such that if it were to perform the obligations of the Issuer, no Illegality Event would arise, that is approved beforehand in writing by the Trustee (provided that such substitution will not, at the time of substitution, result in any rating assigned to the Notes at that time being adversely affected as confirmed in writing by Moody’s, Standard & Poor’s and/or any other applicable rating agency that has assigned such a rating) as the principal obligor or to change (to the satisfaction of the Trustee and provided that such change will not, at the time of such change, result in any rating assigned to the Notes at that time being adversely affected, as confirmed in writing by Moody’s, Standard & Poor’s and/or any other applicable rating agency that has assigned such a rating)

its legal characteristics such that no Illegality Event arises in respect of it, as approved beforehand in writing by the Trustee and if:

- (i) it is unable to arrange such substitution or change in legal characteristics subsequent to taking reasonable measures to do so before the next payment is due in respect of the Notes, the Issuer shall give no more than 30 days' notice to the Trustee and the Noteholders, and upon the giving of such notice all of the Notes shall become due for redemption on the date specified in such notice (which for the avoidance of doubt shall be the date designated as the Early Redemption Date in respect of the relevant Illegality Event) at their Early Redemption Amount and such Illegality Event shall constitute a Liquidation Event; or
- (ii) it is unable to arrange such substitution or change in legal characteristics and it fails, on the determination of the Trustee (acting on the instructions of a Noteholder Direction), to take reasonable measures to do so before the next payment date is due in respect of the Notes, then:
  - (i) upon making such determination, the Trustee shall give notice to the Issuer and the Noteholders of such determination; (ii) upon giving such notice all of the Notes shall immediately become due and payable (which for the avoidance of doubt the date of such notice shall be the date designated as the Early Redemption Date in respect of the relevant Illegality Event) at their Early Redemption Amount; and (iii) the Security shall become enforceable and the Trustee shall so enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or pre-funded to its satisfaction and subject to it receiving a Noteholder Direction to do so) in accordance with Condition 5(g) (*Realisation of Security*).

Notwithstanding any provision to the contrary, if at any time prior to the redemption of the Notes pursuant to this Condition: (a) (I) an Original Collateral Default occurs and the Issuer gives notice of an Early Redemption Date pursuant to Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*) or (II) a Scheduled Original Collateral Event occurs; and (b) (I) the Issuer, or the Disposal Agent on the Issuer's behalf, has not entered into any binding agreement to effect a Liquidation of any Original Collateral; and (II) the Trustee has not enforced the Security under Condition 8(e)(ii), then the notice of redemption given pursuant to this Condition shall be deemed to be void and the Notes shall be redeemed pursuant to the provisions of Condition 8(b) (*Early Redemption following Original Collateral Default or Scheduled Original Collateral Event*).

No amount in addition to the Early Redemption Amount shall be due on account of interest from the Interest Payment Date immediately preceding the Early Redemption Date (or if there is no such immediately preceding Interest Payment Date, from the Issue Date) to and including the Early Redemption Date.

Pursuant to the Issue Deed, the Issuer is obliged to: (a) send the Original Collateral Obligor the Call Event Notice required to be sent pursuant to Original Collateral Condition 9(b)(iv) following the occurrence of an Illegality Event where no substitution or change in legal characteristics is effected pursuant to this Condition 8(e) notifying the Original Collateral Obligor that as a consequence of the occurrence of such an event the Original Collateral shall be Liquidated or the Security in respect of the Original Collateral has become enforceable; and (b) upon sending such notice to the Original Collateral Obligor, notify the Disposal Agent, the Enforcement Agent and the Trustee of the occurrence of such an event accordingly.

**(f) Change of Control Put Option**

If a Change of Control Event occurs, each Noteholder shall have the option (a “**Put Option**”) (unless prior to the giving of the relevant Change of Control Put Notice (as defined below) the Issuer has given notice of redemption under Condition 8(b)(ii) above) to require the Issuer to redeem some or all of the Notes held by such Noteholder on the Put Date at each such Note’s principal amount together with interest accrued thereon to but excluding the date of redemption (the “**Put Amount**”) and the Issuer shall redeem such Notes on the Put Date at the Put Amount.

Promptly upon the Issuer becoming aware that a Change of Control Event has occurred, the Issuer shall give notice, or shall procure that notice is given (a “**Put Event Notice**”) to the Noteholders in accordance with Condition 17 (*Notices*) and to the Trustee specifying the nature of the Change of Control Event and the procedure for exercising the option contained in this Condition 8(f).

In order to exercise the Put Option, a Noteholder must deliver a duly signed and completed notice of exercise (which once given, shall be irrevocable) in the form (for the time being current) obtainable from the Registrar (a “**Change of Control Put Notice**”) together with an authority to Euroclear or Clearstream, Luxembourg to debit such Noteholder’s account accordingly, at any time within the period (the “**Put Period**”) of 28 days after a Put Event Notice is given.

Payment of the Put Amount in respect of any Change of Control Put Notice and authority so delivered will be made on the Put Date by transfer to the bank account duly specified by the Noteholder in the Change of Control Put Notice.

If 80 per cent. or more in nominal amount of the Notes then outstanding are redeemed pursuant to this Condition 8(f) on any Put Date, the Issuer may, on not less than 15 or more than 75 days’ notice to the Noteholders given within 50 days after such Put Date redeem on the date specified in such notice (the “**Clean-up Date**”), at its option, the remaining Notes as a whole at their principal amount plus interest accrued to but excluding the date of such redemption, provided that payment of any such redemption amount to Noteholders shall not be payable until the Business Day immediately following the Clean-up Date.

**(g) Purchases**

The Issuer may only purchase or exchange Notes in accordance with the special conditions below (the “**Special Conditions**”):

- (i) The Issuer may at any time make an offer to purchase the Notes for cash consideration or to receive the Notes for cancellation (an “**Issuer Tender Offer**”) or to exchange the Notes for non-cash assets (an “**Issuer Exchange Offer**”) (in each case, whether by private treaty or tender offer). Any Issuer Tender Offer or Issuer Exchange Offer may only be made on a limited recourse basis and upon terms that will ensure that after any such purchase, cancellation or exchange of Notes, the aggregate principal amount of Notes outstanding will be the same as the aggregate principal amount of Original Collateral outstanding. The Issuer shall not make an Issuer Tender Offer or an Issuer Exchange Offer (A) other than in the case of the Issuer receiving Notes for cancellation, without first having entered into an agency agreement with an agent to act as tender agent or, as the case may be, exchange agent for the Issuer in connection with the Issuer Tender Offer or the Issuer Exchange Offer and (B) without first being satisfied that its costs and expenses in connection with the same will be met, and subject to Moody’s, Standard & Poor’s and/or any other applicable rating agency (in each case only if such rating agency has a rating assigned to the Notes at that time), being notified of the same and confirming that the then current rating of the Notes by such rating agency will not be adversely

affected after the conclusion of any such Issuer Tender Offer or Issuer Exchange Offer. Furthermore, any Issuer Tender Offer or Issuer Exchange Offer shall be subject to any terms and conditions required by the Trustee and shall, for as long as the Notes are listed on the official list of the Irish Stock Exchange and admitted to trading on the regulated market of the Irish Stock Exchange, be in accordance with all applicable rules and regulations of the Irish Stock Exchange. The Issuer shall forthwith notify Moody's, Standard & Poor's and/or any other applicable rating agency (in each case only if such rating agency has a rating assigned to the Notes at that time), if any Notes are purchased or exchanged pursuant to this Condition.

- (ii) If at any time the Original Collateral Obligor makes an offer to the Issuer, or to the Custodian on behalf of the Issuer, to purchase the Original Collateral for cash consideration or against delivery of the Notes for cancellation (a "**Tender Offer**") or for non-cash assets (an "**Exchange Offer**"), then the Issuer shall not accept such Tender Offer or Exchange Offer (notwithstanding anything to the contrary in Condition 14(a) (*Meetings of Noteholders*)), and the Trustee shall not be permitted to release the Security created over the Original Collateral pursuant to the Trust Deed, other than in accordance with paragraphs (iii) and (iv) below.
- (iii) Subject to the requirements of paragraph (i) above, the Issuer shall make an Issuer Tender Offer or, as the case may be, an Issuer Exchange Offer, upon the occurrence of a Tender Offer or, as the case may be, an Exchange Offer unless (other than in the case of the Issuer receiving Notes for cancellation) in the reasonable opinion of the Issuer, the Issuer would be materially disadvantaged by the same.
- (iv) For purposes of any Issuer Tender Offer or Issuer Exchange Offer, whether or not relating to any Tender Offer or Exchange Offer, the Trustee shall only release the Security to the extent that after such release and taking into account any purchase, exchange or cancellation of Notes pursuant to any Issuer Tender Offer or Issuer Exchange Offer, the aggregate principal amount of the Original Collateral outstanding will be the same as the aggregate principal amount of Notes outstanding. To the extent that such Issuer Tender Offer or Issuer Exchange Offer relates to any Tender Offer or, as the case may be, Exchange Offer, following the release of such Security the Issuer shall accept (or procure the acceptance of) such Tender Offer or Exchange Offer in respect of the Security so released.

Any failure by the Issuer to make a payment or delivery due in connection with any Issuer Tender Offer or Issuer Exchange Offer shall constitute a default in payment in respect of the Notes for purposes of Condition 8(d) (*Events of Default*).

**(h) Cancellation**

All Notes purchased by or on behalf of the Issuer shall be surrendered for cancellation to the Registrar and shall, upon surrender thereof, together with all Notes redeemed by the Issuer, be cancelled forthwith. Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

**(i) Trustee: no duty to monitor**

For the avoidance of doubt and for the purposes of these Conditions, the Trustee shall not be required to monitor whether any Original Collateral Default, Scheduled Original Collateral Event, Event of Default, Note Tax Event, Original Collateral Tax Event, Illegality Event or Change of Control Event or any other event has occurred under this Condition and shall have no obligation, responsibility or liability for giving or not giving any notice thereof to the Issuer or the Calculation Agent and shall assume no such event has occurred until it receives written notice to the contrary. The Trustee shall be

entitled to rely on any notice given by the Issuer or the Calculation Agent in respect thereof without further enquiry or investigation.

## 9 Payments

### (a) Method of Payment

Payments of principal in respect of the Notes shall be made against presentation and surrender of the relevant Notes at the specified office of any of the Transfer Agents or of the Registrar and in the manner provided in Condition 9(a)(ii) below.

- (i) Interest on the Notes shall be paid to the person shown on the Register at the close of business on the 15th day before the due date for payment thereof or (ii) where the Note is represented by a Global Certificate, one Clearing System Business Day before the due date for payment of any payment due on a Note (the “**Record Date**”).
- (ii) Payments of interest on each Note shall be made in the relevant currency by cheque drawn on a Bank, and mailed to the holder (or to the first-named of joint holders) of such Note at its address appearing in the Register, upon application by the holder to the specified office of the Registrar or any Transfer Agent before the Record Date, and such payment of interest may be made by transfer to an account in the relevant currency maintained by the payee with a Bank.

### (b) Payments subject to Fiscal Laws

All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives in the place of payment. No commission or expenses shall be charged to the Noteholders in respect of such payments.

### (c) Non-Business Days

If any date for payment in respect of any Note is not a business day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment. In this Condition 9(c) (*Non-Business Days*), “**business day**” means a day (other than a Saturday or a Sunday) on which (i) banks and foreign exchange markets are open for business in London and (ii) the TARGET System is operating.

### (d) Prescription

Claims against the Issuer for payment in respect of the Notes shall be prescribed and become void unless made within 10 years (in the case of the principal) or five years (in the case of interest) from the appropriate Relevant Date in respect of them.

## 10 Agents

### (a) Appointment of Agents

The Issuing and Paying Agent, the Registrar, the Transfer Agent, the Custodian, the Enforcement Agent, the Disposal Agent and the Calculation Agent initially appointed by the Issuer and their respective specified offices are listed below.

<b>Custodian</b>	Deutsche Bank AG, London Branch
<b>Issuing and Paying Agent</b>	Deutsche Bank AG, London Branch
<b>Calculation Agent and Disposal Agent</b>	The Royal Bank of Scotland plc

**Enforcement Agent**

BNP Paribas Securities Services S.C.A., London  
Branch

**Registrar and Transfer Agent**

Deutsche Bank Luxembourg S.A.

The Issuing and Paying Agent, the Registrar, the Transfer Agent, the Custodian, the Enforcement Agent, the Disposal Agent and the Calculation Agent act solely as agents of the Issuer and do not assume any obligation or relationship of agency or trust for or with any Noteholder. The Issuer reserves the right at any time with the approval of the Trustee to vary or terminate the appointment of the Issuing and Paying Agent, the Registrar, the Transfer Agent, the Custodian, the Enforcement Agent or the Calculation Agent and to appoint additional or other paying agents, Registrar, Transfer Agent or Custodians or Enforcement Agent(s) or Calculation Agent(s), provided that such variation, termination of, or appointment will not, at the time of such variation, termination of, or appointment, result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Moody's, Standard & Poor's and/or any other applicable rating agency (in each case only if such rating agency has a rating assigned to the Notes at that time) and provided further that the Issuer shall at all times maintain (i) an Issuing and Paying Agent, (ii) a Registrar, (iii) a Transfer Agent, (iv) a Calculation Agent, (v) a Custodian, (vi) an Enforcement Agent where the Conditions so require (except where the Trust Deed permits the Enforcement Agent to resign without a replacement having been appointed), (vii) a Disposal Agent where the Conditions so require; and (viii) such other agents as may be required by any other stock exchange on which the Notes may be listed in each case, as approved by the Trustee.

Notice of any such change or any change of any specified office shall promptly be given to the Noteholders.

Following the occurrence of an Enforcement Agent Bankruptcy, if Noteholders representing at least 50% in outstanding Aggregate Nominal Amount of the Notes (subject to such Noteholders providing evidence of their holdings of the Notes to the satisfaction of the Issuer and the Trustee) direct the Issuer in writing to appoint a party chosen by the Noteholders as the replacement Enforcement Agent (subject to such party executing a Deed of Accession and such party being a financial institution authorised and regulated by the appropriate regulatory authority), then the Issuer shall, subject to the Trustee's approval of such party, act in accordance with such direction.

**(b) Appointment of Disposal Agent**

Notwithstanding any term to the contrary and the use of the term "agent" and unless specified otherwise in these Conditions, in performing its respective duties and exercising its rights in respect of the Notes, the Disposal Agent acts solely as principal, and not as an agent of any party, and as such does not assume any obligation, fiduciary duty or responsibility to, or relationship of agency or trust with or towards any person, including investors or prospective investors in the Notes.

Subject to Condition 10(c) (*Termination and Replacement following a Disposal Agent Bankruptcy*), the Issuer reserves the right at any time with the prior written approval of the Trustee to vary or terminate the appointment of the Disposal Agent and to appoint additional or other Disposal Agent(s), provided that the Issuer shall at all times maintain a Disposal Agent.

Notice of any such change or any change of any specified office shall promptly be given to the Noteholders.

**(c) Termination and Replacement following a Disposal Agent Bankruptcy****(i) Automatic termination**

Upon occurrence of a Disposal Agent Bankruptcy, the appointment of the Disposal Agent shall automatically terminate (unless a Disposal Agent Certificate is delivered in accordance with Condition 10(c)(ii) (*Replacement of Disposal Agent*)) and the replacement mechanics set out under this Condition 10(c) (*Termination and Replacement following a Disposal Agent Bankruptcy*) and in the Agency Agreement shall apply to determine the replacement Disposal Agent.

(ii) **Replacement of Disposal Agent**

Following the occurrence of a Disposal Agent Bankruptcy, Noteholders representing at least 50% in outstanding Aggregate Nominal Amount of the Notes (subject to such Noteholders providing evidence of their holdings of the Notes), in each case, to the satisfaction of the Issuer and the Trustee) may send a notice (a “**Replacement Event Notice**”) to the Issuer notifying the Issuer of such Disposal Agent Bankruptcy. The directors of the Issuer shall either notify the Trustee, the Noteholders and the Disposal Agent of the receipt of such Replacement Event Notice or, where the directors of the Issuer have determined that a Disposal Agent Bankruptcy has occurred, send a Replacement Event Notice to the Trustee, the Noteholders and the Disposal Agent (the date of such notification being the “**Notification Date**”). For the avoidance of doubt, where more than one valid Replacement Event Notice in respect of the same Disposal Agent Bankruptcy has been issued, only the earliest of these will be valid for the purposes of this Condition 10(c) (*Termination and Replacement following a Realisation Agency Bankruptcy*). Unless the Disposal Agent delivers a certificate (a “**Disposal Agent Certificate**”) signed by two authorised representatives in good faith to the Issuer and the Trustee within 10 Business Days of the Notification Date certifying that the Disposal Agent Bankruptcy has not occurred (upon which the Trustee shall rely without liability to any person), the Disposal Agent shall be replaced if the following conditions are met:

(A) **Noteholder Replacement**

Noteholders representing at least 50% in outstanding Aggregate Nominal Amount of the Notes (subject to such Noteholders providing evidence of their holdings of the Notes to the satisfaction of the Issuer and the Trustee) may direct the Issuer in writing not earlier than 11 Business Days but not later than 20 Business Days after the Notification Date (the “**Nomination Period**”) to appoint a party chosen by the Noteholders as the replacement Disposal Agent (subject to such party executing a Deed of Accession and such party being a financial institution authorised and regulated by the appropriate regulatory authority and being approved by the Trustee); or

(B) **Bid Process Replacement**

If the Issuer has not received any direction from Noteholders representing at least 50% in outstanding principal amount of the Notes within the Nomination Period, the Issuer will serve a Bid Request on all Approved Counterparties within five Business Days of the end of the Nomination Period. The Bid Request will specify that all bids must be received by the Issuer within 10 Business Days of the date of the Bid Request (the “**Bid Period**”). Following the expiry of the Bid Period, the Issuer will appoint the Approved Counterparty which provided the lowest fee quotation in response to the Bid Request as the replacement Disposal Agent within five Business Days of the end of the Bid Period (subject to such party executing a Deed of Accession and being approved by the Trustee).

(iii) **Replacement Event Failure**

Following a Replacement Event Notice which has not been cured by a Disposal Agent Certificate delivered pursuant to Condition 10(c)(ii) (*Replacement of Disposal Agent*), if a replacement Disposal Agent has not been appointed within 60 Business Days of the sending of such Replacement Event Notice and a Liquidation Event has occurred, the Security shall become enforceable and the Trustee shall notify the Noteholders and enforce the Security to the extent it is permitted to do so under the Conditions and the Trust Deed (subject to it being secured and/or indemnified and/or pre-funded to its satisfaction and subject to its receiving a Noteholder Direction) in accordance with Condition 5(g) (*Realisation of Security*).

**(d) Termination and Replacement following a Liquidation Procedures Failure**

**(i) Liquidation Procedures Failure**

If a Liquidation Procedures Failure occurs the Issuer will serve a Bid Request on all Approved Counterparties within five Business Days of such occurrence. The Bid Request will specify that all bids must be received by the Issuer within 10 Business Days of the date of the Bid Request (the “**Liquidation Procedures Failure Bid Period**”). Following the expiry of the Liquidation Procedures Failure Bid Period, the Issuer will appoint the Approved Counterparty which provided the lowest fee quotation in response to the Bid Request as the replacement Disposal Agent within five Business Days of the end of the Liquidation Procedures Failure Bid Period (subject to such party executing a Deed of Accession and being approved by the Trustee).

**(ii) Failure to appoint replacement Disposal Agent**

If, following a Liquidation Procedures Failure, a replacement Disposal Agent has not been appointed within 60 Business Days of such occurrence and a Liquidation Event has occurred, the Security shall become enforceable and the Trustee shall notify the Noteholders and enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or pre-funded to its satisfaction and subject to its receiving a Noteholder Direction) in accordance with Condition 5(g) (*Realisation of Security*).

**(e) Termination and Replacement of Required Rating Level Agents**

If at any time, in relation to the Notes, the rating of the Issuing and Paying Agent and/or the Custodian (the Issuing and Paying Agent and the Custodian each being a “**Required Rating Level Agent**” for the purposes of this Condition 10(e)) ceases to be rated at or above the Minimum Rating Level or, if the obligations of such Required Rating Level Agent(s) hereunder are guaranteed by another entity, such entity's rating ceases to be rated at or above the Minimum Rating Level, such Required Rating Level Agent(s) will, within 30 calendar days of such event, either (i) procure that a third party having at least such rating enters into an agreement with the Issuer and the Trustee at no cost to the Issuer under which all the rights and obligations of such Required Rating Level Agent(s) under this agreement are transferred to that third party (the downgraded Required Rating Level Agent shall pay the costs incurred in locating and appointing a replacement third party to act as the Issuing and Paying Agent and/or the Custodian (as applicable) under this agreement but such costs shall not extend to legal costs or the fees charged by such replacement third party), or (ii) otherwise remedy such failure to satisfy the Minimum Rating Level.

“**Minimum Rating Level**” means that each Required Rating Level Agent, or if such Required Rating Level Agent(s) is or are not rated, the entity which is guaranteeing the obligations of such Required Rating Level Agent(s) under this agreement:

- (i) to the extent the Notes are rated by Standard & Poor's, (i) has a long term Issuer Credit Rating of at least A and short term Issuer Credit Rating of at least A-1 by Standard & Poor's or (ii) whose obligations under this agreement are guaranteed by a financial institution whose long term Issuer Credit Rating is rated at least A and short term Issuer Credit Rating of at least A-1 by Standard & Poor's or (iii) such other rating or ratings as may be confirmed by Standard & Poor's from time to time to maintain the then current rating of the Notes; or
- (ii) to the extent the Notes are rated by Moody's, (i) has outstanding unsecured, unsubordinated and unguaranteed long term debt obligations which are rated at least A2 by Moody's or (ii) whose obligations under this agreement are guaranteed by a financial institution whose outstanding unsecured, unsubordinated and unguaranteed long term debt obligations are rated at least A2 by Moody's or (iii) has outstanding unsecured, unsubordinated and unguaranteed short term debt obligations which are rated at least P-1 by Moody's or (iv) whose obligations under this agreement are guaranteed by a financial institution whose outstanding unsecured, unsubordinated and unguaranteed short term debt obligations are rated at least P-1 by Moody's or (v) such other rating or ratings as may be confirmed by Moody's from time to time to maintain the then current rating of the Notes.

## **11 Liquidation**

### **(a) Creditor Liquidation Event Notice**

Upon the Issuer becoming aware of the occurrence of a Liquidation Event, it shall provide a Liquidation Commencement Notice to the Disposal Agent, the Custodian and the Trustee thereof as soon as is reasonably practicable, provided that if at such time there is no Disposal Agent, then if a replacement Disposal Agent is appointed pursuant to Condition 10 (*Agents*), such notice shall be provided to such replacement Disposal Agent (if any) upon its appointment as Disposal Agent.

Neither the Disposal Agent nor the Trustee shall be required to monitor, enquire, investigate or satisfy itself as to whether a Liquidation Event has occurred. Prior to receipt by it of a Liquidation Commencement Notice, the Disposal Agent and the Trustee may assume that no Liquidation Event has occurred.

The Disposal Agent and the Trustee shall be entitled to rely on a Liquidation Commencement Notice without investigation of whether the relevant Liquidation Event has occurred.

The Disposal Agent shall not be regarded as acting as the agent of the Trustee in any circumstances.

Any Liquidation Commencement Notice delivered by the Issuer shall not be valid and the Disposal Agent shall not take any action in relation thereto if the Disposal Agent has already received (i) a valid Liquidation Commencement Notice in respect of the same or a prior Liquidation Event or (ii) a valid Enforcement Notice from the Trustee.

### **(b) Liquidation Process**

Notwithstanding the foregoing, pursuant to the Agency Agreement, upon receiving a Liquidation Commencement Notice confirming that (a) a Liquidation Event has occurred, or (b) it is necessary for the Issuer to liquidate any assets in order to meet its obligations under the Notes, the Disposal Agent shall, on behalf of the Issuer but acting as principal, arrange a Liquidation of some or all of the Original Collateral in accordance with the paragraph below.

At any time from and including the Disposal Agent being given a Liquidation Commencement Notice, the Disposal Agent shall arrange an orderly Liquidation of some or all of the Original Collateral in accordance with the Liquidation Procedures.

Subject to complying with the Liquidation Procedures, the Disposal Agent may take such steps as it considers appropriate in order to arrange such Liquidation, including but not limited to selecting the method of Liquidating any Original Collateral. The Disposal Agent must arrange any Liquidation as soon as reasonably practicable and, subject as set out below, in a commercially reasonable manner.

In arranging any Liquidation, the Disposal Agent:

- (i) shall act at all times in good faith and in a commercially reasonable manner;
- (ii) subject to Conditions 11(b)(iii), 11(b)(ix) and 11(e) below and following the occurrence of any Liquidation Event (taking into account the characteristics and total amount of Original Collateral to be Liquidated and the time elapsed since occurrence of relevant Liquidation Event):
  - (A) shall use all reasonable endeavours to obtain firm bid quotations for the Original Collateral from at least five Qualifying Banks;
  - (B) where two or more firm bid quotations are received by the Disposal Agent, shall accept the higher bid for the Liquidation of the Original Collateral;
  - (C) where only one firm bid quotation is received by the Disposal Agent, may recommend that firm bid to the Issuer for the Liquidation of the Original Collateral;
- (iii) the Disposal Agent shall be entitled to arrange any Liquidation by way of one or multiple transactions on one or more dates and the relevant Security will automatically be released without further action on the part of the Trustee in order to arrange any settlement in relation to such Liquidation in accordance with Condition 5(n)(iv) (*Release of Security to effect Liquidation*);
- (iv) shall not have any obligations towards or relationship of agency or trust with the Noteholders or the Trustee;
- (v) may consult on any legal matter any reputable legal adviser of international standing selected by it, who may be an adviser to the Issuer, and it shall not be liable in respect of anything done or omitted to be done relating to that matter in good faith in accordance with that adviser's opinion;
- (vi) shall not be liable in respect of anything done or suffered by it in reliance on a document it reasonably believed to be genuine and to have been signed by the proper parties or on information to which it should properly have regard and which it reasonably believed to be genuine and to have been originated by the proper parties;
- (vii) may enter into any contracts or any other transactions or arrangements with the Issuer, or with the Noteholders, the Original Collateral Obligor (or any part of them) or any Affiliate thereof (whether in relation to the Notes or in any other manner whatsoever) or in relation to the Mortgaged Property and may hold or deal in or be a party to the assets, obligations or agreements of which the relevant Original Collateral form a part and other assets, obligations or agreements of the Original Collateral Obligor;

- (viii) may arrange the Liquidation of some or all of the Original Collateral to Affiliates of itself to the extent that they are Qualifying Banks;
- (ix) for the purposes of this Condition, the Disposal Agent shall not be liable to the Issuer, the Trustee, the Noteholders, any other Agent, any Creditor, or any other person merely because a larger amount could have been received had any such Liquidation been delayed or had the Disposal Agent selected a different method of Liquidating any such Original Collateral; and
- (x) Notwithstanding anything to the contrary in these Conditions, the Disposal Agent shall be subject to the transfer restrictions applicable to the Original Collateral in relation to any Liquidation of the Original Collateral under this Condition, including but not limited to the restrictions set out in Original Collateral Condition 1 (*Form, Denomination, Title and Transfer*) and Original Collateral Condition 9 (*Restrictions on Transfers of Loan Notes and Grants of Security*). The Disposal Agent shall not, and shall not be required to, Liquidate the Original Collateral where such Liquidation would violate any such transfer restrictions,

(together, the “**Liquidation Procedures**”).

Notwithstanding the obligations of the Disposal Agent pursuant to this Condition, the Disposal Agent shall not arrange a Liquidation of any Original Collateral which (i) are due to redeem or repay on or before the day which falls three Business Days prior to the day which falls 15 Business Days after the Maturity Date or (ii) have become redeemable or repayable prior to the Original Collateral Maturity Date by reason of the Original Collateral Obligor exercising its rights pursuant to Original Collateral Condition 5(c) (*Original Collateral Obligor Notice call option*), in each case, in respect of part (but not all) of the Original Collateral only.

Any purchase price for some or all the Original Collateral shall be paid by the relevant buyer directly into an interest bearing cash account established with the Custodian pursuant to the Agency Agreement pending distribution of such Available Proceeds in accordance with Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*). The Custodian shall promptly notify (in writing) the Issuer and the Disposal Agent of the receipt of such amounts that collectively constitute Available Proceeds of the Liquidation of the Original Collateral.

The Issuer acknowledges that in effecting the Liquidation, Liquidation Expenses may be incurred. The Issuer agrees that any such Liquidation Expenses shall be borne by the Issuer and shall be paid to the Disposal Agent in accordance with Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*)

“**Liquidation Expenses**” means (i) any taxes and (ii) any reasonable transaction fees or commissions applicable to such Liquidation, including any brokerage or exchange commissions, provided that such transaction fees or commissions are limited to and no higher than those that would necessarily and routinely be charged by the third party market participant to whom such fees or commissions are payable for a sale transaction of that type to third parties on an arm’s length basis. Save for such reasonable transaction fees or commissions, Liquidation Expenses shall not include any fee charged by, or any other amounts owed to, the Disposal Agent for the performance of its duties specified in, or incidental to, the Conditions (the “**Disposal Agent Fees**”).

**(c) No Fault Liquidation Failure**

If a No Fault Liquidation Failure occurs the Disposal Agent shall, in accordance with the Liquidation Procedures, attempt a further Liquidation of some or all of the Original Collateral during a period of 30 Business Days beginning from the day after the occurrence of such No Fault Liquidation Failure and in

accordance with Condition 11(b) (*Liquidation Process*) (the final day of such period being the “**No Fault Liquidation Failure Cut-off Date**”). If the Disposal Agent fails to arrange such Liquidation prior to the No Fault Liquidation Failure Cut-off Date, then the Disposal Agent shall arrange for the Liquidation of some or all of the Original Collateral, as soon as reasonably practicable, following the No Fault Liquidation Failure Cut-off Date by sending a notice to the Trustee, the Noteholders, the Arranger, the Approved Counterparties and such other managers who are involved in buying and/or selling of securities of the same type as the relevant Original Collateral specifying:

- (i) that a No Fault Liquidation Failure has occurred and is continuing;
- (ii) the minimum offer price for the relevant Original Collateral;
- (iii) the aggregate amount of the claims of the Creditors;
- (iv) the last date for any offers to be made, the “**No Fault Liquidation Failure Bid End Date**”;
- (v) the trade date for the Liquidation of the relevant securities (the “**Liquidation Trade Date**”); and
- (vi) that the date of settlement shall be the last date of the market standard period for settlement of securities of the same type as the relevant Original Collateral.

Following any Liquidation under this Condition 11(c), the buyer of the relevant Original Collateral shall pay the purchase price into one or more interest bearing cash accounts established with the Custodian pursuant to the Agency Agreement pending distribution of such Available Proceeds in accordance with Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*). Upon receipt of such Available Proceeds, the Custodian shall promptly notify (in writing) the Issuer and the Disposal Agent of such receipt.

**(d) Liquidation by Replacement Disposal Agent**

Where the Issuer has appointed a replacement Disposal Agent in accordance with Condition 10(c)(ii) (*Replacement of Disposal Agent*), the replacement Disposal Agent shall arrange Liquidation of the relevant Original Collateral in accordance with Condition 11(b) (*Liquidation Process*) or 11(c) (*No Fault Liquidation Failure*) (as applicable).

**(e) Failure to liquidate Original Collateral following No Fault Liquidation Failure Bid End Date**

If no bid is received by the Disposal Agent on or prior to the No Fault Liquidation Failure Bid End Date from any third party which is greater than zero, the Security shall become enforceable and the Trustee shall notify the Noteholders and so enforce the Security to the extent it is permitted to do so under the Trust Deed (subject to it being secured and/or indemnified and/or pre-funded to its satisfaction and subject to its receiving a Noteholder Direction to do so) in accordance with Condition 5(g) (*Realisation of Security*).

## **12 Enforcement**

At any time after the Security becomes enforceable as set out in Condition 5(d) (*Enforcement of Security*), the Trustee may, at its discretion and without further notice, institute such actions, steps or proceedings against the Issuer as it may think fit to enforce the terms of the Trust Deed and the Notes, but it need not take any such actions, steps or proceedings or any step or action unless (a) it shall have been so directed by a Noteholder Direction and (b) it shall have been indemnified and/or secured and/or pre-funded to its satisfaction.

Only the Trustee, or the Enforcement Agent acting as agent of the Issuer in accordance with paragraph 5.1.4 (*Enforcement Agent to enforce the Security*) of Schedule 1 of the Issue Deed, may pursue the remedies available under the Trust Deed to enforce the rights of the Secured Creditors or the other parties thereto. If the Trustee, having become bound to do so, but only to the extent that the Trustee is permitted to take such action pursuant to paragraph 5.1.1 (*Limitations on Enforcement of Security and Managers' Security*) of Schedule 1 of the Issue Deed, fails or neglects to do so, then the Noteholders may exercise their rights under Clause 14.2 (*Retirement and Removal*) of the Master Trust Terms (as amended by the Issue Deed) to remove the Trustee, but shall in no circumstances be entitled to proceed directly against the Issuer or the Original Collateral Obligor.

If the Enforcement Agent, having become bound to proceed in accordance with the terms of the Trust Deed, fails or neglects to do so, then the Noteholders may exercise their rights under paragraph 5.1.7 (*Provisions relating to the Enforcement Agent*) of Schedule 1 of the Issue Deed to remove the Enforcement Agent, but shall in no circumstances be entitled to proceed directly against the Issuer or the Original Collateral Obligor.

At any time after the Security has become enforceable, the Enforcement Agent shall, if the Issuer is directed to do so by any Noteholder Direction (subject in each case to the Enforcement Agent being indemnified and/or secured and/or pre-funded to its satisfaction), exercise on behalf of the Issuer as the Issuer's agent any rights of the Issuer in the Issuer's capacity as holder of the Original Collateral (including to direct the trustee in respect of the Original Collateral to enforce the terms of the Original Collateral as contemplated thereby) or the Issuer's right under the Purchase Agreement to acquire the Original Collateral and the Enforcement Agent will act only in accordance with any Noteholder Direction (as more specifically set out in the Trust Deed).

Without prejudice to the foregoing, in no circumstances shall the Trustee be permitted when acting in its capacity as trustee for the Noteholders and the other Secured Creditors, nor shall the Noteholders and the other Secured Creditors (when acting in their respective capacities) be permitted, to take any action against the Original Collateral Obligor or to enforce any claim that the Issuer may have against the Original Collateral Obligor under the Original Collateral or the Purchase Agreement or otherwise whether before, upon, or after any Security created by or pursuant to the Trust Deed becoming enforceable.

### **13 Limited Recourse and Non-Petition**

The Trustee and the other Secured Creditors shall have recourse only to the Mortgaged Property in respect of the Notes, the Managers' Trustee and the Managers' Secured Creditors shall have recourse only to the Managers' Mortgaged Property, and the Original Collateral Obligor Trustee and the Original Collateral Obligor Secured Creditors shall have recourse only to the Original Collateral Obligor Mortgaged Property; and, the Trustee and/or the Enforcement Agent having realised the same and the Trustee having distributed the Available Proceeds in accordance with Condition 5(k) (*Application of Proceeds of Liquidation or Enforcement of the Security*), the Managers' Trustee and/or the Enforcement Agent having realised the Managers' Mortgaged Property and the Managers' Trustee having distributed the net proceeds thereof in accordance with Condition 5(l) (*Application of Proceeds of Realisation or Enforcement of the Managers' Security*), and the Original Collateral Obligor Trustee and/or the Enforcement Agent having realised the Original Collateral Obligor Mortgaged Property and the Original Collateral Obligor Trustee having distributed the net proceeds thereof in accordance with Condition 5(m) (*Application of Proceeds of Realisation or Enforcement of the Original Collateral Obligor Security*), the Trustee and the other Secured Creditors, the Managers' Trustee and the other Managers' Secured Creditors or the Original Collateral Obligor Trustee and the other Original Collateral Obligor Secured Creditors, as the case may be, or anyone acting on behalf of any of them shall not be entitled to take any further steps against the Issuer to recover any further sum ("**Shortfall**") and no debt shall be owed by the Issuer to any such person in respect of any such Shortfall.

In particular, none of the Trustee, the Managers' Trustee or the Original Collateral Obligor Trustee or any other Secured Creditor, Managers' Secured Creditor or Original Collateral Obligor Secured Creditor or any person acting on behalf of any of them or any other party to the Trust Deed shall be entitled to petition, institute, or join with any other person in bringing, petitioning, joining, instituting or taking any other step (court based or otherwise) for the insolvency, examinership, winding-up or liquidation of the Issuer, and none of them shall have any claim in respect of any other assets of the Issuer save for the Mortgaged Property, the Managers' Mortgaged Property or the Original Collateral Obligor Mortgaged Property provided that the Trustee, the Managers' Trustee or the Original Collateral Obligor Trustee may lodge a claim in liquidation of the Issuer which is initiated by another party or take proceedings to obtain a declaration or similar judgment or order as to the obligations and liabilities of the Issuer. Failure to make any payment in respect of any Shortfall shall in no circumstances constitute an Event of Default under Condition 8(d) (*Events of Default*). This Condition shall survive the redemption of the Notes.

## 14 Meetings of Noteholders, Modification, Waiver and Substitution

### (a) Meetings of Noteholders

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Trust Deed and give any authority, direction or sanction required by the Conditions to be given by Extraordinary Resolution. Such a meeting may be convened by Noteholders holding not less than 10% in aggregate outstanding Nominal Amounts of the Notes for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution shall be two or more persons holding or representing a clear majority in aggregate outstanding Nominal Amounts of the Notes for the time being outstanding, or at any adjourned meeting two or more persons being or representing Noteholders whatever the aggregate outstanding Nominal Amounts of the Notes held or represented, unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to amend the dates of maturity or redemption of the Notes or any date for payment of interest or Interest Amounts on the Notes, (ii) to reduce the rate or rates of interest in respect of the Notes or to vary the method or basis of calculating the rate or rates or amount of interest or the basis for calculating any Interest Amount in respect of the Notes, (iii) to vary any method of, or basis for, calculating any Early Redemption Amount or Final Redemption Amount in respect of the Notes, (iv) to vary the currency or currencies of payment or Specified Denomination of the Notes, (v) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass the Extraordinary Resolution, (vi) to modify the provisions of the Trust Deed concerning this exception or (vii) to modify the Security described in Condition 5 (*Security and the Mortgaged Property*), in which case the necessary quorum ("**Special Quorum**") shall be two or more persons holding or representing not less than 75 per cent. or at any adjourned meeting not less than 25 per cent. in aggregate outstanding Nominal Amount of the Notes for the time being outstanding in accordance with the Trust Deed (provided that no amendment shall be made to the provisions in these Conditions relating to the enforcement or realisation of the Mortgaged Property without the prior written consent of the Original Collateral Obligor). In circumstances in which there is only one Noteholder in respect of all the Notes outstanding, the quorum for all purposes shall be one. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed).

The Trust Deed provides that (i) a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. in aggregate outstanding Nominal Amount of the Notes outstanding (a "**Written Resolution**") or (ii) where the Notes are held by or on behalf of a clearing system or clearing systems,

approval of a resolution proposed by the Issuer or the Trustee (as the case may be) given by way of electronic consents communicated through the electronic communications systems of the relevant clearing system(s) in accordance with their operating rules and procedures by or on behalf of the holders of not less than 75 per cent. in aggregate outstanding Nominal Amount of the Notes then outstanding (“**Electronic Consent**”) shall, in each case for all purposes (including matters that would otherwise require an Extraordinary Resolution to be passed at a meeting for which the Special Quorum was satisfied) be as valid and effective as an Extraordinary Resolution passed at a meeting of Noteholders duly convened and held. Such a Written Resolution may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Noteholders. Such a Written Resolution and/or Electronic Consent will be binding on all Noteholders whether or not they participated in such Written Resolution or Electronic Consent.

In addition, the Issuer shall, if so directed by a Noteholder Direction (subject in each case to its being indemnified to its satisfaction), exercise any rights in its capacity as holder of the Original Collateral (including to direct the trustee in respect of the Original Collateral to enforce the terms of the Original Collateral as contemplated thereby) or its right under the Purchase Agreement to acquire the Original Collateral in accordance with such direction (as more specifically set out in the Trust Deed).

At any time after the security for the Notes has become enforceable, the Enforcement Agent shall, if the Issuer is directed to do so by any Noteholder Direction (subject in each case to the Enforcement Agent being indemnified and/or secured to its satisfaction), exercise on behalf of the Issuer as the Issuer’s agent any rights of the Issuer in the Issuer’s capacity as holder of the Original Collateral (including to direct the trustee in respect of the Original Collateral to enforce the terms of the Original Collateral as contemplated thereby) or the Issuer’s right under the Purchase Agreement to acquire the Original Collateral and the Enforcement Agent will act only in accordance with any Noteholder Direction.

Without prejudice to the foregoing, in no circumstances shall the Trustee be permitted when acting in its capacity as trustee for the Noteholders and the other Secured Creditors, nor shall the Noteholders and the other Secured Creditors (when acting in their respective capacities) be permitted, to take any action against the Original Collateral Obligor or enforce any claim that the Issuer may have against the Original Collateral Obligor under the Original Collateral or the Purchase Agreement or otherwise whether before, upon, or after any security created by or pursuant to the Trust Deed becoming enforceable.

These Conditions may be amended, modified or varied in relation to the Notes by the terms of the Issue Deed in relation to such Notes.

**(b) Modification of the Trust Deed and Waiver**

The Trustee may agree, without the consent of the Noteholders, to (i) any modification of any of the provisions of the Trust Deed, or any other documentation in connection with the issue of the Notes that is, in its opinion, of a formal, minor or technical nature or is made to correct a manifest error (for which purpose regard may be had, without limitation, to any document entered into, or prepared in connection with, the Notes), and (ii) any other modification (except as mentioned in Condition 14(a) (*Meetings of Noteholders*)), and any waiver or authorisation of any breach or proposed breach, of any of these Conditions or any of the provisions of the Trust Deed that is in the opinion of the Trustee not materially prejudicial to the interests of the Noteholders. Any such modification, authorisation or waiver shall be binding on the Noteholders and if the Trustee so requires, such modification shall be notified to the Noteholders as soon as practicable. The Issuer shall notify Moody’s and Standard & Poor’s of any modification made by it in accordance with this Condition and the Trust Deed.

**(c) Substitution**

The Trust Deed contains provisions permitting the Trustee to agree, subject to such amendment of the Trust Deed and such other conditions as the Trustee may require, without the consent of the Noteholders to the substitution of any other company in place of the Issuer, or of any previous substituted company, as principal debtor under the Trust Deed and the Notes provided that such substitution shall not at the time of substitution result in any rating assigned to the Notes being adversely affected, as confirmed in writing by Moody's, Standard & Poor's and/or any other applicable rating agency (in each case only if such rating agency has a rating assigned to the Notes at that time). In the case of such a substitution, the Trustee may agree, without the consent of the Noteholders, to a change of the law governing the Notes and/or the Trust Deed provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the Noteholders and that each rating agency that has a rating assigned to the Notes at that time shall have confirmed in writing that such change shall not at the time of such change result in any rating assigned to the Notes being adversely affected. Under the Trust Deed, the Trustee may agree or require the Issuer to use all reasonable endeavours to procure the substitution as principal debtor under the Trust Deed and all of the Notes then outstanding of a company incorporated in some other jurisdiction upon the occurrence of any of the Taxes referred to in Condition 8(c) (*Redemption for taxation reasons*) arising, provided that such substitution shall not at the time of substitution result in any rating assigned to the Notes at that time being adversely affected, as confirmed in writing by each rating agency that has assigned any such rating.

**(d) Entitlement of the Trustee**

In connection with the exercise of its functions (including but not limited to, those referred to in this Condition), the Trustee shall have regard to the interests of the Noteholders as a class and shall not have regard to the consequences (in particular, any Tax consequences) of such exercise for individual Noteholders and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer any indemnification or payment in respect of any Tax consequence of any such exercise upon individual Noteholders.

**(e) Modification of Conditions of the Notes**

Subject to Condition 14(b) (*Modification of the Trust Deed*), if and for so long as the Notes are assigned a rating by S&P, Moody's and/or any other applicable rating agency, any amendments made to these Conditions shall require prior Rating Agency Confirmation.

**15 Replacement of Certificate**

If a Certificate is lost, stolen, mutilated, defaced or destroyed, it may be replaced, subject to applicable laws, regulations and stock exchange or other relevant authority regulations, at the specified office of the Registrar or Transfer Agent, as the case may be, as may from time to time be designated by the Issuer for the purpose and notice of whose designation is given to Noteholders in accordance with Condition 17 (*Notices*), in each case on payment by the claimant of the fees and costs incurred in connection therewith and on such terms as to evidence, security and indemnity and otherwise as the Issuer may require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

**16 Further Issues**

The Issuer may from time to time without the consent of the Noteholders, but provided that the Trustee is satisfied that the restrictions set out below will be complied with, and subject to such restrictions upon prior

notice in writing to each rating agency, if any, that has a rating assigned to the Notes at that time, create and issue further notes either having the same terms and conditions as the Notes in all respects (or in all respects except for the first payment of interest on them) and so that such further issue shall be consolidated and form a single series with the Notes or upon such terms as the Issuer may determine at the time of their issue, provided that such further issue shall not at the time of issue result in any rating assigned to the Notes at that time being adversely affected, as confirmed in writing by each rating agency, if any, that has assigned such a rating to the Notes. Any such further notes shall only form a single issue with the Notes (unless otherwise approved by an Extraordinary Resolution) if the Issuer provides additional assets as security for such further notes that are fungible with, and have the same proportionate composition as, those forming part of the Mortgaged Property for the Notes and in the same proportion that the nominal amount of such new notes bears to the Notes. Any new notes forming a single series with the Notes shall be constituted and secured by a deed supplemental to the Issue Deed, such further security shall be added to the Mortgaged Property so that the new notes and the existing Notes shall be secured by the same Mortgaged Property and references in these Conditions to “Notes”, “Original Collateral”, “Collateral”, “Mortgaged Property”, “Secured Payment Obligations” and “Secured Creditors” shall be construed accordingly.

## 17 Notices

Notices to Noteholders shall be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing and for so long as the Notes are listed and admitted to trading on the Irish Stock Exchange forwarded to the Companies Announcement Office of the Irish Stock Exchange for publication. Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the first date on which publication is made, as provided above.

## 18 Taxation

Without prejudice to Condition 8(c) (*Redemption for taxation reasons*), all payments in respect of the Notes will be made subject to any withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature that the Issuer or any Agent is required by applicable law to make. In that event, the Issuer or such Agent shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount(s) so required to be withheld or deducted. Neither the Issuer nor any Agent will be obliged to make any additional payments to holders of Notes in respect of such withholding or deduction.

## 19 Indemnification and Obligations of the Trustee

The Trust Deed contains provisions for the indemnification of the Trustee, for its relief from responsibility including for the exercise of any voting rights in respect of the Collateral and for the value, validity, sufficiency and enforceability (that the Trustee has not investigated) of the Security created over the Mortgaged Property, the Managers’ Security created over the Managers’ Mortgaged Property and the Original Collateral Obligor Security created over the Original Collateral Obligor Mortgaged Property. The Trustee is not obliged or required to take any step, action or proceeding under the Trust Deed unless directed by a Noteholder Direction and indemnified and/or secured and/or pre-funded to its satisfaction. The Trustee and any Affiliate of the Trustee are entitled to enter into business transactions with the Issuer, the Original Collateral Obligor, the Arranger, the Managers or any of their respective subsidiaries, holding or associated companies without accounting to the Noteholders for profit resulting therefrom.

The Trustee is exempted from liability with respect to any loss or theft or reduction in value of the Collateral, from any obligation to insure or to procure the insuring of the Collateral and from any claim arising from the

fact that the Collateral will be held in safe custody by the Custodian or any custodian selected by the Trustee (in each case, if applicable). The Trustee is not responsible for monitoring or supervising the performance by any other person of its obligations to the Issuer and may assume these are being performed unless it shall have actual knowledge to the contrary.

The Trust Deed provides that in acting as Trustee under the Trust Deed the Trustee shall not assume any duty or responsibility to the Disposal Agent, the Custodian or the Issuing and Paying Agent or any other Transaction Party (other than to pay to any of such parties any moneys received by the Trustee and payable to such party and to act in accordance with the provisions of Condition 5 (*Security and the Mortgaged Property*)) and shall have regard solely to the interests of the Noteholders.

## **20 Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Notes under the Contracts (Rights of Third Parties) Act 1999 except and to the extent (if any) that the Notes expressly provide for such Act to apply to any of their terms.

## **21 Governing Law and Jurisdiction**

### **(a) Governing Law**

The Trust Deed, the Issue Deed, the Notes and any non-contractual obligations arising out of or in connection with them are governed by and shall be construed in accordance with English law.

### **(b) Jurisdiction**

The courts of England are to have exclusive jurisdiction to settle any disputes that may arise out of or in connection with any Notes and accordingly any legal action or proceedings arising out of or in connection with any Notes (“**Proceedings**”) may be brought in such courts. The Issuer has in the Trust Deed irrevocably submitted to the jurisdiction of such courts.

### **(c) Service of Process**

The Issuer has irrevocably appointed an agent in England to receive, for it and on its behalf, service of process in any Proceedings in England.

## **USE OF PROCEEDS**

The net proceeds from the issue of the Notes will be used by the Issuer to purchase the Original Collateral comprising part of the Mortgaged Property in respect of the Notes.

## **SUMMARY OF PROVISIONS RELATING TO THE NOTES WHILE IN GLOBAL FORM**

### **Initial Issue of Notes**

The Notes will be represented by a Global Certificate which will be registered in the name of a nominee for a common depositary for Euroclear Bank S.A./N.V. (“**Euroclear**”) and Clearstream Banking, société anonyme (“**Clearstream, Luxembourg**”) and may be delivered on or prior to the original issue date of the Notes.

Upon the registration of the Global Certificate in the name of a nominee for Euroclear and Clearstream, Luxembourg, and delivery of the relative Global Certificate to the common depositary, Euroclear or Clearstream, Luxembourg will credit each subscriber with a nominal amount of Notes equal to the nominal amount thereof for which it has subscribed and paid.

### **Relationship of Accountholders with Clearing Systems**

Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the holder of a Note represented by a Global Certificate must look solely to Euroclear or Clearstream, Luxembourg for his share of each payment made by the Issuer to the holder of the Notes and in relation to all other rights arising under the Global Certificates, subject to and in accordance with the respective rules and procedures of Euroclear or Clearstream, Luxembourg. Such persons shall have no claim directly against the Issuer in respect of payments due on the Notes for so long as the Notes are represented by such Global Certificate and such obligations of Issuer will be discharged by payment to the holder of the Notes in respect of each amount so paid.

### **Transfer**

If a holder of a beneficial interest in the Notes represented by a Global Certificate wishes at any time to transfer such beneficial interest to a person who wishes to take delivery thereof in the form of a beneficial interest in another Global Certificate, such holder may transfer such beneficial interest only in accordance with the procedures set out in the relevant Global Certificate.

### **Exchange**

The following will apply in respect of transfers of Notes held in Euroclear or Clearstream, Luxembourg. These provisions will not prevent the trading of interests in the Notes within a clearing system whilst they are held on behalf of such clearing system, but will limit the circumstances in which the Notes may be withdrawn from the relevant clearing system.

Transfers of the holding of Notes represented by any Global Certificate pursuant to Condition 3(a) may only be made in part:

- (i) if the relevant clearing system is closed for business for a continuous period of 14 days (other than by reason of holidays, statutory or otherwise) or announces an intention permanently to cease business or in fact does so; or
- (ii) with the consent of the Issuer,

provided that, in the case of the first transfer of part of a holding pursuant to paragraph (i) above, the holder of the Notes represented by this Global Certificate has given the Registrar not less than 30 days’ notice at its Specified Office of the holder’s intention to effect such transfer. Where the holding of Notes represented by a Global Certificate is only transferable in its entirety, the Certificate issued to the transferee upon transfer of

such holding shall be a Global Certificate. Where transfers are permitted in part, Certificates issued to transferees shall not be Global Certificates unless the transferee so requests and certifies to the Registrar that it is, or is acting as a nominee for, Clearstream, Luxembourg, Euroclear and/or an alternative clearing system.

### **Amendment to Conditions**

The Global Certificate contains provisions that apply to the Notes that it represents, some of which modify the effect of the Conditions set out in this Offering Memorandum. The following is a summary of those provisions:

### **Payments**

All payments in respect of Notes represented by a Global Certificate will be made to, or to the order of, the person whose name is entered on the Register at the close of business on the Clearing System Business Day immediately prior to the date for payment, where Clearing System Business Day means Monday to Friday inclusive except 25 December and 1 January. For the purpose of any payments made in respect of a Global Certificate, the words “in the relevant place of presentation”, shall not apply in the definition of “business day” in Condition 9(c).

### **Meetings**

The holder of the Notes represented by a Global Certificate shall (unless such Global Certificate represents only one Note) be treated as being two persons for the purposes of any quorum requirements of a meeting of Noteholders and, at any such meeting, all holders of the Notes are entitled to one vote in respect of each €1,000 in aggregate principal amount of Notes comprising such Noteholder’s holding.

### **Trustee’s Powers**

In considering the interests of Noteholders while any of the Notes are registered in the name of any nominee for, a clearing system, the Trustee may have regard to any information provided to it by such clearing system or its operator as to the identity (either individually or by category) of its accountholders with entitlements to the Notes and may consider such interests as if such accountholders were the holders of the Notes represented by such Global Certificate.

### **Amendments**

While any Global Certificate is registered in the name of any nominee for, a clearing system, for the purpose of determining whether a written resolution has been validly passed the Issuer and the Trustee shall be entitled to rely on consent or instructions given by accountholders in the clearing system with entitlements to such Global Certificate or, where the accountholders hold any such entitlement on behalf of another person, on consent from or instruction by the person for whom such entitlement is ultimately beneficially held, whether such beneficiary holds directly with the accountholder or via one or more intermediaries and provided that, in each case, the Issuer and the Trustee have obtained commercially reasonable evidence to ascertain the validity of such holding and have taken reasonable steps to ensure that such holding does not alter following the giving of such consent or instruction and prior to the effecting of such amendment. Any resolution passed in such manner shall be binding on all Noteholders, even if the relevant consent or instruction proves to be defective. As used in this paragraph, “**commercially reasonable evidence**” includes any certificate or other document issued by Euroclear, Clearstream, Luxembourg or any other relevant clearing system, or issued by an accountholder of them or an intermediary in a holding chain, in relation to the holding of interests in the Notes. Any such certificate or other document shall, in the absence of manifest error, be conclusive and binding for all purposes. Any such certificate or other document may comprise any form of statement or print out of electronic records provided by the relevant clearing system (including Euroclear’s EUCLID or Clearstream, Luxembourg’s Creation Online system) in accordance with its usual procedures and in which the accountholder of a particular principal or nominal amount of the Notes is clearly identified together with the

amount of such holding. The Issuer shall not be liable to any person by reason of having accepted as valid or not having rejected any certificate or other document to such effect purporting to be issued by any such person and subsequently found to be forged or not authentic.

## DESCRIPTION OF THE ISSUER

### General

Lunar Funding V PLC is a public company incorporated with limited liability in Ireland, was incorporated on 14th May, 2004 with registered number 386042 under the Irish Companies Acts 1963 to 2013 (as amended) and its registered office is 5 Harbourmaster Place, International Financial Services Centre, Dublin 1, Ireland (Telephone number: 00 353 1680 6000). Lunar Funding V PLC has been established as a special purpose vehicle for the purpose of issuing asset backed securities. Lunar Funding V PLC has been incorporated for an indefinite period. The authorised share capital of Lunar Funding V PLC is EUR40,000 divided into 40,000 Ordinary Shares of EUR1 each ("**Lunar Funding V Shares**"), all of which have been issued and fully paid up; 39,994 of the Lunar Funding V Shares are registered in the name of Deutsche International Finance (Ireland) Limited as the Irish share trustee (the "**Irish Share Trustee**") and the remaining six are held by nominees of the Irish Share Trustee. The Lunar Funding V Shares are held by the Irish Share Trustee under the terms of a declaration of trust ultimately for a specified charity or charities but, while any Notes or Permitted Loans issued by Lunar Funding V PLC are outstanding, the Irish Share Trustee shall not transfer or otherwise dispose of all or any of such shares except to a new or additional share trustee in accordance with the terms of such declaration of trust.

### Business

Lunar Funding V PLC has not engaged, since its incorporation, in any activities other than those incidental to its incorporation under the Irish Companies Acts 1963 to 2013 (as amended), the accession to the Programme, the authorisation and issue of series of Notes, the matters referred to or contemplated in this Offering Memorandum and the authorisation, execution, delivery and performance of the other documents to which it is or will be a party and matters which are incidental or ancillary to the foregoing. The principal objects of Lunar Funding V PLC are set forth in Clause 3.1 of its Memorandum of Association and include, inter alia, financing, re-financing and management of financial assets, the purchase, dealing, acquisition or otherwise of financial assets by any means, including loans, bonds or other obligations, the extension of credit and any security therefore and the raising and borrowing of money and the granting of security over its assets for such purposes. Lunar Funding V PLC has the corporate power and capacity to issue Notes and enter into Permitted Loans, to acquire the Underlying Assets and assets secured in respect of the Permitted Loans and to enter into and perform the agreements to which it is or may become party as described in this Offering Memorandum.

So long as any of the Notes issued and/or Permitted Loans entered into by Lunar Funding V PLC remains outstanding, Lunar Funding V PLC shall not, without the consent of the Trustee, incur any other indebtedness for borrowed moneys or engage in any business (other than acquiring and holding the Underlying Assets and assets secured in respect of the Permitted Loans, issuing the Notes, or entering into Permitted Loans, acquiring, benefiting from or entering into any Credit Support Document, entering into any Related Agreement and issuing further series of notes and entering into related transactions as provided for in Condition 6 (Covenants and Restrictions)), declare any dividends, have any subsidiaries or employees, purchase, own, lease or otherwise acquire any real property (including office premises or like facilities), consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entity to any person (otherwise than as contemplated in the Conditions and the Trust Deed) or issue any shares (other than such shares as were in issue on 2nd June, 2004).

Lunar Funding V PLC has, and will have, no net assets other than the sum of EUR40,000 representing the issued and paid-up share capital, such fees (as agreed) per issue payable to it in connection with the issue of relevant Notes and Permitted Loans or the purchase, sale or incurring of other obligations and any Underlying

Assets derived therefrom and bank balances to be used to pay Lunar Funding V Limited's costs in relation to the Programme and each Series of Notes and/or Permitted Loans. Lunar Funding V PLC has no subsidiaries.

The Notes and Permitted Loans issued by Lunar Funding V PLC are obligations of Lunar Funding V PLC alone and not of the Irish Share Trustee, the Irish Manager or the Trustee. Furthermore, they are not obligations of, or guaranteed in any way by, the Arranger, or any Dealer or Counterparty.

Deutsche International Corporate Services (Ireland) Limited (the "**Irish Manager**"), whose registered office is at 5 Harbourmaster Place, International Financial Services Centre, Dublin 1 has been appointed Irish Manager for the purposes of providing certain management services to Lunar Funding V PLC. Such services will be provided subject to the terms of a Management Agreement dated 12th October, 2004 between Lunar Funding V PLC, the Trustee and the Irish Manager. The significant business activities of the Irish Manager include the provision of management and administration services to special purpose vehicles. Documentation should be executed by the Irish Manager directly wherever possible. UK execution is not advisable.

The responsibilities of the Irish Manager include keeping and maintaining Lunar Funding V PLC's accounts and records, providing treasury/cash management systems where considered appropriate and implementing the necessary information systems to track the assets and liabilities, bank balances and investment profiles of Lunar Funding V PLC.

Under the Management Agreement executed by Lunar Funding V PLC, the Trustee and the Irish Manager, Lunar Funding V PLC may terminate the appointment of the Irish Manager at any time (by giving not less than 30 days' prior written notice to the Irish Manager), and shall require the retirement of the Irish Manager upon (inter alia) the insolvency, bankruptcy or liquidation of the Irish Manager, or its failure to make any payment under such Management Agreement or at the option of Lunar Funding V PLC provided all fees due and payable to the Irish Manager have been paid. The Irish Manager may retire from its appointment at any time giving not less than 30 days' prior written notice to Lunar Funding V PLC. Any such retirement is only effective on a replacement Irish Manager acceptable to Lunar Funding V PLC being appointed on similar terms to the Management Agreement.

Pursuant to an Advisory Agreement dated 12th October, 2004 between the Irish Manager and The Royal Bank of Scotland plc (in this capacity, the "**Advisor**"), the Irish Manager will be advised by the Advisor in the performance of certain of its functions as Irish Manager. The responsibilities of the Advisor include providing banking, treasury and cash management facilities, advising on management information systems, advising on the appointment of agents of Lunar Funding V PLC, providing signatories where necessary to meet the obligations of Lunar Funding V PLC, undertaking bank reconciliations and assisting in any activities that the Irish Manager may undertake for Lunar Funding V PLC.

The Advisory Agreement may be terminated forthwith if either party goes into liquidation or commits a material breach of the Advisory Agreement or if the relevant Management Agreement is terminated or the Irish Manager ceases to act as manager under the Management Agreement and no successor manager is appointed. Lunar Funding V PLC may require the Manager to terminate the Advisory Agreement whereupon the Manager shall give not less than 30 days' prior written notice of such termination to the Advisor. The Advisor may retire its appointment by giving not less than 30 days' prior written notice but such retirement will not be effective until a replacement Advisor acceptable to both Lunar Funding V PLC and the Irish Manager is appointed.

## **Board of Management**

The Directors of Lunar Funding V PLC, all of whom are employees of Deutsche International Corporate Services (Ireland) Limited are as follows as at the date of this Offering Memorandum:

<b>Name</b>	<b>Occupation</b>
Adrian Bailie	Company Director
David McGuinness	Company Director

The business address of each of the Directors is c/o 5 Harbourmaster Place, International Financial Services Centre, Dublin 1.

### **Financial Statements**

Since the date of its incorporation Lunar Funding V PLC has published financial statements in respect of the periods ending 31st December, 2004, 31st December 2005, 31st December 2006, 31 December 2007, 31 December 2008, 31 December 2009, 31 December 2010, 31 December 2011 and 31 December 2012. These and any future financial statements prepared for Lunar Funding V PLC will be available from the registered office of Lunar Funding V PLC and the specified office of the Paying Agent in London, as described on page 151. The Trust Deed requires the Issuer to provide written confirmation to the Trustee, on an annual basis, that no Event of Default or other matter which is required to be brought to the Trustee's attention has occurred.

### **Auditors**

The auditors of Lunar Funding V PLC are Deloitte & Touche, a member of the Association of Chartered Certified Accountants. Deloitte & Touche is a registered auditor in the United Kingdom and Ireland.

The address of the auditors is as follows:

Deloitte & Touche House  
Earlsfort Terrace  
Dublin 2  
Ireland

## **INFORMATION CONCERNING THE PURCHASE OF THE ORIGINAL COLLATERAL**

On the Issue Date, pursuant to the Purchase Agreement, the Issuer will acquire the Original Collateral from the Original Collateral Obligor, which will be registered in the name of the Issuer and any certificate(s) issued in respect thereof will be held by the Custodian acting through its London office pursuant to the Agency Agreement subject to the security interests in favour of the Trustee created by the Trust Deed.

Under the Purchase Agreement, (i) the Original Collateral Obligor has given certain representations and warranties to the Issuer and agreed to indemnify the Issuer against certain liabilities and (ii) the Issuer has given certain representations and warranties to the Original Collateral Obligor and agreed to indemnify the Original Collateral Obligor against certain liabilities.

The Original Collateral Obligor has acknowledged the assignments by way of security of the Issuer's rights under the Purchase Agreement to the Trustee. For a description of these assignments see "*Overview of the Offering - Mortgaged Property*".

Information about the Original Collateral is set out in the Original Collateral Obligor's Information Memorandum set out as Appendix 1 to this Offering Memorandum.

## **INFORMATION CONCERNING THE ORIGINAL COLLATERAL OBLIGOR**

Information about the Original Collateral Obligor is contained in the Original Collateral Obligor's Information Memorandum set out in Appendix 1 to this Offering Memorandum.

The Common Stock of the Original Collateral Obligor is listed on the SIX Swiss Exchange.

## IRELAND TAX CONSIDERATIONS

*The following is a summary based on the laws and practices currently in force in Ireland regarding the tax position of investors beneficially owning their Notes and should be treated with appropriate caution. Particular rules may apply to certain classes of taxpayers holding Notes. 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.*

### Withholding Tax

In general, tax at the standard rate of income tax (currently 20%) is required to be withheld from payments of Irish source interest. However, an exemption from withholding on interest payments exists under Section 64 of the Taxes Consolidation Act, 1997 (the “**1997 Act**”) for certain underlying securities (“**quoted Eurobonds**”) issued by a body corporate (such as the Issuer) that are interest bearing and quoted on a recognised stock exchange (which would include the Irish Stock Exchange).

Any interest paid on such quoted Eurobonds can be paid free of withholding tax provided:

- the person by or through whom the payment is made is not in Ireland; or
- the payment is made by or through a person in Ireland, and either:
  - the quoted Eurobond is held in a clearing system recognised by the Irish Revenue Commissioners (DTC, Euroclear and Clearstream, Luxembourg are so recognised); or
  - the person who is the beneficial owner of the quoted Eurobond and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to the person by or through whom the payment is made in the prescribed form.

So long as the Notes are quoted on a recognised stock exchange and are held in DTC, Euroclear and/or Clearstream, Luxembourg, interest on the Notes can be paid by the Issuer and any paying agent acting on behalf of the Issuer without any withholding or deduction for or on account of Irish income tax.

If, for any reason, the quoted Eurobond exemption referred to above ceases to apply, the Issuer can still pay interest on the Notes free of withholding tax provided it is a “**qualifying company**” (within the meaning of Section 110 of the 1997 Act) and provided the interest is paid to a person resident in a “**relevant territory**” (i.e. a member state of the European Union (other than Ireland) or a country with which Ireland has a double taxation agreement which has the force of law, or a country with which Ireland has signed a comprehensive double taxation agreement which will on the completion of certain procedures have the force of law). For this purpose, residence is determined by reference to the law of the country in which the recipient claims to be resident. This exemption from withholding tax will not apply, however, if the interest is paid to a company in connection with a trade or business carried on by it through a branch or agency located in Ireland.

In certain circumstances, Irish tax will be required to be withheld at the standard rate from interest on any quoted Eurobond, where such interest is collected by a bank or other Agent in Ireland on behalf of any Noteholder.

## **Taxation of Noteholders**

Notwithstanding that a Noteholder may receive interest on the Notes free of withholding tax, the Noteholder may still be liable to pay Irish income tax. Interest paid on the Notes may have an Irish source and therefore be within the charge to Irish income tax and levies. Ireland operates a self assessment system in respect of income tax and any person, including a person who is neither resident nor ordinarily resident in Ireland, with Irish source income comes within its scope.

However, interest on the Notes will be exempt from Irish income tax if:

- (a) the Notes are quoted Eurobonds, are exempt from withholding tax as set out above and the recipient of the interest is:
  - (i) a company which is resident in a relevant territory; or
  - (ii) a company:
    - (A) which is controlled, directly or indirectly, by persons who are resident in a relevant territory who are not, themselves, controlled directly or indirectly by Irish residents; or
    - (B) the principal class of shares of which are substantially and regularly traded on a recognised stock exchange in Ireland or a relevant territory; or
    - (C) the recipient of the interest is resident in a relevant territory and either:
      - (I) the Issuer is a qualifying company; or
      - (II) if the Issuer has ceased to be a qualifying company, the recipient of the interest is a company and the relevant territory in which the company is resident imposes a tax that generally applies to interest receivable in that territory by companies from sources outside it, or the interest is exempt from income tax under the provisions of a double taxation agreement that was then in force when the interest was paid or would have been exempt had a double taxation agreement that was signed at the date the interest was paid been in force at that date.

Notwithstanding these exemptions from income tax, a corporate recipient that carries on a trade in Ireland through a branch or agency in respect of which the Notes are held or attributed may have a liability to Irish corporation tax on the interest.

Noteholders receiving interest on the Notes which does not fall within the above exemptions may, in limited circumstances, be liable to Irish income tax and the universal social charge on such interest.

## **Capital Gains Tax**

A holder of Notes will be subject to Irish tax on capital gains on a disposal of Notes unless such holder is neither resident nor ordinarily resident in Ireland and does not carry on a trade in Ireland through a branch or agency in respect of which the Notes are used or held.

## **Capital Acquisitions Tax**

A gift or inheritance comprising Notes will be within the charge to capital acquisitions tax if either (i) the donor or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the donor is domiciled in Ireland irrespective of his residence or that of the donee/successor) or (ii) if the Notes are regarded as property situated in Ireland. Registered notes are

generally regarded as situated where the principal register is maintained or obliged to be maintained, but the Notes may be regarded as situated in Ireland regardless of the location of the register where they are secured over Irish property, and they themselves secure a debt due by an Irish resident debtor. Accordingly, if such Notes are comprised in a gift or inheritance, the gift or inheritance may be within the charge to tax regardless of the residence status of the disponer or the donee/successor.

### **Stamp Duty**

On the basis of an exemption provided for in Section 85(2)(c) to the Stamp Duties Consolidation Act, 1999 provided the proceeds of the Notes are used in the course of the Issuer's business, no stamp duty or similar tax is imposed in Ireland on the issue, transfer or redemption of the Notes.

### **EU Savings Directive**

The Council of the European Union has adopted a directive regarding the taxation of interest income known as the **"European Union Directive on the Taxation of Savings Income (Directive 2003/48/EC)"**.

The directive requires EU member states to provide to the tax authorities of other EU member states details of payments of interest and other similar income paid by a person established within its jurisdiction to (or for the benefit of) an individual or certain other persons in that other EU member state, except that Austria and Luxembourg will instead impose a withholding system for a transitional period. The Luxembourg government has announced its intention to elect out of the withholding system in favour of an automatic exchange of information with effect from 1 January 2015.

Any Irish paying agent making an interest payment on behalf of the Issuer to an individual, and certain residual entities defined in the 1997 Act, resident in another EU member state and certain associated and dependent territories of a member state will have to provide details of the payment to the Irish Revenue Commissioners who in turn will provide such information to the competent authorities of the state or territory of residence of the individual or residual entity concerned. On 15 September 2008, the European Commission issued a report to the Council of the European Union on the operations of the Directive, which included the Commission's advice on the need for changes to the Directive. On 13 November 2008, the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. The European Council has now adopted certain amendments to the Directive which will, when implemented, amend or broaden the scope of the requirements described above.

## SUBSCRIPTION AND SALE

Subject to the terms and conditions contained in the syndication agreement (the “**Syndication Agreement**”) with The Royal Bank of Scotland plc, Landesbank Baden-Württemberg, UniCredit Bank AG, BNP Paribas, Deutsche Bank AG, London Branch and UBS Limited (together, the “**Managers**”) with respect to the Notes, the Issuer has agreed to sell to the Managers identified below, and the Managers have jointly and severally agreed to purchase from the Issuer, the Notes.

The Managers will purchase the Notes at a customary discount from the price indicated on the cover of this Offering Memorandum and propose initially to offer and sell the Notes at the issue price set forth on the front of this Offering Memorandum. After the initial offering of the Notes, the price at which the Notes are being offered may be changed at any time without notice. The offering of the Notes by the Managers is subject to receipt and acceptance and subject to the Managers’ right to reject any order in whole or in part.

### Indemnification

The Issuer has agreed to indemnify the several Managers against certain liabilities or to contribute to payments that the Managers may be required to make in respect of those liabilities.

### Selling Restrictions

#### United States

The Notes have not been registered under the Securities Act or any state securities laws, and unless so registered, may not be offered or sold within the U.S., or to or for the account or benefit of, U.S. persons (as defined in Regulation S under 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.

Each of the Managers has acknowledged and agreed that, except as permitted by the Syndication Agreement, in connection with sales outside the United States, it will not offer, sell or deliver the Notes to, or for the account or benefit of U.S. persons (a) as part of their distribution at any time or (b) otherwise until 40 days after the later of the commencement of the offering or the date the Notes were originally issued. The Managers will send to each dealer to whom they sell the Notes in reliance on Regulation S during the 40-day 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 or benefit of, U.S. persons. Terms used in this paragraph have the meanings assigned to them in Regulation S under the Securities Act.

#### United Kingdom

Each Manager has represented and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (“**FSMA**”)) received by it in connection with the issue or sale of the Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

## **Ireland**

Each of the Managers has represented and agreed that:

- (a) it has not underwritten the issue or, or placed, or offered, or sold and will not underwrite the issue of, or place, or offer, or sell the Notes otherwise than in conformity with the provisions of S.I. No. 60 of 2007, European Communities (Markets in Financial Instruments) Regulations 2007 (Nos. 1 to 3) as amended, including, without limitation, Parts 6, 7 and 12 thereof and the provisions of the Irish Investor Compensation Act 1998 (as amended);
- (b) it has not underwritten the issue or, or placed, or offered, or sold and will not underwrite the issue of, or place, or offer, or sell the Notes, otherwise than in conformity with any rules or codes of conduct and any conditions or requirements, or any other enactment, imposed or approved by the Central Bank of Ireland including the provisions of the Central Bank Acts 1942 to 2013 (as amended) of Ireland and any codes of conduct rules made under Section 117(1) of the Central Bank Act 1998 (as amended) of Ireland;
- (c) it has not underwritten the issue or, or placed, or offered, or sold and will not underwrite the issue of, or place, or offer, or sell or do anything in Ireland in respect of the Notes otherwise than in conformity with the provisions of the Irish Prospectus (Directive 2003/71/EC) Regulations 2005 (as amended by the Prospectus Directive 2003/71/EC (Amendment) Regulations 2012) and any rules issued under section 51 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (as amended) (the “**2005 Act**”), by the Central Bank of Ireland; and
- (d) it has not underwritten the issue or, or placed, or offered, or sold and will not underwrite the issue of, or place, or offer, or sell or otherwise act in Ireland in respect of the Notes, otherwise than in conformity with the provisions of the Market Abuse (Directive 2003/6/EC) Regulations 2005 (as amended) and any rules issued by the Central Bank of Ireland under Section 34 of the 2005 Act.

## **Switzerland**

Each Manager has represented, warranted and agreed that (i) the Notes will not be publicly offered, sold or advertised in Switzerland and that it has not publicly offered, sold or advertised Notes in Switzerland and will not be listed on the SIX Swiss Exchange or on any other exchange in Switzerland and (ii) the aggregate principal amount of Notes sold as part of the primary distribution to investors resident in Switzerland will not exceed 30 per cent. of the aggregate principal amount of the Notes. The Series Prospectus does not constitute a public offering prospectus as that term is understood pursuant to art. 652a or art. 1156 of the Swiss Federal Code of Obligations or a listing prospectus within the meaning of the listing rules of the SIX Swiss Exchange.

The Notes do not constitute a participation in a collective investment scheme in the meaning of the Swiss Collective Investment Schemes Act ("CISA") and they are neither subject to approval nor supervision by the Swiss Financial Market Supervisory Authority, FINMA and investors in the Notes will not benefit from protection or supervision by such authority.

## **Relationships and Other Matters**

The Managers and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities.

Some of the Managers and their affiliates have provided from time to time, and may in the future provide, various financial advisory, investment banking and commercial banking services for the Issuer, for which they have received or will receive customary fees, commissions and reimbursement of expenses and they expect to provide these services to the Issuer in the future, for which they expect to receive customary fees and commissions.

In addition, in the ordinary course of their various business activities, the Managers and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investment and securities activities may involve securities and instruments of the Issuer. Certain of the Managers and their affiliates that have a lending relationship with the Issuer routinely hedge their credit exposure to the Issuer consistent with their customary risk management policies. Typically, such Managers and their affiliates would hedge such exposure by entering into transactions that consist of either the purchase of credit default swaps or the creation of short positions in our securities, including potentially the Notes offered hereby, or securities of its affiliates. Any such short positions could adversely affect future trading prices of the Notes. The Managers and their respective affiliates may also make investment recommendations or publish or express independent research views in respect of such securities or financial instruments and may at any time hold, or recommend to clients that they acquire, long or short positions in such securities and instruments.

## GENERAL INFORMATION

- (1) The Issuer has obtained all necessary consents, approvals and authorisations in connection with the issue and performance of the Notes. The issue of the Notes was authorised by resolutions of the Board of Directors passed on 1 April 2014.
- (2) There has been no significant change in the financial or trading position of the Issuer and no material adverse change in the financial position or prospects of the Issuer, in each case, since the date of its last published audited financial statements.
- (3) The Issuer has not been involved in any governmental, legal or arbitration proceedings (including any such proceedings that are pending or threatened of which the Issuer is aware) during the 12 months preceding the date of this Offering Memorandum that may have, or have had in the recent past, significant effects on its financial position or profitability.
- (4) Notes have been accepted for clearing through the Euroclear and Clearstream, Luxembourg systems (these being the entities in charge of keeping the records). The Common Code is 105107692 and the International Securities Identification Number (ISIN) is XS1051076922. The address of Euroclear is 1 Boulevard du Roi Albert II, B-1210 Brussels, Belgium and the address of Clearstream, Luxembourg is 42 Avenue JF Kennedy L-1855 Luxembourg.
- (5) The Issuer does not intend to provide post issuance information.
- (6) The total expenses related to the admission to trading on the Irish Stock Exchange are €5,291.20.
- (7) Moody's Investors Service, Inc. is not established in the European Union and has not made an application to be registered for the purposes of the EU Regulation on credit rating agencies (Regulation (EC) No.1060/2009), as amended (the "**CRA Regulation**"). Standard & Poor's Credit Market Services Europe Limited is established in the European Union and is registered under the CRA Regulation.
- (8) None of the websites specified in this Offering Memorandum form part of this Offering Memorandum.
- (9) For so long as Notes may be issued pursuant to this Offering Memorandum and for so long as any listed Notes remain outstanding, from the date of the relevant document, the following documents will be available, during usual business hours on any weekday (Saturdays, Sundays and public holidays excepted) for inspection in physical form at the registered office of the Issuer and at the specified office of the Issuing and Paying Agent:
  - (i) the Issue Deed relating to the Notes and each document incorporated by reference into such Issue Deed;
  - (ii) the Memorandum and Articles of Association of the Issuer;
  - (iii) the Programme Deed;
  - (iv) a copy of this Offering Memorandum together with any document incorporated by reference in this Offering Memorandum, or any other document required or permitted to be published by the rules of the Irish Stock Exchange;
  - (v) all audited annual financial statements of the Issuer as and when published; and
  - (vi) the Syndication Agreement for the Notes.

**APPENDIX 1**  
**ORIGINAL COLLATERAL OBLIGOR'S INFORMATION MEMORANDUM**

The page numbering in the Original Collateral Obligor's Information Memorandum set out in Appendix 1 to this Offering Memorandum follows the page numbering in the Original Collateral Obligor's Information Memorandum and not the page numbering in this Offering Memorandum.

*[Remainder of page intentionally left blank]*



**Swisscom AG**  
**€500,000,000**  
**1.875% Loan Notes due 2021**

The €500,000,000 1.875% Loan Notes due 2021 (the “Loan Notes”) will be issued by Swisscom AG (the “Company”) on 8 April 2014 (the “Issue Date”). Initially, only one Loan Note will be issued in this offering (the “Loan Notes Offering”).

The Loan Notes will mature on 8 September 2021 (the “Maturity Date”). The Loan Notes will bear interest at a fixed rate of 1.875% per annum. Interest will be paid on the Notes in arrear on 8 September 2014 and thereafter on 8 September in each year up to and including the Maturity Date. Subject to the conditions, the Loan Notes may be transferred only in amounts of €100,000 and integral multiples of €1,000 in excess thereof.

Subject to certain exceptions described under “*Terms and Conditions of the Loan Notes – Restrictions on Security (Negative Pledge)*”, the Company’s obligations under the Loan Notes constitute unsecured and unsubordinated obligations and shall at all times rank *pari passu* and without any preference among themselves. Subject to the same exceptions, and except as provided by applicable legislation, the Company’s payment obligations under the Loan Notes shall at all times rank at least equally with all of the Company’s other present and future unsecured and unsubordinated obligations.

The Loan Notes will be represented by definitive certificates in registered form. The Loan Notes will not be listed on any securities exchange.

**None of the Loan Notes have been or will be registered under the U.S. Securities Act of 1933, as amended (the “Securities Act”). The Loan Notes may not be offered or sold within the United States or to U.S. persons. The Loan Notes are subject to significant restrictions on transfer. See “*Offering and Transfer Restrictions*”.**

**See “*Risks Related to the Loan Notes and the Loan Notes Offering*” beginning on page 6 of this Information Memorandum and “*Management Commentary – Risk factors*” beginning on page 68 of the Company’s 2013 Annual Report Excerpts (as defined herein) incorporated by reference herein for a discussion of certain factors that should be considered by prospective investors.**

The Loan Notes are not deposits with the Company. None of the Loan Notes are insured by any governmental agency. Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved any of these securities or determined if this Information Memorandum is truthful or complete. Any representation to the contrary is a criminal offence.

**The date of this Information Memorandum is 3 April 2014**

Each investor contemplating purchasing the Loan Notes should make its own independent investigation of the Company's financial condition and affairs, and its own appraisal of the Company's creditworthiness.

No person has been authorised to give any information or to make any representation other than those contained in this Information Memorandum in connection with the issue or sale of the Loan Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Company.

The offer, sale and delivery of the Loan Notes and the distribution of this Information Memorandum in certain jurisdictions may be restricted by law. Persons into whose possession this Information Memorandum comes are required to inform themselves about and to observe any such restriction. In particular, the Loan Notes have not been, and will not be, registered under the Securities Act and may not be offered, sold or delivered within the United States. In addition, each holder of Loan Notes (a "Noteholder") must be a Qualifying Bank (as defined in the Terms and Conditions of the Loan Notes (the "Conditions"), included in this Information Memorandum under "*Terms and Conditions of the Loan Notes*"); provided, however, that one single Permitted Non-Bank Lender (as defined in the Conditions) may also be a Noteholder. For a description of the restrictions on resales and other transfers of the Loan Notes, see "*Offering and Transfer Restrictions*".

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In this Information Memorandum, unless the context otherwise requires, the “Issuer” and the “Company” refer to Swisscom AG, whereas “Swisscom,” the “Swisscom Group,” the “Group,” “we,” “us” and “our” refer to Swisscom AG and its consolidated subsidiaries. The term “Confederation” refers to the Swiss Confederation.

## PRESENTATION OF FINANCIAL INFORMATION

Swisscom publishes its financial statements in Swiss francs (“CHF”). Unless otherwise indicated, all amounts in this Information Memorandum are expressed in Swiss francs. Solely for the convenience of the reader, certain amounts denominated in foreign currencies appearing primarily under the heading “*Management Commentary*” in the 2013 Annual Report Excerpts (as such term is defined under “*Documents Incorporated by Reference*” below) have been translated into CHF. These translations should not be construed as representations that the amounts referred to actually represent such translated amounts or could be converted into the translated currency at the rate indicated.

Swisscom’s annual audited consolidated financial statements for the years ended 31 December 2012 and 2013 included in the 2013 Annual Report Excerpts and its annual audited consolidated financial statements for the years ended 31 December 2011 and 2012 included in the 2012 Annual Report Excerpts were prepared in accordance with International Financial Reporting Standards (“IFRS”).

## SOURCES OF INFORMATION

Swisscom’s financial statement data as of, and for the years ended, 31 December 2012 and 2013 included in this Information Memorandum has been derived from Swisscom’s audited consolidated financial statements as of, and for the years ended, 31 December 2012 and 2013, which are included in the 2013 Annual Report Excerpts.

Unless otherwise noted, the financial data set forth in the financial tables included under the heading “*Selected Historical Key Financial Information*” in this Information Memorandum and “*Management Commentary – Group Financial Review*” in the 2013 Annual Report Excerpts and under the heading “*Group Financial Review*” have been derived from Swisscom’s audited consolidated financial statements.

Except where market or market share data is attributed to another source, all market and market share data included in this Information Memorandum is based on Swisscom’s own estimates. These estimates are based upon Swisscom’s experience in the telecommunications industry and its familiarity with the global telecommunications market. While Swisscom believes these estimates to be reliable, it has not verified them with independent sources.

## FORWARD-LOOKING STATEMENTS

Certain statements contained in this Information Memorandum and the 2012 Annual Report Excerpts and the 2013 Annual Report Excerpts are forward-looking. These statements provide expectations of future events based on certain assumptions and may include any statement that does not directly relate to a historical fact or current fact. In addition, other written or oral statements, which constitute forward-looking statements, have been made and may in the future be made by or on behalf of Swisscom. Such forward-looking statements may be found, in particular, under the heading “*Management Commentary*” in the 2013 Annual Report Excerpts and include, without limitation, statements relating to:

- the implementation of strategic initiatives;
- the development of revenue overall and within specific business areas;
- the development of operating expenses;
- the anticipated level of capital expenditures and associated depreciation expense; and
- other statements relating to Swisscom’s future business development and economic performance.

The words “anticipate”, “believe”, “expect”, “estimate”, “intend”, “plan” and similar expressions identify certain of these forward-looking statements. Readers are cautioned not to put undue reliance on forward-looking statements because actual events and results may differ materially from the expected results described by such forward-looking statements.

Many factors may influence Swisscom’s actual results and cause them to differ materially from expected results as described in forward-looking statements. Such factors include:

- general market trends affecting demand for telecommunications and information technology services;
- developments in the interpretation and application of existing telecommunication regulations in Switzerland and the possibility that additional regulations may be imposed in the future;
- developments in technology, particularly the timely roll-out of equipment;
- the evolution of Swisscom’s strategic partnerships and acquisitions, including costs associated with possible future acquisitions and dispositions;
- the effects of tariff reductions and other marketing initiatives;
- the outcome of litigation in which Swisscom is involved; and
- macroeconomic trends, governmental decisions and regulatory policies affecting businesses in Switzerland generally, including changes in the level of interest or tax rates.

Swisscom disclaims any intention or obligation to update and revise any forward-looking statements, whether as a result of new information, future events or otherwise.

## DOCUMENTS INCORPORATED BY REFERENCE

Document	Pages Incorporated
<b>A. The following sections of the Swisscom 2013 Annual Report:</b>	
Management Commentary (excluding —Supplement and outlook) .....	12-65; 67-70
Corporate Governance.....	117-136
Consolidated Financial Statements.....	150-221
Glossary.....	239-244
(together, the “2013 Annual Report Excerpts”)	
<b>B. The following sections of the Swisscom 2012 Annual Report:</b>	
Consolidated Financial Statements.....	148-216
Glossary.....	232-238
(together, the “2012 Annual Report Excerpts”)	

The information contained in each document incorporated by reference herein is given as of the date of such document. Such information shall be deemed to be incorporated in, and form part of, this Information Memorandum, save that any statement contained in a document which is deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this document to the extent that a statement contained herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise). Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Memorandum.

Other than the sections specified above and specifically incorporated by reference in this Information Memorandum, such documents do not form part of this Information Memorandum and the contents of Swisscom’s internet website do not form part of this Information Memorandum and, in each case, should not be relied upon for the purposes of forming an investment decision with respect to the Loan Notes.

You may obtain a copy of the 2012 Annual Report Excerpts and the 2013 Annual Report Excerpts by visiting the Issuer’s website at:

- <http://www.swisscom.ch/content/dam/swisscom/en/about/investors/reports/2012/2012-annual-report.pdf> (for the 2012 Annual Report Excerpts); and
- <http://www.swisscom.ch/content/dam/swisscom/de/about/investoren/documents/2014/2013-annual-results.pdf.res/2013-annual-results.pdf> (for the 2013 Annual Report Excerpts),

or upon request at the principal office of the Issuer.

## OVERVIEW

*This overview should be read as an introduction to this Information Memorandum and the information incorporated by reference herein. You should read the Information Memorandum, the 2012 Annual Report Excerpts and the 2013 Annual Report Excerpts carefully and in their entirety, including the “Management Commentary – Risk Factors” section of the 2013 Annual Report Excerpts, Swisscom’s audited consolidated financial statements included in the 2013 Annual Report Excerpts and the respective notes to such consolidated financial statements.*

### Company Overview

Swisscom is Switzerland’s leading telecoms provider, with 6.4 million mobile customers and approximately 1.81 million broadband connections as of 31 December 2013. Swisscom has a presence throughout Switzerland and offers a full range of products and services for mobile, landline and Internet Protocol (IP)-based voice and data communication and television. Swisscom is making significant investments in network infrastructure to maintain its broad service offering in the future. Swisscom is also active in one of the most attractive broadband markets in Europe via the Italian broadband telecommunications company Fastweb. In addition, Swisscom offers services for IT infrastructure outsourcing as well as the management of communications infrastructures.

The Company and its four Group divisions: Group Business Steering, Group Strategy & Innovation, Group Communication & Responsibility and Group Human Resources, together with its subsidiaries, make up the Swisscom Group. Swisscom’s financial reporting focuses on three operating divisions: Swisscom Switzerland, Fastweb and Other Operating Segments. Swisscom Switzerland is the contact partner for telecoms and data services in Switzerland, while in Italy the contact partner is Fastweb.

For the purposes of segment reporting in the consolidated financial statements, reporting is divided into the segments “Residential Customers”, “Small and Medium-Sized Enterprises”, “Corporate Business”, “Wholesale” and “Network & IT”, which are grouped together as “Swisscom Switzerland”, as well as “Fastweb” and “Other Operating Segments”. The wireline and mobile communications infrastructures and IT platforms are incorporated in a single division “Networks & IT” with an integrated network and IT unit responsible for driving convergence and the migration of the networks to an integrated IT and IP -based network platform (All-IP).

Swisscom believes that this Group structure provides customers with access to a full complement of services offered, all from a single source. The structure also reflects changes in technology, including the trend towards the convergence of wireline and mobile communications, IT, media and entertainment (TIME market), and provides customers a single point of contact for simple and efficient solutions.

In 2013, the Swisscom Group’s 20,108 employees (full time equivalents as of 31 December 2013) generated revenues of CHF 11.434 billion.

In order to offer business customers one-stop offerings and speed up the delivery of cloud-based solutions, Swisscom has bundled its Corporate Business, Network & IT and Swisscom IT Services activities. From 1 January 2014, all corporate customers will be served by the new Enterprise Customers division, making it one of the biggest integrated ICT providers for large companies in Switzerland. The IT, Network & Innovation division will be responsible for the operation of all IT systems, including the IT platforms previously managed by Swisscom IT Services, and for the development and production of standardized IT and network services for the entire Swisscom Group. The integration of Swisscom IT Services in Swisscom Switzerland will result in a simplified Group structure.

## The Loan Notes

Issuer .....	Swisscom AG
Securities .....	€500,000,000 1.875% Loan Notes due 2021 (the “Loan Notes”)
Ranking.....	Unsecured and unsubordinated
Currency .....	Euro
Principal Amount.....	€500,000,000
Issue Date .....	8 April 2014
Maturity Date.....	8 September 2021
Interest Rate.....	1.875% fixed rate, payable annually in arrear each year.
Interest Payment Date.....	8 September in each year up to and including the Maturity Date. There will be a short first coupon in respect of the period from and including the Issue Date to but excluding 8 September 2014.
Denominations.....	€100,000 and integral multiples of €1,000 in excess thereof.
Form .....	Registered definitive certificates.
Listing.....	The Loan Notes will not be listed.
Restrictions on Security (Negative Pledge).....	The Company will not create any mortgage, charge, lien, pledge or other security interest upon the whole or any part of its present or future undertaking, assets or revenues to secure any Relevant Indebtedness, or any guarantee or indemnity in respect of any Relevant Indebtedness without securing the Loan Notes equally and rateably, provided however that the Issuer shall not be so restricted to the extent the aggregate principal amounts so secured do not exceed CHF 1,000,000,000 and provided further that such restriction shall not apply to any encumbrance, or any guarantee or indemnity existing as of 8 April 2014. Relevant Indebtedness includes obligations of borrowed money which is or is capable of being listed (including bonds, notes, debentures and loan stock) but excluding private placements.
Optional Redemption.....	<p>The Loan Notes may be redeemed before their stated maturity for taxation reasons or upon the occurrence of a change of control in respect of the Issuer.</p> <p>The Loan Notes may also be redeemed at the option of the Issuer and following receipt of a notice from any Noteholder notifying that the Noteholder requests a liquidation of the Loan Notes held by it or that any security interest it may have granted over such Loan Notes has become enforceable.</p>
Mandatory Redemption .....	The Loan Notes do not contain a mandatory redemption provision.
Taxation.....	All payments of principal and interest by or on behalf of the Issuer in respect of the Loan Notes shall be made free and clear of, and without

withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Switzerland or any authority therein or thereof having power to tax, unless such withholding or deduction is required by law.

Governing Law ..... The Loan Notes are governed by English law.

Ratings..... The Issuer is currently rated “A” (stable)” by Standard & Poor’s Ratings Group (S&P) and “A2 (stable)” by Moody’s Investors Service, Inc. (Moody’s).

An explanation of the significance of the ratings may be obtained from the rating agencies. Generally, rating agencies base their ratings on such material and information, and such of their own investigations, studies and assumptions, as they deem appropriate. A credit rating of a security is not a recommendation to buy, sell or hold securities. There is no assurance that any rating will apply for any given period of time or that a rating may not be adjusted or withdrawn.

## SELECTED HISTORICAL KEY FINANCIAL INFORMATION

Investors should read the following selected historical key financial information with Swisscom's audited consolidated financial statements, the respective notes to such consolidated financial statements and the information under "*Management Commentary – Group Financial Review*" in the 2013 Annual Report Excerpts.

The selected historical key financial information as of, and for the years ended, 31 December 2012 and 2013 has been derived from Swisscom's audited consolidated financial statements as of, and for the years ended, 31 December 2012 and 2013, as included in the 2013 Annual Report Excerpts. Swisscom's audited annual consolidated financial statements as of, and for the years ended, 31 December 2012 and 2013 were prepared in accordance with IFRS.

		As of, and for the year ended, 31 December	
		2013	2012 <sup>(e)</sup>
		(CHF in Millions, except where indicated)	
<b>Net revenue and results</b>			
Net revenue .....		11,434	11,384
Operating income (EBITDA) <sup>(a)</sup> .....		4,302	4,477
EBITDA as % of net revenue .....	%	37.6	39.3
Operating income (EBIT) <sup>(b)</sup> .....		2,258	2,527
Net income .....		1,695	1,815
Earnings per share .....	CHF	32.53	34.90
<b>Balance sheet and cash flow</b>			
Equity at end of period .....		6,002	4,717
Equity ratio at end of period <sup>(c)</sup> .....	%	29.3	23.8
Cash flow provided by operating activities .....		4,131	4,245
Capital expenditure in property, plant and equipment and other intangible assets .....		2,445	2,561
Net debt at end of period <sup>(d)</sup> .....		7,812	8,071
<b>Employees</b>			
Number of full-time equivalent employees at end of period .....	FTE	20,108	19,514
Average number of full-time equivalent employees .....	FTE	19,746	19,771
Net revenue per employee .....	CHF thousands	579	576
EBITDA per employee .....	CHF thousands	218	226
<b>Operational data</b>			
Fixed access lines in Switzerland .....	in thousands	2,879	3,013
Broadband access lines retail in Switzerland .....	in thousands	1,811	1,727
Mobile access lines in Switzerland .....	in thousands	6,407	6,217
Swisscom TV access lines in Switzerland .....	in thousands	1,000	791
Unbundled fixed access lines in Switzerland .....	in thousands	256	300
Broadband access lines wholesale in Switzerland .....	in thousands	215	186
Broadband access lines in Italy .....	in thousands	1,942	1,767

(a) Definition of operating income (EBITDA): operating income before depreciation, amortization and impairment on tangible and intangible assets, gain on sale of subsidiaries, net financial result, share of profit of investments in associates and income tax expense.

(b) Definition of operating income (EBIT): operating income before gain on sale of subsidiaries, net financial result, share of profit of investments in associates and income tax expense.

(c) Equity as a percentage of total assets.

(d) Definition of net debt: total financial liabilities less cash and cash equivalents, current-financial assets, financial assets as well as non-current fixed interest-bearing financial investments.

(e) As disclosed in Note 3.23 of the 2013 Annual Report Excerpts, the balance sheet at 31 December 2012 has been restated following the accounting policy changes which were adopted in 2013.

## **RISK FACTORS**

*An investment in the Loan Notes involves risks. Investors should carefully consider the following risk factors, the information under “Management Commentary – Risk factors” in the 2013 Annual Report Excerpts and the other information in this Information Memorandum before making an investment decision.*

### **RISKS RELATED TO THE LOAN NOTES AND THE LOAN NOTES OFFERING**

***The Loan Notes may not be a suitable investment for all investors.***

Each potential investor in the Loan Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

(i) have sufficient knowledge and experience to make a meaningful evaluation of the Loan Notes, the merits and risks of investing in the Loan Notes and the information contained or incorporated by reference in this Information Memorandum or any applicable supplement;

(ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Loan Notes and the impact such investment will have on its overall investment portfolio;

(iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Loan Notes, including where the currency for principal or interest payments is different from the potential investor’s currency;

(iv) understand thoroughly the terms of the Loan Notes, and be familiar with the behaviour of the financial markets; and

(v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

***The Loan Notes are subject to certain transfer restrictions and will be illiquid.***

The transfer of the Loan Notes is subject to certain restrictions, including but not limited to the restrictions set out in Condition 9(a) (*Transfer*) and Condition 9(b) (*Grants of Security*) which restrict their ownership to Qualifying Banks (as defined in Condition 7 (*Taxation*)) and one Permitted Non-Bank Lender (as defined in Condition 7 (*Taxation*)). In addition, the Loan Notes are not listed or admitted to trading on any exchange and have not been accepted for clearance through any clearing system. As a result, there will be no established trading market in the Loan Notes and the Loan Notes will be illiquid. The illiquidity of the Loan Notes may have a severely adverse effect on the market value of the Loan Notes.

***The ratings assigned to the Issuer could be lowered.***

The Issuer is currently rated “A (stable)” by S&P and “A2 (stable)” by Moody’s. A downgrade or potential downgrade in these ratings, or a downgrade or potential downgrade in the ratings assigned to the Issuer’s subsidiaries or any of its securities could adversely affect the price of the Loan Notes.

***Exchange rates and exchange controls.***

Loan Notes are denominated in Euro and significant risks are entailed if such currency is other than the currency in which the prospective investor’s financial activities are denominated. Such risks include the possibility of significant changes in the currency exchange rates and the risk of imposition or modification of foreign exchange controls by the relevant government. Depreciation of the Euro would result in a decrease in the effective yield of the Loan Notes, if any, and, in certain circumstances, could result in a loss to the investor.

Governments have imposed from time to time, and may in the future impose, exchange controls which could affect exchange rates as well as the availability of a specified foreign currency at the time of payment of principal of, and premium, if any, or interest, if any, on a Loan Note.

***Changes in interest rates may adversely affect the value of the Loan Notes.***

The Loan Notes will bear interest at a fixed interest rate. If market interest rates rise, the value of the Loan Notes may fall.

***Modification***

The Conditions of the Loan Notes contain provisions for calling meetings of the Noteholders to consider matters affecting their interests generally, including the modification of certain terms and conditions of the Loan Notes. These provisions permit defined majorities to bind all Noteholders.

***The Loan Notes may be redeemed prior to maturity.***

If Swisscom becomes obligated to pay additional amounts as a result of changes in tax laws, regulations or related interpretations, or (ii) any holder of Loan Notes fails to comply with the transfer restrictions in Conditions 9(a) or (b), it may elect to redeem the Loan Notes at their principal amount together with interest accrued to the redemption date. During any period during which Swisscom may elect to redeem the Loan Notes, the market value of the Loan Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any redemption period.

If prevailing interest rates are below the interest rate on the Loan Notes at the time of such a redemption, investors generally will not be able to reinvest the redemption proceeds at an effective interest rate as high as the interest rate on the Loan Notes being redeemed and may only be able to do so at a significantly lower rate.

***Payment of additional amounts for Swiss withholding taxes may be null and void.***

Although the Conditions of the Loan Notes provide that, in the event of any withholding or deduction on account of Swiss tax being required by Swiss law, Swisscom shall, subject to certain exceptions, pay additional amounts so that the net amount received by the holders of the Loan Notes shall equal the amount which would have been received by such holder in the absence of such withholding or deduction, such an obligation may contravene Swiss legislation and be null and void.

***No assurance can be given as to the impact of any possible judicial decision or change to applicable law or administrative practice after the date of issue of the Loan Notes.***

The Conditions are based on English law in effect as of the date of this Information Memorandum. Such laws and the interpretation thereof have been and are subject to change. No assurance can be given as to the impact of any possible judicial decision or change to English law or Swiss law or administrative practice in the United Kingdom or Switzerland after the date of this Information Memorandum 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 Loan Notes without deduction of withholding tax. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice after the date of issue of the Loan Notes. Any such developments could have a material adverse effect on the Loan Notes.

For example, on 24 August 2011 the Swiss Federal Council issued draft legislation, which, if enacted, and if the Loan Notes were reclassified as taxable instruments, may require a paying agent in Switzerland to deduct Swiss withholding tax at a rate of 35 per cent. on any payment of interest in respect of a Loan Note to an individual resident in Switzerland (including if to an entity treated fiscally transparent in which an individual resident in Switzerland holds an interest) or to a person (not only an individual) resident outside Switzerland. If this legislation or similar legislation were enacted and an amount of, or in respect of, Swiss withholding tax were to be deducted or withheld from that payment, neither the Issuer nor any paying agent nor any other person would pursuant to the Conditions be obliged to pay additional amounts with respect to any Loan Note as a result of the deduction or imposition of such withholding tax.

## TERMS AND CONDITIONS OF THE LOAN NOTES

The issue of the Loan Notes was authorised by a resolution of the Board of Directors of the Issuer (the “**Board**”) passed on 12 December 2013 and the Chief Financial Officer, acting by the resolution of the Board passed on 12 December 2013. A fiscal agency agreement dated 8 April 2014 (the “**Fiscal Agency Agreement**”) has been entered into in relation to the Loan Notes between the Issuer, Deutsche Bank AG, London Branch as fiscal agent, Deutsche Bank Luxembourg S.A. as registrar and the other paying agents and transfer agents named in it. The fiscal agent, the registrar and the other paying agents and transfer agents for the time being are referred to below respectively as the “**Fiscal Agent**”, the “**Registrar**”, the “**Paying Agents**” and the “**Transfer Agents**”. The Fiscal Agency Agreement includes the form of the Loan Notes. Copies of the Fiscal Agency Agreement are available for inspection during normal business hours at the specified offices of the Paying Agents and Transfer Agents. The holders of the Loan Notes (the “**Noteholders**” and each a “**Noteholder**”) are deemed to have notice of all the provisions of the Fiscal Agency Agreement applicable to them.

### 1 Form, Denomination, Title and Transfer

- (a) **Form and denomination:** The Loan Notes will be represented by definitive certificates in registered form, serially numbered, in principal amounts of €100,000 each and integral multiples of €1,000 in excess thereof (“**authorised denominations**”). Initially, only one Loan Note will be issued in the aggregate principal amount of €500,000,000.
- (b) **Title:** Title to the Loan Notes will pass by transfer and registration as described below. The holder of any Loan Note will (except as otherwise required by law or as ordered by a court of competent jurisdiction) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest in it or its theft or loss (or that of the related certificate, as applicable) or anything written on it or the certificate representing it (other than a duly executed transfer thereof) and no person will be liable for so treating the Noteholder.  
  
In these Conditions, “**Noteholder**” and “**holder**” means the person in whose name a Loan Note is registered.
- (c) **Registration:** The Issuer will cause a register (the “**Register**”) to be kept at the specified office of the Registrar outside the United Kingdom on which will be entered the names and addresses of the Noteholders and the particulars of the Loan Notes held by them and of all transfers and redemptions of Loan Notes.
- (d) **Transfer:** Loan Notes may, subject to the terms of the Fiscal Agency Agreement and to Conditions 1(e), 1(f), 7 and 9 be Transferred (as defined in Condition 9(a)) in whole or in part in an authorised denomination (provided that, in the case of a Transfer of part only, both the Transferred part and the un-Transferred balance of the Loan Note shall be in an authorised denomination) by lodging the relevant Loan Note (with the form of transfer in respect thereof duly executed and duly stamped where applicable) at the specified office of any Paying Agent or Transfer Agent.
- (e) No Transfer of a Loan Note will be valid unless and until entered on the Register. A Loan Note may be registered only in the name of, and Transferred only to, a named person.  
  
The Registrar will, subject as aforesaid, within seven Business Days (as defined below), in the place of the specified office of the Registrar, upon receipt of any duly made application for the Transfer of a Loan Note, register the relevant Transfer and deliver a new Loan Note to the transferee (and, in the case of a Transfer of part only of a Loan Note, deliver a Loan Note for the un-Transferred balance to the transferor) at the specified office of the Registrar or (at the risk and, if mailed at the request of the transferee (or, as the case may be, the transferor) otherwise than by ordinary mail, at the expense of the transferee (or, as the case may be, the transferor)) mail the Loan Note by uninsured mail to such address as the transferee or, as the case may be, the transferor, may request.
- (f) **Conditions to Transfer:** Transfers will be effected without charge to the Noteholders. Any Transfer will be subject to (i) all requirements in Condition 9 being met, (ii) the person making the application for Transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith, (iii) the Registrar being satisfied with the

documents of title and/or identity of the person making the application and (iv) such reasonable requirements as the Issuer may from time to time agree with the Registrar (and as initially set out in the Fiscal Agency Agreement).

- (g) **Closed periods:** Neither the Issuer nor the Registrar will be required to register the transfer of any Loan Note (or part thereof) (i) during the period of 15 days ending on (and including) the day immediately prior to the Maturity Date (as defined below) or any earlier date fixed for redemption of the Loan Notes pursuant to Condition 5 or (ii) during the period of 15 days ending on (and including) any Record Date (as defined below) in respect of any payment of interest on the Loan Notes.

## 2 Status

The Loan Notes constitute (subject to Condition 3) unsecured and unsubordinated obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The payment obligations of the Issuer under the Loan Notes shall, save for such exceptions as may be provided by applicable legislation and subject to Condition 3, at all times rank at least equally with all other present and future unsecured and unsubordinated obligations of the Issuer.

## 3 Restrictions on Security (Negative Pledge)

So long as any Loan Note remains outstanding (as defined in the Fiscal Agency Agreement), the Issuer will not create any mortgage, charge, lien, pledge or other security interest (each an “**Encumbrance**”) upon the whole or any part of its present or future undertaking, assets or revenues (including any uncalled capital but excluding assets which, in accordance with Applicable GAAP (as defined below), need not be, and in the latest non-consolidated or consolidated audited financial statements of the Issuer have not been, reflected in the non-consolidated or consolidated balance sheet of the Issuer) to secure any Relevant Indebtedness (as defined below), or any guarantee or indemnity in respect of any Relevant Indebtedness, without at the same time or prior thereto securing the Loan Notes equally and rateably with any such Relevant Indebtedness, guarantee or indemnity or granting such other security as shall be approved by an Extraordinary Resolution (as defined in the Fiscal Agency Agreement) of the Noteholders; provided that nothing in this Condition 3 shall limit the ability of the Issuer to grant or permit to subsist Encumbrances over the whole or any part of its present or future undertaking, assets or revenues (including any uncalled capital) to secure any Relevant Indebtedness, to the extent that the aggregate principal amounts so secured do not exceed CHF 1,000,000,000; and provided further that this Condition 3 shall not apply to any Encumbrance, or any guarantee or indemnity, existing as of 8 April 2014.

In these Conditions:

“**Applicable GAAP**” means, at any time in relation to the Issuer, the generally accepted accounting policies in accordance with which it is required by applicable law or regulation to prepare its audited consolidated or its non-consolidated financial statements, as the case may be; and

“**Relevant Indebtedness**” means any indebtedness for borrowed money which (i) is in the form of, or represented or evidenced by, bonds, notes, debentures, loan stock or other securities which upon issuance are, or are intended by the Issuer thereof to be, or are capable of being, quoted, listed or dealt in or traded on any stock exchange or over-the-counter or other securities market (but excluding any existing or future indebtedness for borrowed money issued by the Issuer in private placements that the Issuer has required in writing not to be so quoted, listed, dealt or traded) (“**Relevant Tradable Securities**”) or (ii) is incurred in circumstances where the relevant creditor, with the agreement of the debtor, shall issue Relevant Tradable Securities, the claims of holders of which are secured, and recourse in respect of which is limited to, such indebtedness for borrowed money (“**Relevant Secured Securities**”).

## 4 Interest

The Loan Notes bear interest from 8 April 2014 (the “**Issue Date**”) at the rate of 1.875 per cent. per annum calculated by reference to the principal amount thereof and payable annually in arrear on 8 September in each year (each an “**Interest Payment Date**”), except that the first payment of interest, to be made on 8

September 2014, will be in respect of the period from and including the Issue Date to but excluding 8 September 2014 and will amount to €7.86 per Calculation Amount (as defined below). Each Loan Note will cease to bear interest from (and including) the due date for redemption unless, upon due presentation, payment of principal is improperly withheld or refused. In such event it shall continue to bear interest at such rate (both before and after judgment) until (but excluding) whichever is the earlier of (a) the day on which all sums due in respect of such Loan Note up to that day are received by or on behalf of the relevant Noteholder, and (b) the day seven days after the Fiscal Agent has notified Noteholders of receipt of all sums due in respect of all the Loan Notes up to that seventh day (except to the extent that there is failure in the subsequent payment to the relevant Noteholders under these Conditions).

Where interest is to be calculated in respect of a period which is equal to or shorter than an Interest Period (as defined below), the day-count fraction used will be the number of days in the relevant period, from (and including) the date from which interest begins to accrue to (but excluding) the date on which it falls due, divided by the number of days in the Interest Period in which the relevant period falls (including the first such day but excluding the last).

The period beginning on (and including) 8 April 2014 and ending on (but excluding) the first Interest Payment Date and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date is called an “**Interest Period**”.

Interest payable in respect of each Loan Note for each relevant period shall be calculated per €1,000 in principal amount of the Loan Notes (the “**Calculation Amount**”). The amount of interest payable per Calculation Amount for any period shall be equal to the product of 1.875 per cent., the Calculation Amount and the day-count fraction for the relevant period.

## 5 Redemption and Purchase

- (a) **Final redemption:** Unless previously redeemed, or purchased and cancelled, the Loan Notes will be redeemed at their principal amount on 8 September 2021 (the “**Maturity Date**”). The Loan Notes may not be redeemed at the option of the Issuer other than in accordance with this Condition 5.
- (b) **Redemption for taxation and other reasons:** The Loan Notes may be redeemed at the option of the Issuer in whole, but not in part, at any time, on giving not less than 30 nor more than 60 days’ notice of such redemption to the Noteholders (which notice shall be irrevocable), at their principal amount, (together with interest accrued to (but excluding) the date fixed for redemption), if:
  - (i) the Issuer has or will become obliged to pay additional amounts as provided or referred to in Condition 7 as a result of any change in, or amendment to, the laws or regulations or rulings of Switzerland or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations or rulings, which change or amendment becomes effective on or after 3 April 2014, and such obligation cannot be avoided by the Issuer taking commercially reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Loan Notes then due, or
  - (ii) any Noteholder fails to comply with Conditions 9(a) or (b).

Prior to the giving of any notice of redemption pursuant to this Condition 5(b), the Issuer shall deliver to the Fiscal Agent a certificate signed by two authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred.

- (c) **Swisscom Notice call option:** The Issuer may at any time and from time to time following receipt of a Swisscom Notice (as defined in Condition 9(b)(iv)) and having given:
  - (i) not less than 3 nor more than 10 days’ notice to the Noteholders in accordance with Condition 14; and
  - (ii) not less than 2 days before the giving of the notice referred to in (i), notice to the Fiscal Agent;

(which notices shall be irrevocable and certify that a Swisscom Notice has been received by the Issuer and the Fiscal Agent as described in this Condition 5(c)), redeem all or some only of the Loan Notes then outstanding on the date specified on such notice (the “**Swisscom Notice Redemption Date**”) at their principal amount, together, if applicable, with interest accrued to (but excluding) the relevant Swisscom Notice Redemption Date. In the case of a partial redemption of Loan Notes, a new Loan Note will be issued to the Noteholder to reflect the exercise of such option. A new Loan Note shall only be issued against surrender of the existing Loan Note to the Registrar, any Paying Agent or any Transfer Agent.

(d) **Redemption on the occurrence of a Change of Control Event:**

A “**Change of Control Event**” will be deemed to occur if:

- (i) a person or persons acting directly, indirectly or in concert (as defined in the Swiss Federal Act on Stock Exchanges and Securities Dealers), with the exception of the *Schweizerische Eidgenossenschaft*, acquires (directly or indirectly) (a) shares in the capital of the Issuer representing, together with the shares already held by such person or persons, more than 50 per cent. of the voting rights irrespective of whether they are exercisable at a general meeting of the Issuer or (b) more than 50 per cent. of the issued or allotted ordinary share capital of the Issuer (such event being a “**Change of Control**”); and
- (ii) on the date (the “**Relevant Announcement Date**”) that is the earlier of (1) the date of the first public announcement of the relevant Change of Control and (2) the date of the earliest Relevant Potential Change of Control Announcement (if any), the Loan Notes carry from any Rating Agency:
  - (A) an investment grade credit rating (Baa3/BBB-, or equivalent, or better) (an “**Investment Grade Rating**”), and such rating from any Rating Agency is, within the Change of Control Period, either downgraded to a non-investment grade credit rating (Ba1/BB+, or equivalent, or worse) (a “**Non-Investment Grade Rating**”) or withdrawn and is not, within the Change of Control Period, subsequently (in the case of a downgrade) upgraded or (in the case of a withdrawal) reinstated to an Investment Grade Rating by such Rating Agency; or
  - (B) a Non-Investment Grade Rating and such rating from any Rating Agency is, within the Change of Control Period, either downgraded by one or more notches (by way of example, Baa1 to Baa2 being one notch) or withdrawn and is not, within the Change of Control Period, subsequently (in the case of a downgrade) upgraded or (in the case of a withdrawal) reinstated to its earlier credit rating or better by such Rating Agency; or
  - (C) no credit rating and a Ratings Procurement Failure also occurs within the Change of Control Period,

provided that if at the time of the occurrence of the Change of Control the Loan Notes carry a credit rating from more than one Rating Agency, at least one of which is an Investment Grade Rating, then Condition 5(d)(ii)(A) will apply; and

- (iii) in making any decision to downgrade or withdraw a credit rating pursuant to Conditions 5(d)(ii)(A) and 5(d)(ii)(B) above or not to award a credit rating of at least investment grade as described in paragraph (ii) of the definition of Ratings Procurement Failure, the relevant Rating Agency announces publicly or confirms in writing to the Issuer that such decision(s) resulted, in whole or in part, from the occurrence of the Change of Control or the Relevant Potential Change of Control Announcement.

In this Condition 5(d):

“**Rating Agency**” means Moody’s Investors Service, Inc. (“**Moody’s**”) or Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies Inc. (“**S&P**”) or any of their respective

successors or any other international rating agency of similar repute substituted for any of them by the Issuer from time to time; and

**“Change of Control Period”** means the period commencing on the Relevant Announcement Date and ending 180 days after the Change of Control (or such longer period for which the Loan Notes are under consideration (such consideration having been announced publicly within the period ending 180 days after the Change of Control) for rating review or, as the case may be, rating by a Rating Agency, such period not to exceed 60 days after the public announcement of such consideration);

a **“Ratings Procurement Failure”** shall be deemed to have occurred if at such time as there is no rating assigned to the Notes by a Rating Agency (i) the Issuer does not, either prior to, or not later than 21 days after, the occurrence of the Change of Control seek, and thereafter throughout the Change of Control Period use all reasonable endeavours to obtain, a rating of the Loan Notes, or any other unsecured and unsubordinated debt of the Issuer or (ii) if the Issuer does so seek and use such endeavours, it is unable to obtain such a rating of at least investment grade by the end of the Change of Control Period;

**“Relevant Potential Change of Control Announcement”** means any public announcement or statement by the Issuer, any actual or potential bidder or any adviser acting on behalf of any actual or potential bidder relating to any potential Change of Control where within 180 days following the date of such announcement or statement, a Change of Control occurs.

If a Change of Control Event occurs, each Noteholder will have the option (a **“Change of Control Put Option”**) (unless prior to the giving of the relevant Redemption Event Notice (as defined below) the Issuer has given notice of redemption under Condition 5(b) above) to require the Issuer to redeem or, at the Issuer’s option, purchase (or procure the purchase of) all or some only of the Loan Notes held by such Noteholder on the Redemption Date (as defined below) at their principal amount together with interest accrued to (but excluding) the Redemption Date.

Promptly upon becoming aware that a Change of Control Event has occurred, and in any event not later than 21 days after the occurrence of the Change of Control Event, the Issuer shall give notice (a **“Redemption Event Notice”**) to the holders, any Paying Agent and any Transfer Agent in accordance with Condition 14, specifying the nature of the Change of Control Event, the procedure for exercising the Change of Control Put Option and the Redemption Date.

To exercise the Change of Control Put Option, each Noteholder must deliver such Loan Note to the specified office of any Paying Agent at any time during normal business hours of such Paying Agent falling within the period (**“Change of Control Put Period”**) of 30 days after a Redemption Event Notice is given, together with a duly signed and completed notice of exercise in the form (for the timebeing current) obtainable from the specified office of any Paying Agent (**“Change of Control Put Exercise Notice”**).

A Change of Control Put Exercise Notice once delivered, shall be irrevocable. The Issuer will redeem or purchase (or procure the purchase of) the relevant Loan Notes on the Redemption Date unless previously redeemed (or purchased) and cancelled.

As used herein, the **“Redemption Date”** shall be no later than the 7th day after the expiration of the Change of Control Put Period.

If 80 per cent. or more in principal amount of the Loan Notes then outstanding have been redeemed or purchased pursuant to this Condition 5(d), the Issuer may, on giving not less than 30 nor more than 60 days’ notice to the Noteholders (such notice being given within 45 days after the Redemption Date), redeem or purchase (or procure the purchase of), at its option, all but not some only of the remaining outstanding Loan Notes at their principal amount, together with interest accrued to (but excluding) the date fixed for such redemption or purchase.

- (e) **Notice of redemption:** All Loan Notes in respect of which any notice of redemption is given under this Condition 5 shall be redeemed on the date specified in such notice in accordance with this Condition 5.

- (f) **Purchase:** The Issuer and any of its Subsidiaries may at any time purchase Loan Notes in the open market or otherwise at any price. The Loan Notes so purchased, while held by or on behalf of the Issuer or any such Subsidiary, shall not entitle the Noteholder to vote at any meetings of the Noteholders and shall not be deemed to be outstanding for the purposes of calculating quorums at meetings of the Noteholders or for the purposes of Condition 12(b).
- (g) **Cancellation:** All Loan Notes so redeemed or purchased under this Condition 5 will be cancelled and may not be re-issued or resold.

## 6 Payments

- (a) **Principal:** Payment of principal in respect of the Loan Notes and payment of accrued interest payable on a redemption of the Loan Notes (other than on an Interest Payment Date) will be made to the persons shown in the Register at the close of business on the relevant Record Date (as defined below), subject to surrender (or in the case of partial payment only, endorsement) of the Loan Note, at the specified office of any Paying Agent.
- (b) **Interest and other amounts:**
  - (i) Payments of interest due on an Interest Payment Date will be made to the persons shown in the Register at close of business on the relevant Record Date.
  - (ii) Payments of all amounts other than as provided in Condition 6(a) and (b)(i) will be made as provided in these Conditions.
- (c) **Record Date:** As used herein, “**Record Date**” means the seventh Business Day in the place of the specified office of the Registrar before the due date for the relevant payment.
- (d) **Payments:** Each payment in respect of the Loan Notes pursuant to these Conditions will be made by transfer to a euro account maintained by the payee with a bank in a city in which banks have access to the TARGET System (as defined below).  

Payment instructions (for value on the due date or, if that is not a day on which the TARGET system is operating (a “**TARGET Business Day**”), for value the first following day which is a TARGET Business Day) will be initiated on the first TARGET Business Day immediately preceding the due date for payment or, in the case of payments referred to in Condition 6(a), if later, on the Business Day in the place of the specified office of the Paying Agent to which the relevant Loan Note is surrendered as specified in Condition 6(a) (for value the next TARGET Business Day).
- (e) **Payments subject to fiscal laws:** All payments in respect of the Loan Notes are subject in all cases to any applicable fiscal or other laws and regulations, but without prejudice to Condition 7.
- (f) **Delay in payment:** Noteholders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due (i) as a result of the due date not being a Business Day in the place of the specified office of the Registrar or (ii) if the Noteholder is late in surrendering the relevant Loan Note (where such surrender is required pursuant to these Conditions as a precondition to payment).
- (g) **Business days:** If any date for payment in respect of any Loan Note is not a Business Day, the Noteholder shall not be entitled to payment until the next following Business Day nor to any interest or other sum in respect of such postponed payment. In these Conditions, “**Business Day**” means a day (other than a Saturday or Sunday) on which (i) the TARGET System is operating, (ii) banks and foreign exchange markets are open for business in London and Zurich and (iii) where relevant, banks and foreign exchange markets are open in the place of the specified office of the Paying Agent. As used herein, “**TARGET System**” means the Trans-European Automated Real-Time Gross Settlement Express Transfer (known as TARGET2) System or any successor thereto.
- (h) **Paying Agents and Transfer Agents, etc.:** The initial Fiscal Agent, Registrar and other Paying Agents and Transfer Agents and their initial specified offices are listed below. The Issuer reserves the right under the Fiscal Agency Agreement at any time to vary or terminate the appointment of any Paying Agent or Transfer Agent and appoint additional or other Paying Agents and Transfer

Agents, provided that it will (i) maintain a Fiscal Agent and (ii) maintain a Paying Agent and Transfer Agent with a specified office in a European Union member state that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC (the “**EU Savings Tax Directive**”) or any other European Union Directive implementing the conclusions of the ECOFIN council meeting of 26-27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive and (iii) maintain a Registrar with a specified office outside the United Kingdom. Notice of any change in the Paying Agents or Transfer Agents or their specified offices will promptly be given by the Issuer to the Noteholders in accordance with Condition 14.

- (i) **No charges:** The Paying Agents and Transfer Agents shall not make or impose on a Noteholder any charge or commission in relation to any payment in respect of the Loan Notes.
- (j) **Fractions:** When making payments to Noteholders, if the relevant payment is not of an amount which is a whole multiple of €0.01, such payment will be rounded down to the nearest €0.01.

## 7 Taxation

All payments of principal and interest by or on behalf of the Issuer in respect of the Loan Notes shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or within Switzerland or any authority therein or thereof having power to tax, unless such withholding or deduction (collectively, a “**Tax Deduction**”) is required by law. In that event the Issuer shall pay such additional amounts as will result in receipt by the Noteholders of such amounts as would have been received by them had no such Tax Deduction been required, except that no such additional amounts shall be payable in respect of any Loan Note:

- (a) **Other connection:** held by or on behalf of a Noteholder who is liable to such taxes, duties, assessments or governmental charges in respect of such Loan Note by reason of his having some connection with Switzerland other than the mere holding of the Loan Note; or
- (b) **Presentation more than 30 days after the Relevant Date:** presented for payment more than 30 days after the Relevant Date except to the extent that the Noteholder would have been entitled to such additional amounts on presenting such Loan Note for payment on the last day of such period of 30 days; or
- (c) **Payment to individuals:** where such Tax Deduction is imposed on a payment to an individual or residual entity and is required to be made pursuant to (i) the “EU Savings Tax Directive or any law or governmental regulation implementing or complying with, or introduced in order to conform to, such EU Savings Tax Directive, or (ii) any similar measures to the EU Savings Tax Directive including, but not limited to, the agreement between the European Union and Switzerland of 26 October 2004; or
- (d) **Swiss Paying Agent Withholding Tax:** where such Tax Deduction is required to be made pursuant to laws enacted by Switzerland providing for the taxation of payments according to principles similar to those set forth in the draft legislation proposed by the Swiss Federal Council on 24 August 2011, in particular the principle to have a person other than the Issuer withhold or deduct the tax, such as, without limitation, any paying agent; or
- (e) **Final International Withholding Taxes:** where such Tax Deduction is required to be made pursuant to any agreement between Switzerland and another country on final withholding taxes (*Internationale Quellensteuern*) levied by a Swiss paying agent, as defined in the respective treaty, in respect of an individual resident in the other country on interest or capital gain paid, or credited to an account, relating to such Loan Note; or
- (f) **Payment by another Paying Agent:** by or on behalf of a Noteholder who would have been able to avoid such Tax Deduction by (i) presenting the relevant Loan Note to another Paying Agent or (ii) authorising the Fiscal Agent to report information in accordance with the procedure laid down by the relevant tax authority or by producing, in the form required by the relevant tax authority, a

declaration, claim, certificate, document or other evidence establishing exemption therefrom or (iii) using a different collection agent or no collection agent; or

- (g) **Payment to a Qualifying Lender:** if the payment could have been made to the relevant Noteholder without a Tax Deduction if it was a Qualifying Lender (as defined below), but on the date of the relevant payment that Noteholder is not, or has ceased to be, a Qualifying Lender other than as a result of any change after the date it became a Noteholder under these Conditions in (or in the interpretation, administration or application of) any law or double taxation treaty, or any published practice or concession of any relevant taxing authority; or
- (h) **Payment in accordance with Conditions 1, 9(a) and (b):** if the payment could have been made without a Tax Deduction if the Noteholders (including, for the avoidance of doubt, any former Noteholders) had complied with Conditions 1, 9(a) and (b).

Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Issuer shall deliver to the relevant Noteholder evidence satisfactory to that Noteholder (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been made to the relevant taxing authority.

Any reference in these Conditions to principal and/or interest shall be deemed to include any additional amounts which may be payable under this Condition 7.

As used in these Conditions:

**“Guidelines”** means, together, the guideline “Interbank Loans” of 22 September 1986 (S-02.123) (*Merkblatt “Verrechnungssteuer auf Zinsen von Bankguthaben, deren Gläubiger Banken sind (Interbankguthaben)” vom 22. September 1986*); the guideline “Bonds” of April 1999 (S-02.122.1) (*Merkblatt “Obligationen” vom April 1999*); the guideline “Syndicated Loans” of January 2000 (S-02.128) (*Merkblatt “Steuerliche Behandlung von Konsortialdarlehen, Schuldscheindarlehen, Wechseln und Unterbeteiligungen” vom Januar 2000*); the circular letter No.15 (1-015-DVS-2007) of 7 February 2007 in relation to bonds and derivative financial instruments as subject matter of Swiss federal income tax, Swiss federal withholding tax and Swiss federal stamp taxes (*Kreisschreiben Nr. 15 “Obligationen und derivative Finanzinstrumente als Gegenstand der direkten Bundessteuer, der Verrechnungssteuer und der Stempelabgaben” vom 7. Februar 2007*); and the circular letter “Deposits” of 26 July 2011 (1-034-V-2011) (*Kreisschreiben Kundenguthaben vom 26. Juli 2011*), each as issued, and as amended from time to time, by the Swiss federal tax authorities.

**“Non-Bank Rules”** means the Ten Non-Bank Rule and the Twenty Non-Bank Rule (each as defined below).

**“Permitted Non-Bank Lender”** means one person or entity which is not a Qualifying Bank on the date it becomes a Noteholder and:

- (i) which is initially Lunar Funding V PLC (**“Lunar”**) (for so long as Lunar continues to be a Noteholder in accordance with these Conditions), or
- (ii) which, thereafter is a successor of Lunar, or any subsequent successor thereof, by way of Transfer (as defined in Condition 9(a)) of all but not some only of the Loan Notes held by Lunar or such subsequent successor thereof (for so long as such successor of Lunar, or any subsequent successor thereof, continues to be a Noteholder in accordance with these Conditions), which:
  - (A) has prior to it becoming a Noteholder, satisfied all obligations to be fulfilled by a proposed new Permitted Non-Bank Lender in accordance with Condition 9(a), provided that:
    - (y) within ten (10) Business Days of notification to it by the existing Permitted Non-Bank Lender of the identity of such proposed Permitted Non-Bank Lender, the Issuer may, as a condition precedent to such proposed Permitted Non-Bank Lender becoming a Noteholder:
    - (I) request from that proposed Permitted Non-Bank Lender a confirmation that it has disclosed to the Issuer all facts relevant to the determination as to whether it would be a Permitted Non-Bank Lender and would constitute one (1) person only for purposes of the Non-Bank Rules; and

- (II) irrespective of whether a request is made in accordance with paragraph (ii)(A)(y)(I) above, request from that proposed Permitted Non-Bank Lender a tax ruling of the Swiss Federal Tax Administration (at the cost of the existing Permitted Non-Bank Lender or the proposed Permitted Non-Bank Lender), confirming to the Issuer's satisfaction that such proposed Permitted Non-Bank Lender does constitute one (1) person only for purposes of the Non-Bank Rules; and
  - (x) the Issuer, acting reasonably, shall confirm within ten (10) Business Days of notification of all facts (if a request in accordance with paragraph (ii)(A)(y)(I) above has been made) or receipt of a tax ruling (if a request in accordance with paragraph (ii)(A)(y)(II) above has been made) whether or not such disclosure, or such tax ruling, as the case may be, is satisfactory and, in the absence of such confirmation, the Issuer shall be deemed to have confirmed such disclosure, or such tax ruling, as the case may be, is so satisfactory on the tenth (10<sup>th</sup>) Business Day after receipt hereof or thereof; and
- (B) has, simultaneously with becoming a Noteholder, succeeded Lunar (or any successor thereof) as the sole "Permitted Non-Bank Lender" under all, but not some only, Loan Notes, and under any and all other existing or future loan notes, as the case may be, or similar instruments, between the Issuer and Lunar (or any successor thereof).

**"Qualifying Bank"** means a person or entity which (a) effectively conducts banking activities with its own infrastructure and staff as its principal business purpose and which has a banking license in full force and effect issued in accordance with the banking laws in force in its jurisdiction of incorporation, or if acting through a branch, issued in accordance with the banking laws in the jurisdiction of such branch and (b) is organised under the laws of a country which is a member of the Organisation for Economic Co-operation and Development (OECD).

**"Qualifying Lender"** means a Noteholder which is a Qualifying Bank or the Permitted Non-Bank Lender.

**"Relevant Date"** means whichever is the later of (i) the date on which such payment first becomes due and (ii) if the full amount payable has not been received by the Fiscal Agent on or prior to such due date, the date on which, the full amount having been so received, notice to that effect shall have been given to the Noteholders.

**"Tax"** means any tax, duty, assessment or governmental charge of whatever nature imposed by the Swiss Confederation or any subdivision thereof.

**"Ten Non-Bank Rule"** means the rule that the aggregate number of Noteholders which are not Qualifying Banks must not at any time exceed ten, such number to be calculated in accordance with the Guidelines.

**"Twenty Non-Bank Rule"** means the rule that the aggregate number of the Issuer's lenders (including Lunar or any successor thereof), other than Qualifying Banks, under all outstanding debts (including under the Loan Notes) relevant for classification as debenture (*Kassenobligation*) must not at any time exceed twenty, such number to be calculated in accordance with the Guidelines.

## 8 Events of Default

If any of the following events occurs:

- (a) **Non-Payment:** the Issuer fails to pay the principal of or any interest on any of the Loan Notes when due and such failure continues for a period of more than 14 days; or
- (b) **Breach of Other Obligations:** the Issuer does not perform or comply with any one or more of its other obligations in the Loan Notes which default is incapable of remedy or is not remedied within 60 days after notice of such default shall have been given to the Fiscal Agent at its specified office by any Noteholder; or
- (c) **Cross-Default:** (i) any other present or future indebtedness of the Issuer or any of its Material Subsidiaries for or in respect of moneys borrowed or raised becomes immediately due and payable prior to its stated maturity by reason of an event of default (howsoever described), or (ii) any such indebtedness is not paid when due or, as the case may be, within any originally applicable grace

period, or (iii) the Issuer or any of its Material Subsidiaries fails to pay when due or, as the case may be, within any originally applicable grace period, any amount payable by it under any present or future guarantee for, or indemnity in respect of, any moneys borrowed or raised provided that the aggregate amount of the relevant indebtedness, guarantees and indemnities in respect of which one or more of the events mentioned above in this Condition 8(c) have occurred equals or exceeds CHF50,000,000 or its equivalent (on the basis of the middle spot rate for the relevant currency against the Swiss franc as quoted by any leading bank on the day on which this Condition 8(c) operates), unless, in the case of any of (i), (ii) or (iii) above, the Issuer is contesting such payment obligation was due and payable in good faith by taking appropriate action; or

- (d) **Security Enforced:** an encumbrancer or a receiver or a person with similar functions appointed for execution (in Switzerland for example, a *Sachwalter* or *Konkursverwalter*) takes possession of the whole, or substantially the whole, of the assets or undertaking of the Issuer or any of its Material Subsidiaries or a distress, execution or analogous process under the applicable law of any jurisdiction is levied or enforced upon substantially the whole of the assets or undertaking of the Issuer or any of its Material Subsidiaries and is not paid, discharged, removed or stayed within 30 days; or
- (e) **Insolvency:** the Issuer or any of its Material Subsidiaries is declared insolvent or bankrupt or unable to pay its debts as and when they fall due by a court of competent jurisdiction or the Issuer or any of its Material Subsidiaries has initiated or becomes subject to proceedings relating to itself under any applicable bankruptcy, liquidation, insolvency, composition, *Nachlassvertrag*, *faillite*, administration, examinership, insolvency or analogous law of any jurisdiction, or makes a general assignment for the benefit of, or enters into any composition or analogous arrangement with, its creditors or notifies the court of its financial situation in accordance with Article 725(2) of the Swiss Code of Obligations or any **analogous law applicable in any other jurisdiction** or enters into a moratorium (*Stundung*) or analogous arrangement; or
- (f) **Winding-up:** an order is made or an effective resolution passed for the winding-up or dissolution for liquidation of the Issuer or any of its Material Subsidiaries, or the Issuer or any of its Material Subsidiaries ceases or threatens to cease to carry on all or substantially all of its business or operations, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation (i) on terms approved by an Extraordinary Resolution of the Noteholders, or (ii) in the case of a Material Subsidiary, whereby the undertaking and assets of the Material Subsidiary are transferred to or otherwise vested in the Issuer or another of its Material Subsidiaries;

then any Loan Note may, by notice in writing given to the Fiscal Agent at its specified office by the relevant Noteholder, be declared immediately due and payable whereupon it shall become immediately due and payable at its principal amount together with accrued interest without further formality unless such event of default shall have been remedied prior to the receipt of such notice by the Fiscal Agent.

In these Conditions:

“**Group**” means the Issuer and its Subsidiaries;

“**Material Subsidiary**” means any member of the Group (i) of which the Issuer holds, either directly or indirectly, more than 50 per cent. of the voting rights, (ii) where the Issuer may appoint a majority of the administrative board members and (iii) whose revenue (excluding intra-Group items) over the last three fiscal years equalled or exceeded on average 10 per cent. of the revenue of the Group, calculated on a consolidated basis.

For this purpose:

- (a) the revenue of a member of the Group (other than the Issuer) will be determined from the financial statements (unconsolidated if it has Subsidiaries) upon which the latest audited consolidated financial statements of the Group have been based;
- (b) if a Subsidiary of the Issuer becomes a member of the Group after the date on which the latest audited consolidated financial statements of the Group have been prepared, the revenue of that Subsidiary will be determined from its latest audited financial statements;
- (c) the revenue of the Group will be determined from its latest audited consolidated financial statements, adjusted (where appropriate) to reflect the revenue of any company or business subsequently acquired or disposed of; and

- (d) if a Material Subsidiary disposes of all or substantially all of its assets to another Subsidiary of the Issuer, it will immediately cease to be a Material Subsidiary and the other Subsidiary (if it is not already) will immediately become a Material Subsidiary; the subsequent audited consolidated financial statements of the Group (and the financial statements upon which such audited consolidated financial statements are based) will be used to determine whether those Subsidiaries are Material Subsidiaries or not.

If there is a dispute as to whether or not a company is a Material Subsidiary, a certificate of the auditors of the Issuer will be conclusive, in the absence of manifest error.

**“Subsidiary”** means any entity whose financial statements at any time are required by law or in accordance with Swiss generally accepted accounting principles or International Financial Reporting Standards to be fully consolidated with those of the Issuer.

## 9 Restrictions on Transfers of Loan Notes and Grants of Security

### (a) Transfer

- (i) The Loan Notes may only be assigned or transferred, including upon an enforcement of a security, (a **“Transfer”** and **“Transferred”** shall be construed accordingly):

- (A) in whole or in part, if the Transfer is to a Qualifying Bank; or

- (B) in whole, but not in part (except for parts of Loan Notes held by Qualifying Banks at the time), if the Transfer is to a Permitted Non-Bank Lender,

provided that no Transfer under this Condition 9(a) may result in more than one Permitted Non-Bank Lender being a Noteholder.

*The Loan Notes will bear a legend setting out the applicable transfer restrictions provided for in this Condition 9(a).*

- (ii) A Noteholder may at any time require that the Issuer replaces such Noteholder’s certificate(s) representing the Loan Notes with certificates in authorised denominations. The Fiscal Agent shall accordingly authenticate such replacement certificates and the Registrar shall amend the Register.

- (iii) Loan Notes may be Transferred in amounts equal to an authorised denomination.

- (iv) Any Transfer of a Loan Note shall be recorded by the Registrar in the Register on production of the following in addition to the requirements in Condition 1(f):

- (A) the relevant certificate representing the Loan Note, with the form of transfer endorsed thereon and duly executed by the transferor and the transferee, provided such form of transfer shall include a representation by the transferee that it is a Qualifying Bank or the Permitted Non-Bank Lender; and

- (B) such other evidence as the Issuer may reasonably require.

- (v) Subject to this Condition 9(a) and Condition 9(b), no Noteholder shall at any time enter into any arrangement with another person under which such Noteholder transfers all or part of its financial interest in the Loan Notes to that other person, unless under such arrangement throughout the life of such arrangement:

- (A) the relationship between the Noteholder and that other person is that of debtor and creditor (including in the bankruptcy or similar event of that Noteholder or the Issuer);

- (B) the other person will have no proprietary interest in the benefit of the Loan Notes or in any monies received by the Noteholder under or in relation to the Loan Notes held by that Noteholder; and

- (C) the other person will under no circumstances (other than by way of permitted Transfer under this Condition 9(a)) be subrogated to, or substituted in respect of, the Noteholder’s claims under its Loan Notes, and otherwise have any contractual relationship with, or rights against, the Issuer under or in relation to the Loan Notes.

For the avoidance of doubt, the granting of security in accordance with Condition 9(b) shall not constitute a Transfer of an interest under the Loan Notes for the purposes of this Condition 9(a).

- (vi) As of the date hereof and for so long as any Loan Notes are outstanding, the Issuer will ensure that it is in compliance with the Non-Bank Rules, provided that the Issuer will not be in breach if either

- of the Non-Bank Rules is violated solely by the failure by one or more Noteholders to comply with their respective obligations under Condition 1 or Condition 9(a) or Condition 9(b).
- (b) **Grants of Security:** Any Noteholder may, without the consent of the Issuer, at any time charge or create a security interest in respect of all or any portion of its rights under any Loan Notes to secure obligations of such Noteholder; provided that:
    - (i) no such charge or creation of a security interest shall:
      - (A) release a Noteholder from any obligations or restrictions under the Loan Notes or substitute any such chargee or Noteholder of the benefit of such security interest for such Noteholder as Noteholder except in accordance with the Transfer provisions of Condition 9(a); or
      - (B) require any payments to be made by the Issuer other than as required by the Loan Notes;
    - (ii) such charge or security interest shall in each case provide that upon any assignment or transfer of the interest in the Loan Notes or enforcement of such charge or security interest, any resulting assignment or transfer shall be subject to, and in accordance with, Condition 9(a);
    - (iii) the Noteholder promptly notifies the Fiscal Agent of any such charge or security interest and the secured party's identity and status by delivering to the Fiscal Agent a notification to such effect; and
    - (iv) the Noteholder shall notify the Issuer and the Fiscal Agent (such notice, a "**Swisscom Notice**") if:
      - (A) the Noteholder requests a liquidation of the Loan Notes held by such Noteholder; or
      - (B) any security interest it may have granted over such Loan Notes has become enforceable, other than as a result of the Loan Notes becoming redeemable or repayable or becoming capable of being declared due and payable prior to the Maturity Date (save that Conditions 5(b) and 5(c) shall not be covered by this exclusion).

## 10 Prescription

Claims in respect of principal and interest shall be prescribed and become void unless made within a period of 10 years in the case of principal and five years in the case of interest from the appropriate Relevant Date in respect of such payment.

## 11 Replacement of Loan Notes

If any Loan Note is lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of any Paying Agent or Transfer Agent subject to all applicable laws and requirements, upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer and the Registrar may require (provided that the requirement is reasonable in the light of prevailing market practice). Mutilated or defaced Loan Notes must be surrendered before replacements will be issued.

## 12 Meetings of Noteholders and modification

- (a) **Single Noteholder:** So long as there is only one Noteholder registered in the Register (i) subject to Condition 12(d), no amendment, waiver or variation of the Loan Notes or the Conditions may be made without the prior written consent of such Noteholder and (ii) the meeting, quorum and voting provisions of Condition 12(b) shall not apply.
- (b) **Meetings of Noteholders:** The Fiscal Agency Agreement contains provisions for convening meetings of Noteholders to consider matters affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions. Such a meeting may be convened by the Issuer and shall be convened by the Issuer if required in writing by Noteholders holding not less than 10 per cent. in principal amount of the Loan Notes for the time being outstanding. The quorum for any meeting convened to consider an Extraordinary Resolution will be two or more persons holding or representing a clear majority in principal amount of the Loan Notes for the time being outstanding, or at any adjourned meeting, two or more persons being or representing Noteholders whatever the principal amount of the Loan Notes held or represented,

unless the business of such meeting includes consideration of proposals, *inter alia*, (i) to modify the maturity of the Loan Notes or the dates on which interest is payable in respect of the Loan Notes, (ii) to reduce or cancel the principal amount of, or interest on, the Loan Notes, (iii) to change the currency of payment of the Loan Notes, or (iv) to modify the provisions concerning the quorum required at any meeting of Noteholders or the majority required to pass an Extraordinary Resolution, in which case the necessary quorum will be two or more persons holding or representing not less than 66 2/3 per cent., or at any adjourned meeting, not less than 25 per cent., in principal amount of the Loan Notes for the time being outstanding. Any Extraordinary Resolution duly passed shall be binding on Noteholders (whether or not they were present at the meeting at which such resolution was passed).

The Fiscal Agency Agreement provides that a resolution in writing signed by, or on behalf of, the Noteholders of not less than 90 per cent. in principal amount of the Loan Notes for the time being outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution duly passed at a meeting of the Noteholders duly convened and held.

- (c) **Modification of Fiscal Agency Agreement:** The Issuer shall only permit any modification of, or any waiver or authorisation of any breach or proposed breach of or any failure to comply with, the Fiscal Agency Agreement, if to do so could not reasonably be expected to be prejudicial to the interests of the Noteholders. The Fiscal Agent shall not be obliged to agree to any amendments to the Fiscal Agency Agreement which would, in its opinion, lead to increased or more onerous duties being imposed upon it.
- (d) **Modification of Conditions:** The Issuer may, without the consent of the Noteholders, make such amendments to these Conditions that in its opinion are of a formal, minor or technical nature or made to correct a manifest error or to comply with mandatory provisions of law, or that in its opinion are not materially prejudicial to the interests of the Noteholders.

Any such modification shall be binding on the Noteholders and any such modification shall be notified to the Noteholders in accordance with Condition 14 as soon as practicable thereafter.

### 13 Further Issues

The Issuer may from time to time without the consent of the Noteholders create and issue further securities either having the same terms and conditions as the Loan Notes in all respects (or in all respects except for the issue date and the first payment of interest on them) and so that such further issue shall be consolidated and form a single series with the outstanding securities of any series (including the Loan Notes) or upon such terms as the Issuer may determine at the time of their issue. References in these Conditions to the Loan Notes include (unless the context requires otherwise) any other securities issued pursuant to this Condition and forming a single series with the Loan Notes.

### 14 Notices

Notices to Noteholders will be mailed to them at their respective addresses in the Register and deemed to have been given on the fourth weekday (being a day other than a Saturday or a Sunday) after the date of mailing.

### 15 Substitution

The Issuer may, without the consent of the Noteholders, substitute in place of the Issuer (or any previous substitute under this Condition 15) as the principal debtor under the Loan Notes another entity, being a successor in business or a member of the Group, subject to: (a) the Loan Notes being unconditionally and irrevocably guaranteed by the Issuer, (b) such substitute expressly assuming, by an amendment to the Fiscal Agency Agreement executed and delivered to the Fiscal Agent, the due and punctual payment of the principal of, and any interest on, the Loan Notes and the performance or observance of the obligations on the part of the Issuer to be performed or observed with respect to the Loan Notes, and (c) certain other conditions as set out in the Fiscal Agency Agreement being complied with.

## 16 **Contracts (Rights of Third Parties) Act 1999**

No person shall have any right to enforce any term or condition of the Loan Notes under the Contracts (Rights of Third Parties) Act 1999.

## 17 **Governing Law**

- (a) **Governing Law:** The Fiscal Agency Agreement, the Loan Notes and any non-contractual obligations arising out of or in connection with them are governed by and shall be construed in accordance with English law.
- (b) **Jurisdiction:** The courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with the Loan Notes and accordingly any legal action or proceedings arising out of or in connection with the Loan Notes (“**Proceedings**”) may be brought in such courts. The Issuer irrevocably submits to the jurisdiction of such courts and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is made for the benefit of each of the Noteholders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).
- (c) **Agent for Service of Process:** The Issuer irrevocably appoints Law Debenture Corporate Services Limited of the address of its registered office from time to time (currently Fifth Floor, 100 Wood Street, London, EC2V 7EX) as its agent in England to receive service of process in any Proceedings in England based on any of the Loan Notes. If for any reason the Issuer does not have such an agent in England, it will promptly appoint a substitute process agent and notify the Noteholders of such appointment. Nothing herein shall affect the right to serve process in any other manner permitted by law.

## **USE OF PROCEEDS**

We expect to use the net proceeds from this Loan Notes Offering of approximately €494 million (before discretionary fee and other expenses) for general corporate purposes.

## PRINCIPAL SHAREHOLDERS

The aggregate number of options and shares held by members of our Board of Directors and Executive Board as of 31 December 2013 represented less than 1% of our total equity capital.

Under the applicable provisions of the Swiss Stock Exchange Act, shareholders and groups of shareholders acting in concert who, directly or indirectly, reach, exceed or fall below the thresholds of 3%, 5%, 10%, 15%, 20%, 25%, 33  $\frac{1}{3}$ %, 50% or 66  $\frac{2}{3}$ % of the voting rights of a Swiss listed corporation must notify the corporation and the SIX Swiss Exchange, whether or not their voting rights can be exercised. Following receipt of this notification, the corporation must inform the public of the notification.

Pursuant to the Swiss Telecommunications Enterprise Act ("*Telekommunikationsunternehmungsgesetz*", or "TUG"), the Swiss Confederation (the "Confederation") must hold a majority of the share capital and voting rights of Swisscom. On 31 December 2013, the Confederation as majority shareholder held 51.2% of the shares of the Company or 26,535,500 Company shares. Any reduction of the Confederation's holding below a majority would require a change in law necessitating action by the Federal Assembly, which would also be subject to a referendum by Swiss voters. As the majority shareholder, the Confederation has the power to control any decisions taken at general meetings including the election of the members of the Board of Directors and the approval of dividend payments.

Swisscom supplies telecommunication services to and procures services from the Confederation, the majority shareholder in Swisscom. The Confederation comprises the various departments and agencies of the Confederation, governmental agencies and other companies controlled by the Confederation (Post, Swiss railways, RUAG and Skyguide) and the Swiss radio and television corporation SRG. All business transactions with the Confederation are conducted in line with standard terms and conditions of business as with other third party customers.

Each of the Company's shares carries one vote. The Company's principal shareholders do not have different voting rights. As of 31 December 2013, the Company held 802 of its own registered shares.

## SWISS TAXATION

### General

This section describes the principal tax consequences under the laws of Switzerland of the purchase, beneficial ownership and disposition of the Loan Notes for investors who are corporate entities and either the one Permitted Non-Bank Lender (as defined in the Conditions) or Qualifying Banks (as defined in the Conditions). This summary does not address the tax treatment of any other investors. This summary is based on legislation, regulations and regulatory practices and a tax ruling with the Swiss Federal Tax Administration, in each case as of the date of this Information Memorandum, and does not aim to be a comprehensive description of all the Swiss tax considerations that may be relevant to a decision to invest in Loan Notes.

The tax treatment for each holder of a Loan Note depends on the particular situation. All holders and prospective holders are advised to consult their own professional tax advisors in light of their particular circumstances as to the Swiss tax legislation, regulations and regulatory practices that could be relevant for them in connection with the acquisition, ownership, receipt of payments and disposition of Loan Notes and the consequences of such actions under the tax legislation of Switzerland.

### Swiss Federal Withholding Tax

Payments by the Issuer of interest on, and repayment of principal of, the Loan Notes, will not be subject to Swiss Federal Withholding Tax (*Verrechnungssteuer*) (currently levied at a rate of 35%), provided that the aggregate number of holders of Loan Notes who are not Qualifying Banks (as defined in the Conditions) will not at any time while any Loan Notes are outstanding exceed ten (Ten Non-Bank Rule, as defined in the Conditions), and the aggregate number of lenders to the Issuer (including holders of Loan Notes) under all of the Issuer's financial debt (including Loan Notes) who are not Qualifying Banks will not at any time while any Loan Notes are outstanding exceed twenty (Twenty Non-Bank Rule, as defined in the Conditions).

Condition 9 requires the Issuer to comply at all times while any Loan Notes are outstanding with the Non-Bank Rules (as defined in the Conditions) and requires the holders of Loan Notes to comply with the restrictions on transfer of Loan Notes and grants of security which, *inter alia*, limit the holders of Loan Notes to one single Permitted Non-Bank Lender and Qualifying Banks. The Swiss Federal Tax Administration confirmed in a tax ruling that Lunar Funding V PLC who is the initial Permitted Non-Bank Lender counts in respect of the Loan Notes held by it as one lender only for the purpose of the Non-Bank Rules.

### Swiss Federal Stamp Taxes

Provided that at all times while any Loan Notes are outstanding the Issuer complies with the Non-Bank Rules and the holders of Loan Notes comply with the restrictions on transfer of Loan Notes and grants of security in Condition 9 no Swiss Federal Stamp Taxes will be payable on the issuance of the Loan Notes or any subsequent transfer or assignment of Loan Notes (see “—*Swiss Federal Withholding Tax*” above for a summary on the limitations).

### Swiss Corporate Income Taxes

#### *Non-resident Holders*

A holder of a Loan Note who is a corporate entity and not resident in Switzerland (including the Permitted Non-Bank Lender (as defined in the Conditions) and who during the taxation year has not engaged in a trade or business carried on through a permanent establishment or a fixed place of business in Switzerland to which the Loan Note is attributable is in respect of such Loan Note not subject to income tax in Switzerland (see “—*Swiss Federal Withholding Tax*” above for a summary on the Swiss Federal Withholding Tax).

***Loan Notes held as Swiss business asset***

Swiss resident corporate taxpayers and corporate taxpayers resident abroad holding Loan Notes through a permanent establishment or a fixed place of business in Switzerland are required to recognise the payments of interest and any capital gain or loss realised on the sale or other disposal of such Loan Note, in each case converted into CHF at the exchange rate prevailing at the time of payment or sale, as applicable in their income statement for the respective tax period and are taxable on any net taxable earnings for such period.

## **OFFERING AND TRANSFER RESTRICTIONS**

### **Generally**

The outstanding Loan Notes may only be held by Qualifying Banks (as defined in the Conditions) and one single Permitted Non-Bank Lender (as defined in the Conditions). No Noteholder will be permitted to sub-participate or sub-contract its obligations under the Loan Notes unless in accordance with Condition 9, or charge or create a security interest in all or any portion of its rights under any Loan Note to secure obligations of such Noteholder unless in accordance with Condition 9. No assignment or transfer of a Loan Note will be valid unless and until entered on the register to be kept by the registrar. A Loan Note may be registered only in the name of, and transferred or assigned only to, a named person.

Any transfer or assignment of a Loan Note will be subject to (i) all requirements in Condition 9 of the Conditions being met, (ii) the person making the application for transfer paying or procuring the payment of any taxes, duties and other governmental charges in connection therewith, (iii) the registrar being satisfied with the documents of title and/or identity of the person making the application and (iv) such reasonable regulations as Swisscom may from time to time agree with the registrar.

Prospective investors understand and agree that the Loan Note(s) will be sold, and may be held or transferred, only in denominations of at least €100,000 each and integral multiples of €1,000 in excess thereof, all in accordance with the transfer restrictions in Condition 1 of the Conditions.

The Loan Notes will be issued in certificated, registered form, and will bear a legend setting forth the applicable transfer restrictions.

### **U.S. Securities Law and Other U.S. Restrictions**

The Loan Notes have not been, and will not be registered, under the Securities Act and may not be resold in the United States.

Until 40 days after the commencement of the Loan Notes Offering, any offer or sale of Loan Notes within the United States of America by a dealer (whether or not participating in the Loan Notes Offering) may violate the registration requirements of the Securities Act if such offer or sale is made other than in accordance with Rule 144A or another exemption from registration under the Securities Act.

### **Other Restrictions**

This document is directed only at persons who (i) are outside the United Kingdom or (ii) have professional experience in matters relating to investments or (iii) are persons falling within Articles 49(2)(a) to (d) ("high net worth companies, unincorporated associations etc") of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (all such persons being referred to as "relevant persons"). This document must not be acted on or relied on by persons who are not relevant persons. Any investment or investment activity to which this communication relates is available only to relevant persons and will be engaged in only with relevant persons.

The distribution of this document in other jurisdictions may be restricted by law and persons into whose possession this document comes should inform themselves about, and observe any such restrictions. Any failure to comply with these restrictions may constitute a violation of U.S. securities laws or the laws of any such other jurisdictions.

## **INDEPENDENT AUDITORS**

The auditors appointed by the shareholders of the parent company are automatically and always responsible for auditing the consolidated annual financial statements. There is consequently no further need to appoint a special auditor for the consolidated annual financial statements.

The statutory auditors are appointed annually by the General Meeting.

KPMG AG, Gümligen-Berne, has acted as the statutory auditors of the Issuer since 1 January 2004. Rolf Hauenstein of KPMG AG is responsible for the mandate as auditor-in-charge. KPMG AG is a licensed, state-supervised auditing company and is a member of the Swiss Institute of Certified Accountants and Tax Consultants.

The consolidated financial statements of Swisscom AG as of 31 December 2012 and 2013, and for each of the years then ended, and the consolidated financial statements of Swisscom AG as of 31 December 2011 and 2012, and for each of the years then ended, which are incorporated by reference in this Information Memorandum, have been audited by KPMG AG, independent auditors, as stated in their reports appearing therein.

## GENERAL INFORMATION

### The Company

Swisscom AG (also known as Swisscom SA or Swisscom Ltd.) was incorporated on 1 January 1998 for an unlimited duration as a *Spezialgesetzliche Aktiengesellschaft* (a special statutory stock corporation with limited liability) pursuant to Art. 2 ff. of the TUG (Swiss Telecommunications Enterprise Act of 30 April 1997) and the Swiss Code of Obligations. The Company's registered office is located at Alte Tiefenastrasse 6, 3048 Worblaufen, in the community of Ittigen, Switzerland. Swisscom's telephone number is (+41) (0)58 221 56 19. The Company has been entered in the Commercial Register of the Canton of Berne (Switzerland) under the number CHE-102.753.938 since 27 July 1998. Prior to this, Swisscom's operations were a part of the Swiss PTT (Swiss Post). On 1 January 1998, the Swiss Telecom PTT was separated from the Swiss Post and established as a special statutory stock corporation.

Please refer to Note 41 of Swisscom's audited consolidated financial statements as of, and for the year ended, 31 December 2013 in the 2013 Annual Report Excerpts, for a list of Swisscom's subsidiaries, associates and joint ventures.

### Purpose

The Company's business purpose, pursuant to Article 2 of its Articles of Incorporation, is to provide telecommunications and radiocommunication services in and outside Switzerland, and to offer products and services related thereto.

The Company may enter into all transactions which the business purpose entails, including the purchase and sale of real estate, the procurement and investment of funds on the money and capital markets, the establishment and purchase of interests in corporations and other means of co-operation with third parties.

### Available Information

The full text of the Company's Articles of Incorporation is available, in German and English, at the Company's registered office in Worblaufen, Switzerland during regular business hours and on Swisscom's website at <http://www.swisscom.ch/en/about/governance/regulations.html>. The Articles of Incorporation will continue to be available for at least the next twelve months.

In addition, copies of Swisscom's consolidated financial statements as of and for the years ended 31 December 2012 and 2013 and the Company's Articles of Incorporation may be obtained free of charge by sending a request in writing on Swisscom's website at <http://www.swisscom.ch/en/about/investors/contact.html>.

### No Material Adverse or Significant Change

There has been no material adverse change in Swisscom's prospects, nor any significant change in Swisscom's financial or trading position, since 31 December 2013, the date of Swisscom's last published audited financial statements.

### Conflicts of Interest

No conflicts of interest exist between the duties of the members of the Company's Board of Directors and Executive Board to the Company and their respective private interests or other duties. The business address of the members of the Board of Directors and Group Executive board is Alte Tiefenastrasse 6, 3048 Worblaufen, in the community of Ittigen, Switzerland.

**Board Authorisation**

The issuance of the Loan Notes was authorised by resolution of the Board on 12 December 2013 and the Chief Financial Officer, acting by the resolution of the Board passed on 12 December 2013.

**REGISTERED OFFICE OF THE ISSUER**

**Lunar Funding V PLC**  
5 Harbourmaster Place  
International Financial Services Centre  
Dublin 1

**TRUSTEE, MANAGERS' TRUSTEE AND ORIGINAL COLLATERAL OBLIGOR TRUSTEE**

**BNP Paribas Trust Corporation UK Limited**  
55 Moorgate  
London EC2R 6PA

**ENFORCEMENT AGENT**

**BNP Paribas Securities Services S.C.A., London Branch**  
55 Moorgate  
London EC2R 6PA

**ISSUING AND PAYING AGENT AND CUSTODIAN**

**Deutsche Bank AG, London Branch**  
Winchester House  
1 Great Winchester Street  
London EC2N 2DB

**ARRANGER, CALCULATION AGENT AND DISPOSAL AGENT**

**The Royal Bank of Scotland plc**  
135 Bishopsgate  
London EC2M 3UR

**REGISTRAR**

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2 Boulevard Konrad Adenauer  
L-1115 Luxembourg

**AUDITOR OF THE ISSUER**

**Deloitte & Touche**  
Earlsfort Terrace  
Dublin 2

**LISTING AGENT FOR THE ISSUER**

**A&L Listing Limited**  
International Financial Services Centre  
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Dublin 1

**LEGAL ADVISERS**

*To the Managers, the Trustee, the Managers' Trustee, the  
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