

# General Credit Conditions (Corporate Clients) Deutsche Bank AG



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The content of this English version of the General Credit Conditions (corporate clients) of April 2018 is based on the *Dutch Algemene Voorwaarden voor Kredietverlening (zakelijk) van januari 2018*. In the event of any conflict or inconsistency between the English version and the Dutch version, the terms of this English version shall prevail.

These General Credit Conditions (corporate clients) consist of:

- I. Common Provisions
- II. General Conditions for Credit in the form of an overdraft facility
- III. General Conditions for Credit in the form of a loan
- IV. General Conditions for Credit in the form of a loan with an interest rate based on Euribor or Libor
- V. General Conditions for Credit in the form of a contingent liability credit
- VI. General Conditions for Credit in the form of an Asset Based Finance facility

## I. Common Provisions

### 1. DEFINITIONS

In these General Credit Conditions (corporate clients) the following terms shall have the meanings set out below:

#### Borrower

each party to whom credit has been or will be made available under a Finance Document

#### Business Day

a day, other than a Saturday or Sunday, on which banks in the Netherlands are generally open for business in the Netherlands insofar as such day is also a TARGET Day

#### Co-obligor

a party that is jointly and severally liable under a Finance Document but is not a Borrower

#### Credit

credit provided by Deutsche Bank in the form of an overdraft facility, loan, contingent liability credit, Asset Based Finance facility and/or in any other form

#### Credit Agreement

an agreement between one or more Borrowers and, to the extent applicable, one or more Co-obligors on the one hand and Deutsche Bank on the other hand that governs the extension of Credit and to which the GCC apply

#### Deed of Accession

a deed by which one or more legal or natural persons accede to the Credit Agreement as a Borrower or a Co-obligor

#### Deutsche Bank

Deutsche Bank AG

#### Eonia

*Euro OverNight Index Average*. The effective rate for overnight interbank deposits, calculated as the weighted average of all unsecured interbank lending transactions initiated within the Euro area by the contributing banks. The Eonia rate is published on the website of the European Banking Federation ([www.emmi-benchmarks.eu](http://www.emmi-benchmarks.eu)). A negative Eonia rate shall be deemed to be zero.

#### Euribor

*Euro Interbank Offered Rate*. The rate at which a representative number of banks are prepared to place Euro deposits at banks with similar creditworthiness. Euribor rates are set for the relevant Interest Periods at eleven hours (11.00) (Central European Time) on the second Business Day before the commencement of the relevant Interest Period. Euribor rates are published on the website of the European Banking Federation ([www.emmi-benchmarks.eu](http://www.emmi-benchmarks.eu)). A negative Euribor rate shall be deemed to be zero.

#### EURO Base Rate

the Deutsche Bank Euro Base Rate, as published on the website of Deutsche Bank ([www.deutschebank.nl](http://www.deutschebank.nl))

#### Finance Document

(i) the Credit Agreement and any other documents containing agreements between Deutsche Bank and an Obligor or undertakings by an Obligor, where such agreements or undertakings relate to the Credit; (ii) any security documents relating to the Credit, and (iii) any other document designated by Deutsche Bank and an Obligor as a "Finance Document", including the GCC and/or any other general conditions declared applicable to it

#### GCC

these General Credit Conditions (corporate clients) consisting of part I. Common Provisions; part II. General Conditions for Credit in the form of an overdraft facility; part III. General Conditions for Credit in the form of a loan; part IV. General Conditions for Credit in the form of a loan with an interest rate based on Euribor or Libor, part V. General Conditions for Credit in the form of a contingent liability credit and part VI. General Conditions for Credit in the form of an Asset Based Finance facility

#### General Banking Conditions

the general banking conditions of Deutsche Bank filed with the registrar's office of the Amsterdam District Court on the twenty-ninth day of August two thousand sixteen, as amended from time to time in accordance with their terms

#### Interest Period

each period for which an interest rate has been or will be set in accordance with the Credit Agreement or, if applicable, these GCC

#### Libor

*London Interbank Offered Rate*. The rate at which a representative number of banks are prepared to place deposits in currencies other than Euro at banks with similar creditworthiness. Libor rates are set for the relevant Interest Periods at eleven hours (11.00) (London time) on the second Business Day before the commencement of the relevant Interest Period. Libor rates are published on the Thomson Reuters website on behalf of the ICE Benchmark Administration Limited. A negative Libor rate shall be deemed to be zero.

#### Limit

with respect to any form of Credit, the maximum amount which is made available for the use of that form of Credit under the Credit Agreement

#### Obligor

a Borrower or a Co-obligor

#### Principal Borrower

the Borrower designated as such in the Credit Agreement

#### TARGET

the 'Trans-European Automated Real-Time Gross-Settlement Express Transfer' system

#### TARGET Day

a day on which payments in Euro are executed via TARGET

## 2. INTERPRETATION

- 2.1 Unless stated otherwise in a Finance Document, any reference in the GCC or another Finance Document to:
  - (a) 'Deutsche Bank', the 'Principal Borrower', the 'Borrower', the 'Obligor', the "Debtor" or any other natural person, legal person or partnership should be interpreted as including the legal successors under universal title (*rechtsopvolgers onder algemene titel*) and the permitted legal successors under singular title (*toegestane rechtsopvolgers onder bijzondere titel*) of the relevant natural person, legal person or partnership;
  - (b) the 'Credit Agreement', a 'Finance Document', the 'GCC' or any other agreement or document should be interpreted as a reference to the Credit Agreement, that Finance Document or that other agreement or document as most recently amended, novated, supplemented, extended or restated (including any increase, reduction, change in purpose or other amendment of the forms of Credit made available, as well as any addition of new forms of Credit, any restructuring of debt provided in the Finance Documents, and any accession or withdrawal of a party to or from a Finance Document or any combination of the above);
  - (c) a 'Borrower' in respect of a specific form of Credit should be interpreted as a reference to a Borrower to whom that form of Credit is made available under the Credit Agreement;
  - (d) a 'person' should be interpreted as a reference to a natural person, to a legal person or other entity, or to a government authority, state or agency of a state;
  - (e) a statutory provision should be interpreted as a reference to that provision as may be amended or readopted from time to time; and
  - (f) an organisation should be interpreted as including any organisation replacing the same.
- 2.2 The heading of a clause in a Finance Document is for ease of reference only and has no effect on the contents of such clause.
- 2.3 Unless stated otherwise, terms defined in the Credit Agreement or the GCC shall have the same meanings when used in a Finance Document or in any notification or report given or issued pursuant to or in connection with a Finance Document.

## 3. AVAILABILITY OF THE CREDIT

The Credit will not be made available to a Borrower until Deutsche Bank is satisfied that it has received all security, undertakings (*verklaringen*), documents and information referred to in the Credit Agreement and all other conditions for the availability of the Credit, as set out in the Credit Agreement and, insofar as applicable, the GCC, have been met.

## 4. SECURITY AND UNDERTAKINGS

- 4.1 If an Obligor provides or has provided security or gives or has given undertakings, these shall serve to secure all present and future indebtedness of that Obligor towards Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 4.2 To the extent not already documented in any Finance Document, the security and undertakings shall be documented in additional instruments to be determined by Deutsche Bank and declared subject to general conditions to be adopted by Deutsche Bank for the relevant type of additional instrument. The Borrower shall bear all costs incurred in this regard. Unless it has been or is agreed otherwise, security provided to Deutsche Bank shall rank first in priority.

- 4.3 Each Obligor represents and warrants that it is authorised to enter into the Finance Documents and to perform all its obligations to Deutsche Bank thereunder and that these obligations are valid and enforceable.
- 4.4 Unless the Finance Documents explicitly provide otherwise, Deutsche Bank shall in no event be obliged to grant additional credit on the grounds that the amount recoverable through enforcement of the security provided to Deutsche Bank exceeds the amount for which it has requested security or the amount necessary to satisfy the payment obligations arising from the Finance Documents or on any other account whatsoever.
- 4.5 Without prejudice to the rights of Deutsche Bank under article 26 of the General Banking Conditions, an Obligor shall, at Deutsche Bank's first request, provide security (including additional security) considered satisfactory by Deutsche Bank for all present and future indebtedness of an Obligor towards Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business. This security (including additional security) shall at all times be such that Deutsche Bank, in its opinion, has and continues to have sufficient security, taking into account the Obligor's risk profile, the value of the security and any other facts relevant to Deutsche Bank. If necessary, the relevant Obligor shall replace and/or supplement the security (including additional security) to the satisfaction of Deutsche Bank. At the relevant Obligor's request, Deutsche Bank shall state the reasons for any requested security, or for any replacement or supplementation thereof.
- 4.6 If Deutsche Bank waives (*doet afstand van*) or cancels (*zegt op*) any security provided to it, the Obligor shall, at Deutsche Bank's first request, provide such other security as Deutsche Bank deems satisfactory. The Obligor is not required to provide such other security if Deutsche Bank has established that an Obligor neither has nor will have any further indebtedness towards it that is secured by such security and that all relationships between it and the Obligor have ended.

## 5. LEGAL SUCCESSORS OF OBLIGORS

In the event of a statutory demerger of an Obligor, each of the demerged entities shall be fully liable to Deutsche Bank for all present and future indebtedness of the demerging Obligor towards Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business. Clause 6 shall in that event apply *mutatis mutandis*.

## 6. MULTIPLE OBLIGORS – INDEPENDENT OBLIGATIONS; JOINT AND SEVERAL LIABILITY

- 6.1 If multiple natural persons, legal persons and partnerships are parties to a Finance Document as Obligor, the obligations and duties of the Obligor towards Deutsche Bank under a Finance Document or the GCC shall be the obligations and duties of each such natural person, legal person and partnership as Obligor separately.
- 6.2 Each Obligor accepts, as its own independent obligation, liability for all present and future indebtedness of each other Obligor towards Deutsche Bank on any account whatsoever (including on account of derivative transactions and including each parallel debt under clause 35.2 or under any other Finance Document) and whether or not arising in the ordinary course of banking business. Each Obligor undertakes to pay Deutsche Bank any amount thus owed at the first request of Deutsche Bank. Failure by an Obligor to immediately comply with such a request shall in itself cause that Obligor to be in default (*verzuim*), without any notice of default (*ingebrekestelling*) being required.
- 6.3 Each Obligor waives, as against Deutsche Bank, all defences and rights accruing to joint and several debtors. To the extent that, contrary to the parties' intention, an Obligor's assumption of joint and several liability is characterised as a suretyship (*borgstelling*), that Obligor waives all defences and rights accruing to sureties, including the right of set-off.
- 6.4 Any offer to an Obligor to grant a suspension of payments, release from joint and several liability or waiver applies solely to that Obligor.
- 6.5 At Deutsche Bank's first request, the Obligors shall establish the extent to which the indebtedness is attributable to each Obligor individually. Each Obligor irrevocably authorises the Principal Borrower to establish, with one or more other Obligors, the amount attributable to each individual Obligor or the method by which that amount will be calculated.
- 6.6 Each Obligor accepts that it will in no event obtain statutory recourse rights against another Obligor.
- 6.7 Each Obligor accepts that it will at no time acquire the claims and the related security rights and other rights of Deutsche Bank against another Obligor by way of subrogation (*subrogatie*).
- 6.8 Each Obligor accepts the obligation to pay each other Obligor compensation equal to such part of the indebtedness as is attributable to it in their mutual relationship (the 'Compensation Right'). The Compensation Right arises immediately upon the acceptance of joint and several liability under this clause 6, as a pre-existing obligation which becomes due and payable (i) if and when the indebtedness to Deutsche Bank is paid and (ii) to the extent that an Obligor has not already paid to Deutsche Bank or another Obligor such part of the indebtedness as is attributable to it in their mutual relationship.
- 6.9 Each Obligor undertakes to pledge its Compensation Right to Deutsche Bank as security for all present and future indebtedness of that Obligor towards Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 6.10 In order to effectuate the above obligation, each Obligor hereby pledges, to the extent not already so pledged, its abovementioned Compensation Right to Deutsche Bank, as security for the indebtedness described above. The receipt or signing of the Credit Agreement by each Obligor constitutes

- notification (where appropriate, in advance) to each Obligor – as debtor in respect of the Compensation Right – of the abovementioned pledge. Deutsche Bank may waive the claims pledged.
- 6.11 To the extent not encumbered by a pledge as referred to above, the Compensation Right shall be subordinated to all present and future claims of Deutsche Bank against that other Obligor.
- 6.12 To the extent that the Compensation Right is not encumbered by a pledge as referred to above and subject to the condition precedent that an Obligor is being transferred to a third party as part of a restructuring (*ontvlechting*) of the group of that Obligor, each other Obligor hereby waives its Compensation Right against the Obligor being transferred, in the sense that no Compensation Right against that Obligor will exist or arise.
- 6.13 To the extent necessary for the pledging of the Compensation Right, each Obligor hereby grants Deutsche Bank a power of attorney to pledge the Compensation Right to itself on behalf of that Obligor.

## 7. MULTIPLE OBLIGORS – PRINCIPAL BORROWER AS REPRESENTATIVE

- 7.1 By signing the Credit Agreement or a Deed of Accession each Obligor irrevocably appoints the Principal Borrower as its representative with regard to the Finance Documents.
- 7.2 The Principal Borrower is authorised, on behalf of each other Obligor, to provide Deutsche Bank with all information in relation to that Obligor that is required under the Finance Documents and to give all notifications and instructions, to enter into such agreements and to implement all changes, supplements and amendments to the Finance Documents without any further consultation with or approval of that Obligor being required.
- 7.3 Any notification, demand for payment or other communication under the Finance Documents to an Obligor may be issued by Deutsche Bank to the Principal Borrower as the representative of that other Obligor. The Principal Borrower shall immediately inform each other Obligor of such notification, demand for payment or other communication.
- 7.4 In each of the abovementioned cases the Obligor shall be bound by the notifications and instructions as if it itself had given such notifications and instructions, had performed or entered into the agreement, had implemented the abovementioned changes, supplements and amendments or had received the relevant notification, demand for payment or other communication.
- 7.5 Any act, omission, notification or other communication by the Principal Borrower or issued to the Principal Borrower for or on behalf of an Obligor in connection with the Finance Documents (irrespective of whether known to that Obligor and irrespective of whether the same occurred before or after that Obligor became an Obligor) shall be binding in all respects on that Obligor as if that Obligor itself had expressly performed that act or omission or given such notification or other communication or had expressly agreed to the same. In the event of a conflict between any notification or other communication given by the Principal Borrower and any notification or other communication given by another Obligor, those given by the Principal Borrower shall prevail.

## 8. MULTIPLE BORROWERS – DEMAND FOR PAYMENT / CANCELLATION

If Deutsche Bank is entitled for any reason to demand payment of all or part of the Credit (*opeisen*) or to cancel (*opzeggen*) the same, Deutsche Bank has the right (but at no time the obligation) to demand payment of or cancel all or that part of the Credit solely in relation to one or more specific Borrowers and to continue all or that part of the Credit in relation to the other Borrowers.

## 9. MULTIPLE BORROWERS – PARTNERSHIP

- 9.1 If an Obligor is a general partnership (*vennootschap onder firma*) or a limited partnership (*commanditaire vennootschap*), the general or managing partners are jointly and severally liable for the obligations of such partnership, as if each general or managing partner were itself an Obligor. The provisions in clauses 6 to 8 apply *mutatis mutandis*.
- 9.2 A general or managing partner who has left the partnership shall remain liable for the obligations to Deutsche Bank that were entered into in the partnership's name and arise from acts performed before the day on which the relevant partner left the partnership until such time as Deutsche Bank has expressly, and in writing, released that partner from those obligations.

## 10. COMPENSATION RIGHT IN CASES OF THIRD-PARTY SECURITY, SURETY AND GUARANTEE

- 10.1 Each Obligor hereby accepts, as a third-party clause (*derdenbeding*) within the meaning of article 6:253 of the Dutch Civil Code, the obligation to pay to a surety, guarantor or other third party that has created or will create a security right in favour of Deutsche Bank for the obligations of the relevant Obligor (each a "Third-Party Security Provider") compensation equal to such part of the secured obligation as is attributable to that Obligor, up to a maximum equal to the amount for which the Third-Party Security Provider has successfully been held liable. The Third-Party Security Provider's compensation right against the Obligor arises immediately upon the entry into the suretyship or guarantee or the creation of the third-party security right as a pre-existing obligation of each Obligor towards the Third-Party Security Provider, which becomes due and payable if and when the suretyship, guarantee or other third-party security right is enforced.

- 10.2 To the extent Deutsche Bank obtains a pledge over a compensation right as set out above, Deutsche Bank hereby notifies that pledge in advance to each Obligor, as debtor of the Third-Party Security Provider's compensation right.

## 11. SET-OFF

- 11.1 Deutsche Bank may, at any time and without prior notice to this effect, set off debts owed by Deutsche Bank to an Obligor on any account whatsoever, against debts owed by that Obligor or any other Obligor to Deutsche Bank (such as those incurred under credit in the form of a contingent liability credit), irrespective of whether the debts to be set off can be declared immediately due and payable (*opeisbaar*) or whether they are capable of being paid (*betaalbaar*) and irrespective of the currency in which they are denominated.
- 11.2 Debts denominated in a foreign currency shall be set off at the exchange rate in effect on the set-off date.
- 11.3 Deutsche Bank shall notify the relevant Obligor of the set-off applied. The sending of a bank statement for the account in which the set-off has been effected shall serve as the relevant notice.

## 12. NEGATIVE PLEDGE

As long as any Obligor has any indebtedness towards Deutsche Bank, on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business, or as long as any such indebtedness can arise, no Obligor shall, without Deutsche Bank's prior written consent, stand surety or assume joint and several liability in favour of any party other than Deutsche Bank or transfer, burden or encumber all or part of its assets or in favour of a third party or undertake to a third party to do so. An Obligor may, however, transfer an asset in the ordinary course of its business in return for payment (other than by set-off) of a market price, on market terms and in accordance with the nature of and use for which that asset is intended.

## 13. TRANSFER AND PLEDGE OF CREDIT BALANCES

Except with Deutsche Bank's prior written consent, claims arising from credit balances on accounts held at Deutsche Bank may not be transferred or pledged or encumbered with a right of enjoyment (*genotsrecht*) other than to or in favour of Deutsche Bank or its group companies.

## 14. TRANSFER AND PLEDGE

- 14.1 Deutsche Bank may pledge all its rights under any Finance Document and transfer all its rights and obligations under any Finance Document in whole or in part, to a third party by assignment (*cessie*), transfer of contract (*contractoverneming*), assumption of debt (*schuldovernemng*) or a combination thereof or in any other manner. Deutsche Bank may also transfer all or part of its economic risk in respect of any Finance Document to a third party by means of a sub-participation agreement or in any other manner. In the event of a transfer of economic risk, Deutsche Bank shall remain the Obligor's contractual counterparty in accordance with the provisions of the relevant Finance Document.
- 14.2 Each Obligor consents in advance to such a pledge, assignment, transfer of contract, assumption of debt or a combination thereof, or to any other manner of transfer to a third party, and undertakes to cooperate therein and to perform any acts required to encumber rights or to transfer all or part of the rights and obligations under the Finance Documents.

## 15. INSURANCE

- 15.1 Each Obligor shall at all times maintain insurance satisfactory to Deutsche Bank on the terms usual in its line of business, against the prevailing general and specific business risks faced in that line of business and in the Borrower's particular business, and shall, in a timely manner, pay all premiums and other charges and provide all information and notifications requested by the insurer. An Obligor shall provide Deutsche Bank, at its first request, with a copy of each relevant insurance policy and with evidence satisfactory to Deutsche Bank that the premiums and other charges have been paid.
- 15.2 To the extent that an Obligor fails to comply with any obligation set forth in clause 15.1, Deutsche Bank may itself arrange for insurance or additional insurance, in its own name if it so wishes, against the business risks referred to in clause 15.1 and to pay the premiums and other charges due by the Obligor, in each case at the expense of such Obligor.
- 15.3 The Principal Borrower warrants the prompt and proper performance of the obligations of each other Obligor pursuant to clause 15.

## 16. CREDIT INSURANCE

Deutsche Bank may, at the expense of the Obligors, insure its risks arising from the Credit Agreement if it considers repayment of the Credit to be insufficiently assured.

## 17. VALUATION

Deutsche Bank may, as often as Deutsche Bank considers necessary for the purpose of assessing its possibilities of recovery, appoint a valuer to value the assets serving as security or otherwise available to it for recovery (whether under a right of security or otherwise), in a manner to be established by Deutsche Bank. The costs of the valuation shall be for the account of the Borrower and/or the Obligor, each of whom shall be fully liable for such costs. The Obligor shall immediately and unconditionally allow the valuer appointed by Deutsche Bank access to inspect all the assets and to obtain all the relevant information and documents needed to perform the valuation of those assets.

## 18. COSTS, EXPENSES AND RATE INCREASES

- 18.1 All costs and expenses incurred by Deutsche Bank in connection with the preparation and performance of the Finance Documents shall be for the Borrower's account and shall be paid by the Borrower at Deutsche Bank's first request. The foregoing shall include any costs and expenses incurred by Deutsche Bank as a result of failure by an Obligor, or any third party providing security, to perform in a timely and proper manner any obligation under the Finance Documents or any other obligation whatsoever, such as collection charges, costs relating to the enforcement of security, fees of legal advisers and other experts and the costs of proceedings against third parties or the Obligor itself, together with any taxes payable now or in the future (other than on net profit to which Deutsche Bank is or will be subject) in connection with the Credit or any Finance Document.
- 18.2 Without prejudice to what is provided elsewhere in these GCC (including clauses 39, 45, 46, 56 and 71.4) regarding interest rate adjustments, Deutsche Bank may at any time increase an agreed interest rate, including (if applicable) the individual margin and surcharges (*toeslagen*). The circumstances in which Deutsche Bank may exercise this right include (without limitation) circumstances where, in its opinion:
- an Obligor's risk profile changes, for example because market conditions or its solvency, liquidity or profitability worsens or is expected to worsen;
  - Deutsche Bank is unable to assess an Obligor's risk profile due to a lack of information;
  - the value of the security provided to Deutsche Bank decreases;
  - changes occur in the money and capital markets as a result of which Deutsche Bank's financing costs increase (*marktoeslag*);
  - at any time if the cost to Deutsche Bank of providing or continuing to provide the Credit has increased as a direct or indirect result of credit-restricting measures, solvency guidelines or other cost-increasing rules or provisions (including any codes of conduct with which compliance has been requested) issued by the Dutch Central Bank (*De Nederlandsche Bank N.V.*), the European Central Bank, the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) or any other authority exercising supervision over Deutsche Bank (*kapitaaloeslag*).
- Such an adjustment may result in the application of a margin or surcharge that was not previously applied or was applied at a lower rate. Deutsche Bank may also reduce an interest rate at any time.
- 18.3 Deutsche Bank may at any time charge a credit monitoring fee if a Borrower falls under the supervision of Deutsche Bank's WRM department (*Workout & Recovery Management, bijzonder beheer*). Deutsche Bank may debit the fee from a current account of the Borrower at Deutsche Bank or from an internal account held for the Borrower in Deutsche Bank's books and records.

## 19. CALCULATION OF INTEREST AND CHARGES

- 19.1 Without prejudice to clause 19.3, interest on amounts in Euro and commitment fees (*bereidstellingsvergoeding*) shall be calculated on the basis of the actual number of days in a month and a three hundred sixty day (360-day) year.
- 19.2 Interest and commitment fees set by Deutsche Bank shall, save manifest error, be binding on a Borrower. Deutsche Bank shall confirm the interest and commitment fees to a Borrower in writing.
- 19.3 Deutsche Bank may at any time amend the calculation method and period and the settlement method and period of any interest, commission, fees and other charges due under any Finance Document.
- 19.4 Deutsche Bank shall under no circumstances be required to pay negative interest. In the event of a negative interest rate, the rate will be considered zero.

## 20. PROVISION OF INFORMATION

- 20.1 Each Obligor shall send Deutsche Bank its balance sheet, profit and loss account and the explanatory notes thereto for the past financial year immediately after they have been drawn up and in any event no later than six (6) months after the end of the relevant financial year. If the Obligor is part of a group, it shall also send the consolidated balance sheet, profit and loss account and the explanatory notes thereto for the holding company. Deutsche Bank may impose requirements with respect to the organisation of the abovementioned documents and the party drawing them up.
- 20.2 Each Obligor that is not a legal entity shall send Deutsche Bank, at its first request, his or her most recent income tax return.
- 20.3 Each Obligor shall inform Deutsche Bank promptly and in writing of any intended change in the corporate structure or legal form of the Obligor or of any entity in the group to which it belongs, any change in the management of or control over the Obligor or the group to which it belongs, and any intended change in its articles of association.
- 20.4 Each Obligor shall provide Deutsche Bank, at the latter's first request, with any information and any undertaking (*verklaring*) that Deutsche Bank considers of importance for its credit relationship with the Obligor or for compliance by Deutsche Bank and its group companies with regulatory legislation.
- 20.5 At Deutsche Bank's first request each Obligor shall allow Deutsche Bank, or a third party designated by Deutsche Bank, to inspect its books and records and extract from them all information that Deutsche Bank considers necessary to exercise its rights.
- 20.6 Each Obligor shall immediately inform Deutsche Bank, either at the latter's first request or on its own initiative, of all facts and circumstances (including those concerning its financial position, the financial position of the group to which it belongs, any business developments that could have a material effect on its financial position and any actual or threatened litigation against the Obligor or a member of the group to which it belongs) of which it is aware and that have led to a default under the Finance Documents or on any account whatsoever or where it is reasonably foreseeable that such facts or circumstances could lead to such a default, including the circumstances referred to in clause 24.
- 20.7 The Principal Borrower warrants the prompt and proper performance of the obligations of each other Obligor pursuant to clause 20.

## 21. PROTECTION OF PERSONAL DATA; EXCHANGE OF INFORMATION

- 21.1 Deutsche Bank shall handle the personal data of each Obligor or potential Obligor, each Obligor or potential Obligor's representatives and any other relevant parties in accordance with the applicable legislation and regulations protecting personal data and personal privacy. Personal data shall be processed with a view to the efficiency and effectiveness of Deutsche Bank's business operations and specifically for the purpose of:
- assessing and accepting an Obligor or potential Obligor, entering into and performing agreements with an Obligor or potential Obligor and executing payments;
  - analysing personal data for statistical and research purposes;
  - performing targeted or other marketing activities in order to establish and/or maintain or expand a relationship with a client or potential client or other relevant parties;
  - ensuring the safety and integrity of the financial sector, including identifying, preventing, investigating and countering any actual or attempted criminal or other undesired activity directed against the sector of which Deutsche Bank forms part, the group to which Deutsche Bank belongs, Deutsche Bank itself, its clients and employees, as well as using and participating in warning systems;
  - complying with statutory obligations; and
  - managing the relationship with the Obligor.
- 21.2 Articles 10 and 11 of the General Banking Conditions shall apply in addition to the provisions on personal data set forth in clause 21.1. Deutsche Bank may supply information about an Obligor, including personal data, to Deutsche Bank's legal or potential legal successor(s), whether by universal or singular title (*onder algemene of bijzondere titel*), including in the context of financing transactions. Deutsche Bank may also supply these data to a third party who is or will be a party to a pledge or transfer by Deutsche Bank of its rights and obligations within the meaning of clause 14. Deutsche Bank may exchange personal data within the group to which it belongs, including for the purposes of performing the activities referred to in clauses 21.1 and 21.2 such as commercial activities (e.g. sending information to a client or potential client and other targeted marketing activities), as well as in the context of financing transactions.
- 21.3 Deutsche Bank may engage third parties to assist in its business operations or in the performance of its activities, both from within and outside the group to which Deutsche Bank belongs and both from within and outside the European Union.
- 21.4 If a third party has provided or provides security or undertakings, Deutsche Bank may extend information to that third party on a Finance Document, the financial position of an Obligor and all other facts relating to the Credit that may be of importance to that third party.
- 21.5 Deutsche Bank may obtain information from third parties, including credit agencies, for assessing the financial position of an Obligor.

## 22. PAYMENTS

- 22.1 Each Obligor shall make all payments to Deutsche Bank without any cost to Deutsche Bank and without any deduction or set-off on the due dates agreed in the relevant Finance Documents or, in the absence of any written agreement in this respect, at the times customary to Deutsche Bank and into the account in which the relevant Credit is administered, unless Deutsche Bank has notified the Obligor of another payment method.

- 22.2 Deutsche Bank is entitled to determine the specific Credit to which payments will be applied. Payments to Deutsche Bank, including proceeds from the enforcement of security, shall be applied in the following order: (i) any costs and expenses; (ii) any compensation for losses and foregone profits and default interest; (iii) commission, fees and interest, and lastly (iv) principal.

## 23. DEFAULT

If an Obligor fails to perform any obligation under the Finance Documents or on any account whatsoever, this in itself shall cause the Obligor to be in default (*verzuim*), without any notice of default (*ingebrekestelling*) being required.

## 24. EARLY TERMINATION (TUSSENTIJDSE BEËINDIGING)

- 24.1 Deutsche Bank may terminate the Credit Agreement in relation to one or more Obligors, upon the occurrence of any of the following events:
- if Deutsche Bank cancels Credit that has been made available until further notice under a Finance Document;
  - if any Obligor fails to perform, in a timely and proper manner, any obligation to Deutsche Bank on any account whatsoever, or if, in Deutsche Bank's opinion, there is a significant chance that an Obligor will fail to perform, in a timely and proper manner, any obligation to Deutsche Bank;
  - if any Obligor fails to perform, in a timely and proper manner, any obligation to a third party under or in connection with any other loan, credit or other type of financing agreement with a third party or under any guarantee given to a third party;
  - if (i) any Obligor decides to cease practising its profession or carrying on its business or to discontinue, sell, lease out or transfer the whole or part of its business or practice or to sell or dispose of a substantial part of its assets; (ii) any Obligor is or threatens to be suspended, removed or dismissed from its profession, office or position; (iii) a licence, permit or registration that any Obligor requires in order to practise its profession or to carry on its business expires or is refused or withdrawn or threatens to expire or to be refused or withdrawn; (iv) the nature of any Obligor's profession or business, in the opinion of Deutsche Bank, has changed in any material way; (v) any Obligor decides to transfer its enterprise, practice or business abroad; (vi) any Obligor violates any laws or regulations (including environmental protection, supervisory and sanctions legislation) relating to its profession or business; or (vii) any Obligor is a company that ceases to pursue the corporate objects set out in its articles of association or ceases to have legal personality;
  - if the partnership agreement (*maatschaps- of vennootschapscontract*) is rescinded (*ontbonden*) or, in the opinion of Deutsche Bank, substantially amended; if one or more partners join or leave the partnership; if the partnership is dissolved (*ontbonden*) or liquidated (*geliquideerd*); or if there is a decision or clear intention to dissolve or liquidate the partnership;
  - if any Obligor dies or is believed to be dead or is missing, is placed under guardianship (*curatele*) or otherwise loses legal capacity (*handelingsonbekwaam worden*) takes up residence abroad, or changes the terms of a marriage settlement, if any matrimonial property regime to which any Obligor is subject is dissolved (*ontbonden*), or if any assets of any Obligor are placed under administration (*onder bewind gesteld*);
  - if any Obligor or one of its partners ceases to pay or suspends payment of its debts, applies for or is granted a suspension of payments (*surseance van betaling*), files for bankruptcy or insolvency (*faillissement*), is declared bankrupt or insolvent, proposes an extrajudicial arrangement or composition (*akkoord*) with its creditors, assigns or transfers assets (*boedelafstand*) or requests a debt restructuring arrangement (*schuldsaneringsregeling*), or if a third party petitions for the bankruptcy or insolvency of any Obligor;
  - if any Obligor is unable to pay any of the taxes referred to in article 36 of the Collection of State Taxes Act (*Invoeringswet*) 1990 and the tax authorities are notified to this effect;
  - if all or, in the opinion of Deutsche Bank, a significant part of any Obligor's assets are attached, whether pre-judgment (*conservatoir beslag*) or for the purpose of execution (*executoriaal beslag*) and, in the case of a pre-judgment attachment, such attachment is not lifted or discharged within thirty (30) days after being levied; or if a third party otherwise seeks recourse to all or, in the opinion of Deutsche Bank, a substantial part of any Obligor's assets, or if all or, in the opinion of Deutsche Bank, a substantial part of any Obligor's assets are expropriated, confiscated, destroyed or damaged;
  - if the corporate structure or legal form of any Obligor or the group to which it belongs changes, in the opinion of Deutsche Bank, significantly as a result of a merger, demerger, liquidation, conversion, takeover or otherwise; if, in the opinion of Deutsche Bank, there is a significant change in the control over and/or management of any Obligor or its business activities or practice; or if there is an intention to make any such changes; or if a resolution is passed that will, in the opinion of Deutsche Bank, result in a significant amendment of the articles of association or regulations of any Obligor; all of the foregoing without Deutsche Bank's prior written consent;
  - if any Obligor, without Deutsche Bank's prior written consent, releases its shareholders from an obligation to pay up partly paid-up shares, purchases its own shares, makes a repayment on shares, makes a distribution from its reserves or decides or clearly intends to do any of the above;



- (l) if any Obligor votes, with respect to its rights relating to membership of a cooperative and without Deutsche Bank's prior written consent, to transfer or cancel its membership rights, to be deprived of its membership rights or to reduce any reserve or membership account in the cooperative, to dissolve the cooperative or to approve termination of the cooperative's business or to dispose of all or a material part of the cooperative's assets, or votes in favour of a merger or demerger involving the cooperative;
- (m) if an event of a political, military, economic or financial nature occurs, or if any Obligor's financial position substantially deteriorates, or if it foreseeable that such an event or deterioration may occur, such that, in the opinion of Deutsche Bank, the ability of any Obligor duly to perform its obligations to Deutsche Bank could be prejudiced;
- (n) if Deutsche Bank receives adverse publicity as a result of its relationship with any Obligor or such publicity can be expected within a foreseeable period; if any Obligor or a person related thereto is the subject of or involved in a criminal investigation (including an investigation into tax fraud) or such an investigation can be expected within a foreseeable period; if Deutsche Bank's good name and reputation are or could be damaged by its relationship with any Obligor or if such damage can be expected within a foreseeable period; all of the foregoing in the opinion of Deutsche Bank;
- (o) if any event referred to in (c) up to and including (n) occurs in respect of a surety (*borg*), a guarantor (*garant*), a joint and several debtor (*hoofdelijk medeschuldenaar*) or a third party that has provided any form of security to Deutsche Bank for the Credit; if a suretyship (*borgtocht*) or other guarantee or assumption of joint and several liability granted to Deutsche Bank for the benefit of any Obligor is cancelled or withdrawn by the surety, guarantor or joint and several debtor; or if a surety, guarantor, joint and several debtor or any third party that has provided or committed to provide security to Deutsche Bank for the Credit defaults in the performance of any obligation arising therefrom;
- (p) if any event referred to in (c) up to and including (n) occurs in respect of one or more group companies of any Obligor, or in respect of one or more persons or companies that have a controlling interest in any Obligor, or if any such person or company defaults in the performance of any obligation to Deutsche Bank under any loan, credit or other type of financing agreement entered into with Deutsche Bank;
- (q) if a mortgage has been granted to Deutsche Bank on immovable other than a ship; if the mortgaged property is, in whole or in part, attached (*beslaglegging*), designated for expropriation (*aangewezen tot onteigening*), declared unfit for occupation, listed as a monument, included in land consolidation (*opgenomen in ruilverkaveling*), demolished, destroyed or damaged; if a long-term lease (*erfpachtsrecht*), building right (*opstalrecht*) or right of use (*gebruiksrecht*) relating to an apartment is completely or partially extinguished or terminated or lapses; if the conditions governing a long-term lease or a building right are amended; if the sub-division into apartment rights (*splitsing*) is terminated or the sub-division deed (*splitsingsakte*) or regulations are amended without Deutsche Bank's prior written consent; in the event of non-performance or violation by the leaseholder or the holder of a building right of any obligation under the conditions governing a long-term lease or building right; and in the event of non-performance or violation by the owner or occupier of an apartment of any statutory provision relating to the right to use an apartment or any provision contained in the sub-division agreement or regulations;
- (r) if a mortgage has been granted to Deutsche Bank on a ship:
  - if the whole or any part of the ship is attached or classified in a lower category, or loses or changes its national registration, or is requisitioned, abandoned, missing (*tijdingloosheid*), laid up (*oplegging*), scrapped (*sloping*) or notice is given that the same will occur, or is wrecked or damaged;
  - if the mortgagor or operator fails, with respect to the ship, to comply with the rules in the International Safety Management Code, Resolution A741 or any rules replacing them, or fails to provide Deutsche Bank with copies of the "Document of Compliance" and the "Safety Management Certificate" as described in those rules; or if the mortgagor or operator ends its membership of the International Tanker Owners Pollution Federation (ITOPF), provided that this organisation still exists, or of any other organisation or alliance that continues the activities of or replaces the ITOPF;
  - if the mortgagor or operator fails, with respect to the ship, to comply with the rules in the International Ship and Port Facility Security Code or any rules replacing them, or fails to provide Deutsche Bank with copies of the "International Ship Security Certificate" as described in those rules;
- (s) if all or any of the assets provided to Deutsche Bank as security for the Credit (other than registered property) are or threaten to be lost, destroyed, damaged or extinguished or cease or threaten to cease to exist for any reason whatsoever;
- (t) if any security provided to Deutsche Bank proves, for whatever reason, to be non-existent or the action taken to establish the security proves to be void or voidable;
- (u) if Deutsche Bank has reasonable grounds for believing that an amount owed by an Obligor under any Finance Document will or may not be recovered;
- (v) if an Obligor gives Deutsche Bank incorrect information or withholds information from Deutsche Bank which, in the opinion of Deutsche Bank, is material;
- (w) if the Credit is not used for the purpose for which it was granted or if, in the opinion of Deutsche Bank, it is clear that the purpose for which the Credit was granted has not been or will not be fully achieved;
- (x) if any law or its interpretation changes or government action is taken that relates to or affects, or may relate to or affect, the validity or enforceability of (i) any agreement between any Obligor and Deutsche Bank relating to the Credit and/or (ii) the security provided to Deutsche Bank and/or the value thereof, and any Obligor and Deutsche Bank have not, within a period to be determined by Deutsche Bank, reached a

written agreement amending the relevant agreement and/or adjusting the security in such a way that, in Deutsche Bank's opinion, the position of Deutsche Bank is not adversely affected;

- (y) the pledgor, mortgagor or any user of the security provided to Deutsche Bank or of any other asset to which recourse may be sought refuses to allow access for the purposes of the valuation referred to in clause 17; or
  - (z) if an event analogous to one referred to in (a) up to and including (x) occurs outside the Netherlands in relation to any (i) Obligor, (ii) group company of, or person or company with a controlling interest in any Obligor, (iii) surety (*borg*), (iv) guarantor (*garant*), (v) joint and several debtor (*hoofdelijk medeschuldenaar*) or (vi) third party that has provided any form of security to Deutsche Bank.
- 24.2 Each Obligor undertakes to immediately notify Deutsche Bank in writing of the occurrence of any event referred to in clause 24.1.
- 24.3 In the event of termination of the Credit Agreement as referred to in clause 24.1, the entire amount owed by a Borrower under the Credit becomes immediately due and payable (*opeisbaar*) without any demand (*sommatie*) or notice of default (*ingebrekestelling*) being required. Deutsche Bank then has the right to demand immediate payment of all or part of the amount owed by a Borrower under the Credit. Termination of the Credit Agreement pursuant to clause 24.1 shall also automatically result in the cancellation of all Limits. If the demand for payment of an amount does not relate to all the forms in which the Credit has been made available, the relevant Limit shall be automatically cancelled for that amount.
- 24.4 If the Credit Agreement is terminated pursuant to clause 24.1 or if it expires, Deutsche Bank and the Borrower(s) shall settle their mutual rights and obligations thereunder as soon as possible. Each Borrower shall cooperate in this regard to the full extent deemed useful by Deutsche Bank. The Credit Agreement shall remain in effect until, in Deutsche Bank's opinion, all rights and obligations have been settled.
- 24.5 If Deutsche Bank has demanded payment of the Credit as referred to in clause 24.3, and without prejudice to any other provision in these GCC or other Finance Document relating to the level of interest or default interest payable on any facility provided under the Credit, interest shall be payable, from the date on which the declaration is made and on the amount of the Credit declared immediately due and payable, at a rate of two per cent (2%) per annum plus (i) to the extent that any contractual interest rate applies, the contractual interest rate (including any individual margin applying) or, in the event of multiple credit facilities, the highest contractual interest rate (including any individual margin applying) or (ii) in all other cases, the Eonia rate (plus the individual margin referred to in (i)), to be determined on each day on which the amount declared immediately due and payable continues to be unpaid. This interest shall be calculated on a monthly basis, based on the actual number of days expired and a three hundred sixty day (360-day) year. From the date on which any principal amount is declared immediately due and payable and remains unpaid, this interest rate shall replace the contractual interest rate (respectively, to the extent applicable, the default interest rate) applying immediately prior to the date that such principal amount is declared due and payable.

## 25. CHOICE OF ADDRESS/DOMICILE

- 25.1 Each Obligor is domiciled at its own address and, for all matters relating to or arising from the provisions in the Credit Agreement and the GCC, also elects domicile (i) at the address of the Principal Borrower, which address may be changed by any of them by means of written notification to Deutsche Bank, as well as (ii) at each other's address. Notifications sent to any of these addresses shall constitute notification to each of the Obligors.
- 25.2 If an Obligor is or includes a private partnership (*maatschap*), general partnership (*vennootschap onder firma*) or limited partnership (*commanditaire vennootschap*), each of the general or managing partners is domiciled at its own address and, for all matters relating to or arising from the provisions in the Credit Agreement and the GCC, also elects domicile (i) at the address of the Principal Borrower, which address may be changed by any of them by means of written notification to Deutsche Bank, as well as (ii) at each other's address. Notifications sent to any of these addresses shall constitute notification to each of the Obligors.

## 26. POWER OF ATTORNEY

- 26.1 Each Obligor hereby grants Deutsche Bank a power of attorney to perform all legal acts (*rechtshandelingen*) aimed at the fulfilment of each obligation arising from the Finance Documents and the GCC, including the provision of security or additional security for all present and future claims of Deutsche Bank against an Obligor, without any obligation for Deutsche Bank to make use of this power of attorney and without prejudice to the Obligor's obligation to comply with the relevant obligation itself. If an Obligor is a private partnership (*maatschap*), general partnership (*vennootschap onder firma*) or limited partnership (*commanditaire vennootschap*), each partner hereby grants the power of attorney as referred to in the previous sentence, without any obligation for Deutsche Bank to make use of this power of attorney and without prejudice to the obligation of such partner to comply with the relevant obligation itself. The power of attorney is granted in the interest of Deutsche Bank and its group companies.
- 26.2 Deutsche Bank may exercise this power of attorney as often as it deems desirable.
- 26.3 Each power of attorney and mandate that is or is required to be granted to Deutsche Bank in the Finance Documents and the GCC is irrevocable, unconditional and with the right of substitution. When performing any legal act under this power of attorney, Deutsche Bank may act as the Obligor's counterparty.

## 27 LIMITATION OF DEUTSCHE BANK'S LIABILITY

Insofar as liability is not already excluded by law, Deutsche Bank shall in any event not be liable if a shortcoming in the performance of an obligation towards the Borrower is the result of international conflicts, violent or armed actions, measures taken by any domestic, foreign or international government authority, measures taken by any supervisory authority, boycotts, labour disturbances among the staff of third parties or Deutsche Bank's own staff, power failures or breakdowns in communication links or equipment or software of Deutsche Bank or of third parties.

## 28. APPLICATION, SCOPE AND OTHER CONDITIONS

- 28.1 If an earlier version of the GCC or a version of the general credit conditions of a legal predecessor of Deutsche Bank is declared applicable to an agreement or other document, the conditions in this version of the GCC shall constitute a continuation (whether or not in amended form) of the conditions in such earlier version of the GCC or general credit conditions of a legal predecessor of Deutsche Bank, respectively. The conditions in any earlier version of the GCC or general credit conditions of a legal predecessor of Deutsche Bank, respectively, shall continue to apply if and to the extent that the conditions in these GCC do not apply or if and to the extent that a Finance Document declares both the general credit conditions of a legal predecessor of Deutsche Bank and the conditions in these GCC to be applicable. The right to demand security and the security interests created pursuant to an earlier version of the applicable conditions shall continue to apply in full.
- 28.2 The GCC shall remain applicable until, in Deutsche Bank's opinion, all legal relationships to which they apply have been settled (*afgewikkeld*) in full.
- 28.3 The General Banking Conditions apply to the Credit, the Credit Agreement, any other Finance Document and any other legal relationship between Deutsche Bank and an Obligor. Each Obligor confirms that it has received a copy of and agrees to the contents of the General Banking Conditions.
- 28.4 If the Credit is secured by a pledge or mortgage granted by a party other than the Borrower, the Borrower shall be bound by the obligations imposed on it in the general conditions that apply in respect of the relevant security right.
- 28.5 In the event of a conflict between the provisions in the GCC and provisions in a Finance Document, the provisions in the relevant Finance Document shall prevail. If a Finance Document does not include a provision on a matter for which provision is made in the GCC, this shall not be taken to mean that the party or parties to that Finance Document did not intend the provision in the GCC to apply.
- 28.6 In the event of a conflict between the provisions in the General Banking Conditions and provisions in a Finance Document, the provisions in that Finance Document shall prevail.
- 28.7 The voidness or voidability of any provision in the Credit Agreement, any other Finance Document or the GCC does not result in the voidness or voidability of the Credit Agreement, that other Finance Document or the GCC, in their entirety or of any other provision included in them.

## 29. AMENDMENT OF FINANCE DOCUMENTS

- 29.1 Amendments to a Finance Document must be made in writing.
- 29.2 Deutsche Bank may amend or supplement a Credit Agreement under which an Asset Based Finance facility is granted. The procedure set out in clause 30 shall apply to such amendment or supplementation.
- 29.3 Where a Credit Agreement under which an Asset Based Finance facility is granted does not provide for debtor management (*debiteurenbeheer*) by Deutsche Bank, Deutsche Bank may nevertheless provide such servicing if the risk of non-repayment by the Borrower or any other circumstance gives Deutsche Bank reason to do so. In that event Deutsche Bank shall incorporate the Borrower's debtor portfolio in its own records in whole or in part and proceed, to the exclusion of the Borrower, to collect Claims that have been pledged (whether by way of a disclosed pledge or an undisclosed pledge) or assigned to Deutsche Bank. In that event, the provisions of Part VI (General Conditions for Credit in the form of an Asset Based Finance facility) under E. (General Conditions for debtor management) shall apply.

## 30. AMENDMENT OF GENERAL CREDIT CONDITIONS

Deutsche Bank may amend or supplement the GCC. Deutsche Bank shall notify each Obligor (whether directly or through the Principal Borrower pursuant to either the provisions in clause 7 or the power of attorney granted in clause 26), either in writing or electronically, of any amendment or addition at least thirty (30) calendar days prior to the intended effective date. If Deutsche Bank does not receive a written objection from an Obligor against the amendment or addition before the specified effective date, that Obligor shall be deemed to have accepted the amendment or addition, and the new version of the GCC, as amended or supplemented, shall be binding on that Obligor. If an Obligor objects in writing and on reasonable grounds to the applicability of the new version of the GCC, the earlier version of the GCC shall remain binding on the Obligor, but Deutsche Bank shall be entitled to cancel the Credit on reasonable notice and rescind (*ontbinden*) the Credit Agreement.

## 31. ABRIDGED REFERENCE

The GCC shall be referred to in any Finance Document or any other agreement between a Borrower and Deutsche Bank or any of its group companies as the 'General Credit Conditions of Deutsche Bank (corporate clients) of April two thousand eighteen' and/or the 'General Credit Conditions (corporate clients)'.

## 32. LEGAL TERMINOLOGY

- 32.1 The words used in the Credit Agreement or the GCC to describe legal concepts, although in English, refer to Netherlands legal concepts only and the interpretation of those words under the laws of any country other than the Netherlands is to be disregarded.
- 32.2 References in the Finance Documents and in the GCC to Dutch legal concepts shall be deemed, in respect of any jurisdiction other than the Netherlands, to refer to the concepts in that jurisdiction that most closely approximate the Dutch legal concepts.

## 33. NO IMPLIED WAIVER (*RECHTSVERWERKING*)

Failure by Deutsche Bank at any time to demand the performance of an obligation or to exercise a right shall not be deemed to constitute a waiver of the right to demand performance of that obligation or, respectively, of the entitlement to exercise that right.

## 34. NO RESCISSION, SUSPENSION OR NULLIFICATION

- 34.1 Each Obligor waives the right to rescind or demand the rescission (*ontbinding*) of any Finance Document.
- 34.2 An Obligor may under no circumstances suspend (*opschorten*) the performance of its obligations under any Finance Document or on any account whatsoever, not even by disputing the amount owed.

## 35. PARALLEL DEBT FOR EACH PAYMENT OBLIGATION TO DEUTSCHE BANK LUXEMBOURG S.A.

- 35.1 For the application of this clause 35, a 'Corresponding Obligation' of an Obligor shall refer to any present or future payment obligation of that Obligor towards Deutsche Bank Luxembourg S.A. on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 35.2 Each Obligor irrevocably and unconditionally undertakes to pay to Deutsche Bank the amount of each Corresponding Obligation of that Obligor as in effect from time to time (a 'Parallel Debt'). Each payment obligation of an Obligor under a Parallel Debt shall become due and payable at the time that the related Corresponding Obligation of that Obligor becomes due and payable. The claims of Deutsche Bank arising from the previous sentence are Deutsche Bank's own separate and independent claims.
- 35.3 An amount paid by an Obligor to Deutsche Bank under a Parallel Debt shall discharge that Obligor, for the same amount, from liability towards Deutsche Bank Luxembourg S.A. for the related Corresponding Obligation. An amount paid by an Obligor to Deutsche Bank Luxembourg S.A. under a Corresponding Obligation shall discharge that Obligor, for the same amount, from liability towards Deutsche Bank for the related Parallel Debt. The total amount outstanding under a Parallel Debt of an Obligor may at no time exceed the total amount outstanding under the related Corresponding Obligation of that Obligor.

## 36. APPLICABLE LAW; DISPUTES

- 36.1 Unless expressly stated otherwise, the Finance Documents and any non-contractual obligations relating to the GCC or any other Finance Document shall be governed by and construed in accordance with Dutch law.
- 36.2 Contrary to the provisions in clause 36.1 and unless expressly provided otherwise, if a Finance Document contains an obligation to assign or pledge a claim personal to the claimant (*vordering op naam*), the law that would otherwise apply to that obligation or to the assignment or pledge itself shall be replaced by the law applicable to the deed in which the relevant claims are assigned or pledged, such deed to be drawn up or approved by Deutsche Bank.
- 36.3 If an Obligor that was formed under Dutch law or - if a natural person - who resides in the Netherlands is represented by an attorney-in-fact (*gevolmachtigde*) in connection with the signing of any Finance Document, each other Obligor and Deutsche Bank confirm and acknowledge that the existence and extent of the attorney's authority and the effects of the attorney's exercise or purported exercise of this authority will be governed by Dutch law.
- 36.4 All disputes between Deutsche Bank and an Obligor relating to these GCC or any other Finance Document shall be submitted to the competent court in Amsterdam. Deutsche Bank may nevertheless choose to submit a dispute to another competent court in the Netherlands or elsewhere.

## II. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF AN OVERDRAFT FACILITY

### 37. USE

An overdraft facility may be used for withdrawing funds from a current account.

### 38. MAXIMUM AVAILABLE AMOUNT

- 38.1 Deutsche Bank shall determine the maximum amount available to a Borrower under the overdraft facility by deducting the amount of any outstanding current account debit balance from an amount equal to the relevant Limit.
- 38.2 If the debit balance on a current account is, in the opinion of Deutsche Bank, unacceptably high, each Borrower is obliged to reduce that debit balance to a level acceptable to Deutsche Bank at the latter's first request.
- 38.3 Deutsche Bank may at any time reject, in whole or in part, a withdrawal requested by a Borrower if, in the opinion of Deutsche Bank, the withdrawal would cause the debit balance on the relevant current account to become unacceptably high.

### 39. INTEREST AND FEES

- 39.1 In calculating the interest due on debit balances in Euro up to the Limit of the overdraft facility, Deutsche Bank shall apply the following rates:  
(a) a variable interest rate (including an individual margin), or  
(b) the EURO Base Rate, or  
(c) the one-month Euribor rate, or  
(d) the average one-month Euribor rate, or  
(e) the Eonia rate.  
Each of the rates referred to in (b) up to and including (e) shall be increased by the individual margin specified in the Credit Agreement. Deutsche Bank may increase the above-mentioned rates and individual margins in accordance with clause 18.2. The Credit Agreement will specify which of the above rates will be used to calculate interest. Insofar as specified in the Credit Agreement, the interest based on a rate as referred to in (b) up to and including (e) shall be subject to a minimum percentage as indicated in the Credit Agreement.
- 39.2 Deutsche Bank may at any time change the variable interest rate or the EURO Base Rate specified in the Credit Agreement. Deutsche Bank shall notify the Borrower as soon as possible of such a change.
- 39.3 Each month Deutsche Bank shall set the Euribor rates for the purposes of calculating interest on current account debit balances in Euro on the basis of one-month Euribor in accordance with the definition of Euribor, which rates shall apply for the period starting on the final day of the current calendar month and ending on the penultimate day of the next calendar month.
- 39.4 Deutsche Bank shall publish the average one-month Euribor rate on its website ([www.deutschebank.nl](http://www.deutschebank.nl)). Deutsche Bank will set the average one-month Euribor rate on the penultimate Business Day of a calendar month, based on the published one-month Euribor rates for the relevant period. The rate thus calculated shall apply for the period starting on the final day of the previous calendar month and ending on the penultimate day of the current calendar month.
- 39.5 Deutsche Bank shall, on a daily basis, set the Eonia rate to be used that day for the calculation of interest on current account debit balances in Euro.
- 39.6 Interest payable by a Borrower on debit balances in a currency other than Euro shall be determined by Deutsche Bank.
- 39.7 Without prejudice to the provisions in clause 38, the compensation referred to in the Credit Agreement or any other Finance Document shall be payable on any amount by which the debit balance of a Borrower exceeds the Limit of the overdraft facility.
- 39.8 Without prejudice to clause 19.3, interest and fees owed by a Borrower shall be calculated and charged in accordance with the calculation method and calculation period customarily applied by Deutsche Bank for overdraft facilities at any given time.
- 39.9 If a Borrower maintains more than one current account with Deutsche Bank, Deutsche Bank may charge the interest and fees due in relation to all of these accounts to one of these accounts.

### 40. CANCELLATION; REDUCTION OF LIMIT

Both a Borrower and Deutsche Bank may at any time cancel Credit granted in the form of an overdraft facility or reduce the Limit, without prejudice to the fees and other charges imposed by Deutsche Bank for the Credit. In the event of cancellation, clauses 24.3 and 24.5 apply *mutatis mutandis*. With immediate effect upon cancellation, no further use may be made of the overdraft facility. If the Limit is reduced, clauses 24.3 and 24.5 apply *mutatis mutandis* to the amount by which the debit balance exceeds the reduced Limit.

## III. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF A LOAN

### 41. DEFINITIONS

In this part III, the following definitions shall supplement the definitions listed in part I:

#### Immovable

immovable property (*onroerende zaak*), the purchase of which is funded by the Borrower in part by means of Credit in the form of a loan.

#### Interest Reset Date

- (i) with respect to a loan with a variable interest rate as referred to in clause 43.1(a): the day on which a change by Deutsche Bank in the variable rate takes effect; and
- (ii) with respect to a loan with a fixed interest rate applying during part of the term of the loan as referred to in clause 43.1(c): the day on which a change in the fixed rate takes effect.

### 42. DRAWINGS

- 42.1 A Borrower wishing to draw a loan shall notify Deutsche Bank of the drawing date, which must be a Business Day, and of the amount to be drawn. Such notification shall be given no later than three (3) Business Days prior to the intended drawing date and in the manner to be specified by Deutsche Bank.
- 42.2 Deutsche Bank shall make the loan available by crediting the relevant amount to a current account that is held in the Borrower's name at Deutsche Bank.

### 43. TYPES OF INTEREST RATE

- 43.1 In calculating interest on a loan, Deutsche Bank shall apply the following rates:  
(a) a variable interest rate (including an individual margin); or  
(b) a variable interest rate based on Euribor (for a loan in Euro) or Libor (for a loan in a currency other than Euro), increased by an individual margin; or  
(c) a fixed interest rate (including an individual margin) for the duration of (i) the entire term of the loan, or (ii) part of the term of the loan.  
Deutsche Bank may increase the above-mentioned rates and individual margins in accordance with clause 18.2.
- 43.2 The Credit Agreement will specify which type of interest rate applies and the level of that rate (including, if applicable, the individual margin).

### 44. INTEREST PERIODS

- 44.1 Unless a fixed interest rate for the duration of the entire term of the loan (as referred to in clause 43.1(c)) applies, the term of the loan shall be divided into a series of successive Interest Periods. The first Interest Period shall begin on the day on which the amount of the loan is made available to a Borrower under the Credit Agreement, and each subsequent Interest Period shall begin on the day following the last day of the preceding Interest Period.
- 44.2 A rate set for an Interest Period shall apply as from the first day of that Interest Period or, if that day is not a Business Day, as from the next Business Day, and shall apply up to and including the last day of that Interest Period or, if the first day of the next Interest Period is not a Business Day, up to and including the day immediately preceding the first Business Day of the next Interest Period.

### 45. RESETTING VARIABLE INTEREST RATE

- 45.1 Deutsche Bank may at any time change a variable interest rate as referred to in clause 43.1(a). If Deutsche Bank elects to do so, it shall notify the Borrower in writing of the change in good time before the Interest Reset Date. If the Borrower does not accept the changed interest rate, the Borrower shall notify Deutsche Bank thereof in writing no later than five (5) Business Days prior to the Interest Reset Date, failing which the Borrower will be deemed to have agreed to the new rate. If so requested by a Borrower no later than five (5) Business Days prior to an Interest Reset Date, Deutsche Bank shall, as from the first day of the next Interest Period, convert the relevant variable-rate loan into a fixed-rate loan for a period to be selected by the Borrower at Deutsche Bank's fixed interest rate then prevailing. If the chosen fixed-rate period ends before the end of the term of the loan, the interest rate shall be reset at the end of the fixed-rate period in accordance with the provisions of clause 46.
- 45.2 If Deutsche Bank and a Borrower fail, or can be deemed to have failed, to reach agreement on the variable interest rate that will apply as from the Interest Reset Date, that Borrower shall repay to Deutsche Bank the entire amount outstanding under the loan on such Interest Reset Date. The Borrower shall not owe any compensation, as referred to in clause 48, for losses and foregone profits resulting from such early repayment.



## 46. RESETTING OF FIXED INTEREST RATE

- 46.1 If a fixed interest rate has been agreed for part of the term of the loan as referred to in clause 43.1(c), Deutsche Bank shall notify the Borrower in writing of the proposed interest rate for the next Interest Period in good time before the Interest Reset Date, without prejudice to clause 46.4. Agreement on the interest rate must be reached no later than five Business Days prior to the Interest Reset Date.
- 46.2 If a Borrower fails to respond in writing to the abovementioned notice from Deutsche Bank at least five (5) Business Days prior to the Interest Reset Date, the Borrower shall be deemed to have opted for the interest rate applying to the shortest Interest Period specified in such notice.
- 46.3 If the loan is not denominated in Euro, the Borrower shall contact Deutsche Bank by telephone before ten hours (10.00) a.m. (Amsterdam time) on the second Business Day prior to the Interest Reset Date. During or immediately after this telephone call, Deutsche Bank shall inform the Borrower of the interest rate it proposes for the next Interest Period. If in such case Deutsche Bank and the Borrower reach agreement on the rate, Deutsche Bank shall confirm the rate to the Borrower in writing. If the Borrower fails to contact Deutsche Bank before the time indicated above, Deutsche Bank shall have the right to reset the interest rate on the basis of an Interest Period of three (3) months.
- 46.4 If Deutsche Bank and a Borrower fail, or can be deemed to have failed, to reach agreement on the fixed interest rate that will apply as from the Interest Reset Date and the period for which it will apply, the Borrower shall repay to Deutsche Bank the entire amount outstanding under the loan on such Interest Reset Date. The Borrower shall not owe any compensation, as referred to in clause 48, for losses and foregone profits resulting from such early repayment.

## 47. INTEREST DUE DATES

Interest owed by a Borrower to Deutsche Bank shall be paid in accordance with the settlement method and settlement period customarily applied by Deutsche Bank at any given time for Credit granted in the form of a loan.

## 48. EARLY REPAYMENT

- 48.1 A Borrower may repay all or part of the loan early. The amount of the early repayment must be equal to at least five per cent (5%) of the original principal amount. The Borrower shall notify Deutsche Bank of the intended early repayment no later than thirty (30) days prior to the date on which the early repayment is intended to be made. In the event of early repayment, the Borrower shall, at the same time as the early repayment, compensate Deutsche Bank for the latter's losses and foregone profits with respect to the amount repaid early. Deutsche Bank shall determine the level of such compensation in the manner set forth in clause 48.2.
- 48.2 The compensation referred to in clause 48.1 shall amount to:
- (a) if the interest rate applying to the relevant loan is the rate referred to in clause 43.1(a) or (b), the difference between:
- (i) the aggregate of the present values of the interest payments from the date of the early repayment until the first Business Day of the next Interest Period ("Period 1") plus the aggregate of the present values of the liquidity margin from such first Business Day until the final repayment date ("Period 2"), such interest payments and margin being those that Deutsche Bank would have received in respect of the amount to be repaid early but did not receive as a result of the early repayment, and
- (ii) the aggregate of the present values of the interest payments that Deutsche Bank would be able to receive, in the interbank market from a counterparty whose creditworthiness is at least equal to that of Deutsche Bank, on deposits similar in size to the amount of the early repayment and similar in duration to Period 1, plus the aggregate of the present values of the liquidity margin that Deutsche Bank would be able to receive, likewise in the interbank market from a counterparty whose creditworthiness is at least equal to that of Deutsche Bank, on deposits similar in size to the amount of the early repayment and similar in duration to Period 2.
- (b) if the interest rate applying to the relevant loan is the rate referred to in clause 43.1(c), the difference between:
- (i) the aggregate of the present values of the interest payments that Deutsche Bank would have received from the date of the early repayment until the final repayment date or, if earlier, the next Interest Reset Date, on the amount of the early repayment, but which it did not receive as a result of the early repayment, and
- (ii) the aggregate of the present values of the interest payments that Deutsche Bank would be able to receive in the interbank market from a counterparty with a creditworthiness at least equal to that of Deutsche Bank for deposits similar in size to the amount of the early repayment and similar in duration to the period referred to in (b) under (i).
- 48.3 The present values of the interest payments and liquidity margin shall be calculated at the interbank rate in effect at the time of the early repayment. Deutsche Bank shall notify the Borrower of the amount of the compensation.
- 48.4 If the present value calculated on the basis of clause 48.2 is less than one per cent (1%) of the amount to be repaid early, the compensation as referred to in clause 48.1 shall be set at one per cent (1%) of the amount to be repaid early.

## 49. COMPENSATION IN EVENT OF ACCELERATION (VERVROEGDE OPEISING)

If Deutsche Bank demands payment of a loan (*opeisen*) in whole or in part pursuant to clause 24 or pursuant to a ground for such a demand (*opeisingsgrond*) under the Credit Agreement, the relevant Borrower shall owe compensation to Deutsche Bank, also immediately due and payable, for losses and foregone profits (*geleden verlies en gederfde winst*). This compensation shall be owed in respect of the entire amount demanded and shall be determined in accordance with the provisions in clause 48.2. This compensation shall not be owed if the event triggering the payment demand is an Obligor's death.

## 50. DEFAULT INTEREST

- 50.1 If Deutsche Bank does not receive any amount owed to it under the GCC or any other Finance Document on the agreed due date, the Borrower shall be liable to Deutsche Bank for default interest, due and payable daily, on the overdue amount as from the due date, without prejudice to Deutsche Bank's other rights. If no specific due date has been stipulated in the Credit Agreement or GCC in relation to a particular amount, the due date for that amount shall, for the purposes of this clause, be the due date communicated by Deutsche Bank to the Borrower.
- 50.2 The rate of the default interest shall be set at two per cent (2%) per annum plus (i) if and as long as any contractual interest rate applies, the contractual interest rate (including any individual margin applicable) or (ii) in all other cases, the Eonia rate (plus the individual margin referred to in (i)), to be determined on each day on which the payment is overdue. This interest shall be calculated on a monthly basis, with part of a month deemed to constitute a full month. With respect to a late repayment of principal, the default interest rate shall, as from the due date of that repayment, replace the contractual interest rate then applicable to the loan.

## 51. PAYMENT

Deutsche Bank may but is not obliged to debit all amounts payable by a Borrower to Deutsche Bank under the loan from that Borrower's account at Deutsche Bank on the agreed due dates, without prejudice to that Borrower's obligation to ensure that the balance of that account on the due date is such that the maximum amount available on that account is not exceeded as a result of the relevant debit.

## 52. SPECIAL CONDITIONS APPLYING TO LOANS TO FUND IMMOVABLES

- 52.1 The Borrower shall use the Immovable properly and keep it in good condition to the satisfaction of Deutsche Bank, maintain and manage it properly, and use it in accordance with its nature and purpose, in accordance with the licences and permits required under the applicable legislation and regulations and in accordance with the applicable insurance provisions. All necessary repairs and renovation work must be carried out promptly. The Borrower shall otherwise treat the Immovable with the appropriate degree of care and shall not do or omit to do anything that may damage the interests of Deutsche Bank.
- 52.2 Except with Deutsche Bank's prior written consent, further to clause 12 and as long as any Obligor has any indebtedness towards Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business, or as long as any such indebtedness can arise:
- (a) the Borrower may not, either in whole or in part, change the structure, appearance, nature or purpose of the Immovable, allow it to be reduced in value, demolished or registered for demolition or designate it for the common benefit (*gemeenschappelijk nut*) of other properties within the meaning of section 5:60 of the Dutch Civil Code. Similarly, the Borrower may not, except with Deutsche Bank's prior written consent, undertake major or unusual repairs to the Immovable;
- (b) the Borrower may not divide (*splitsen*) the Immovable (into apartment rights (*appartementsrechten*) or otherwise), either in whole or in part combine (*verenigen*) it with other plots, merge (*vermengen*) it, cause it to be held in common ownership (*mandelig maken*) or divide and distribute (*in scheiding en deling brengen*) it.
- (c) the Borrower may not encumber the Immovable with any right (including a mortgage) or any charge or relinquish any easements (*erfdienstbaarheden*) or other rights relating to the Immovable or change the nature of the way in which it is used or operated;
- (d) the Borrower may not lease out (*verhuren*) the Immovable, enter into any hire-purchase agreement (*huurkoopovereenkomst*) or long-term lease (*pacht*) in respect of the Immovable or grant any other right to use the same;
- (e) no existing or future claims, however named and on whatever account, in respect of the Immovable may be established (*vastgesteld*), agreed (*overeengekomen*), arranged (*geregeld*), bought off (*afgekocht*) or received (*ontvangen*); and
- (f) no items that are part of the Immovable (*bestanddeel*) or merged with the Immovable (*vermengd*) may be removed from the Immovable, unless the items are replaced as part of the normal business activities with items of comparable quality and value.

- 52.3 The Borrower shall promptly pay all taxes and maintenance expenses, as well as in general all expenses, costs and debts burdening or relating to the use of the Immoveable. At the first request of Deutsche Bank, the Borrower shall demonstrate, to the satisfaction of Deutsche Bank, that these payments have been made. If and to the extent that the Borrower fails to comply with any obligation as referred to in this clause 52.3, Deutsche Bank may pay the relevant amount for the Borrower's account, without any further authorisation being required.
- 52.4 Deutsche Bank may, as often as Deutsche Bank considers necessary for assessing the value of the Immoveable, appoint a valuer to value the Immoveable in a manner to be established by Deutsche Bank. The costs of such valuation shall be for the account of the Borrower. The Borrower shall allow the valuer appointed by Deutsche Bank access to the Immoveable and shall provide all the information and documents required for this purpose or arrange for the same to be provided. Deutsche Bank may at any time value the Immoveable or have it valued at its own expense.
- 52.5 The Borrower shall at all times promptly allow persons designated by Deutsche Bank to gain access to the Immoveable in order to enable Deutsche Bank to ascertain to its satisfaction the composition, value and condition of the Immoveable, and can take any measures needed to establish, maintain and exercise its rights.
- 52.6 The Borrower shall insure the Immoveable and keep it insured, to the satisfaction of Deutsche Bank and for the full reinstatement value, against fire and other customary risks, and shall duly pay the relevant premiums and other charges and duly provide all information and issue all notifications requested by the insurer. At Deutsche Bank's first request, the Borrower shall provide Deutsche Bank with a copy of each relevant insurance policy and with evidence satisfactory to Deutsche Bank that the premiums and other charges have been paid.
- 52.7 If and to the extent that the Borrower fails to comply with an obligation referred to in clause 52.6, Deutsche Bank may insure the Immoveable itself, in its own name if it so wishes and at the Borrower's expense, and may pay the relevant premiums and other charges at the Borrower's expense.
- 52.8 The insurer, the terms and conditions of the insurance and the intermediary arranging the insurance are at all times subject to the prior approval of Deutsche Bank.
- 52.9 Without prejudice to clause 52.6, the Borrower is liable to Deutsche Bank for the consequences of any underinsurance.
- 52.10 If the Borrower fails or threatens to fail to comply with any obligation referred to in this clause 52, Deutsche Bank may itself take measures or have measures taken, at the Borrower's expense, to perform such obligation or to reverse the consequences of the failure to comply with such obligation, without prejudice to Deutsche Bank's other rights. The Borrower shall fully cooperate in enabling Deutsche Bank to take these measures.
- 52.11 If the Borrower is not also the owner or user of the Immoveable, the provisions of this clause 52 apply *mutatis mutandis*. The Borrower guarantees the punctual and proper performance of the obligations under this clause by the owner or user of the Immoveable.

### 53. SPECIAL CONDITIONS FOR EURIBOR AND LIBOR LOANS

Contrary to the provisions in clause 44 and in addition to the provisions in this part III, the conditions of part IV (General Conditions for Credit in the form of a loan with an interest rate based on Euribor or Libor apply to loans with a variable interest rate based on Euribor or Libor.

## IV. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF A LOAN WITH AN INTEREST RATE BASED ON EURIBOR OR LIBOR

### 54. INTEREST PERIODS

- 54.1 The term of the loan shall be divided into a series of successive Interest Periods, each of three (3) months. The first Interest Period shall begin on the day on which the amount of the loan is made available to a Borrower under the Credit Agreement, and each subsequent Interest Period shall begin on the day following the last day of the preceding Interest Period.
- 54.2 A rate set for an Interest Period in accordance with the definition of Euribor or Libor shall apply as from the first day of that Interest Period or, if that day is not a Business Day, as from the next Business Day, and shall apply up to and including the last day of that Interest Period or, if the first day of the next Interest Period is not a Business Day, up to and including the day immediately preceding the first Business Day of the next Interest Period.
- 54.3 During the term of a loan a Borrower may request to change a three-month Interest Period into an Interest Period of different duration. Such a request must be made to Deutsche Bank in writing in good time before the end of the current Interest Period. Deutsche Bank is never obliged to grant such a request. Without prejudice to the applicability of the provisions in clause 56 Deutsche Bank may change the individual margin applying to the loan if the Interest Period changes as referred to in this clause 54.3.

### 55. REPLACEMENT INTEREST

- 55.1 Deutsche Bank shall immediately notify a Borrower if it establishes, before the start of an Interest Period, that conditions in the interbank money market are such that the interest rate for the relevant Interest Period cannot reasonably be set on the basis of Euribor or, as the case may be, Libor.
- 55.2 Deutsche Bank and the Borrower shall in such case consult in order to set the interest rate for the relevant Interest Period. If they fail to reach agreement prior to the start of the Interest Period, an Interest Period of one month will apply, and Deutsche Bank shall set the interest rate on the basis of its funding costs plus the individual margin then applying under the Credit Agreement or any other Finance Document.
- 55.3 If agreement fails to be reached, the Borrower may repay the entire loan early on the last day of the Interest Period, provided that the Borrower has notified Deutsche Bank of its intention in writing within ten (10) Business Days after Deutsche Bank has set the interest rate. This notification shall be irrevocable. The Borrower shall not have to pay any compensation, as referred to in clause 48, in respect of this early repayment.

### 56. CHANGE IN INDIVIDUAL MARGIN BY DEUTSCHE BANK

Deutsche Bank may change the individual margin stated in the Credit Agreement with effect from the first day of an Interest Period. If Deutsche Bank elects to make such a change, it shall notify the Borrower of the new individual margin that will apply as from the next Interest Period in writing at least ten (10) Business Days before the change will take effect. If the individual margin is changed pursuant to this provision, the Borrower may repay the loan early within three (3) months after the change, provided that it has notified Deutsche Bank in writing within five (5) Business Days before making the early repayment. The Borrower shall not have to pay any compensation, as referred to in clause 48, in respect of this early repayment. Deutsche Bank may increase the above-mentioned rates and individual margins in accordance with clause 18.2.

## V. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF A CONTINGENT LIABILITY CREDIT

### 57. USE OF CONTINGENT LIABILITY CREDIT

A contingent liability credit shall be made available in the form of a contingent liability facility, a guarantee facility or an l/c facility. A contingent liability facility can be used for non-cash contingent liabilities resulting from the issuance of such guarantees, letters of credit and other instruments as referred to in the Credit Agreement. A guarantee facility can be used for non-cash contingent liabilities resulting from the issuance of the guarantees referred to in the Credit Agreement. An l/c facility can be used for non-cash contingent liabilities resulting from the issuance of the letters of credit and other instruments referred to in the Credit Agreement.

### 58. ADDITIONAL CONDITIONS FOR USE OF FACILITY

Additional conditions applying to the use of credit in the form of a contingent liability credit are set out in the applicable "Terms and Conditions for the issuance of guarantees" ("*Voorwaarden voor het afgeven van garanties*").

### 59. MAXIMUM AVAILABLE AMOUNT

Deutsche Bank shall determine the maximum amount available at any particular time to a Borrower under a contingent liability credit by deducting the amount of any then outstanding non-cash contingent liabilities of the Borrower to Deutsche Bank arising from the use of such facility from the then applicable Limit.

### 60. FEES AND OTHER CHARGES

- 60.1 Deutsche Bank shall charge commission and other fees for the use of a credit in the form of a contingent liability facility, a guarantee facility or an l/c facility. The obligation to pay such commission and other fees as well as their amount will be laid down in the Credit Agreement and/or the applicable "Terms and Conditions for the issuance of guarantees" ("*Voorwaarden voor het afgeven van garanties*") and any agreements based thereon.
- 60.2 Commission and other fees owed by a Borrower shall be debited to the Borrower's current account at the times to be specified by Deutsche Bank. If a Borrower maintains more than one current account with Deutsche Bank, Deutsche Bank may debit the commission and other fees due in relation to all of these accounts to one of these accounts.

## 61. CANCELLATION; REDUCTION OF LIMIT

Unless the Credit Agreement expressly states otherwise, both a Borrower and Deutsche Bank may at any time cancel a contingent liability credit or reduce the Limit, without prejudice to the fees and other charges imposed by Deutsche Bank for the Credit. In the event of cancellation, the Borrower shall, at the first request of Deutsche Bank, terminate all contingent obligations arising from non-cash contingent liabilities or provide Deutsche Bank with security, to the satisfaction of Deutsche Bank, for the same. In the event of a reduction of the Limit, the above provisions apply *mutatis mutandis* to the amount by which the total contingent obligations arising from non-cash contingent liabilities exceed the reduced Limit. With immediate effect upon cancellation, no further use may be made of credit in the form of a contingent liability credit.

## VI. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF AN ASSET BASED FINANCE FACILITY

This part VI "General Conditions for Credit in the form of an Asset Based Finance facility" consists of:

- A. Common Provisions
- B. General Conditions for an ABF Facility
  - i. General Conditions for receivables financing
  - ii. General Conditions for purchase order financing
  - iii. General Conditions for inventory financing
- C. General Conditions for an ABF Guarantee Facility or ABF SBLC Facility
- D. General Conditions for an ABF Franchise Facility
- E. General Conditions for debtor management (*debiteurenbeheer*)

### A. COMMON PROVISIONS

#### 62. DEFINITIONS

In addition to the defined terms set out in part I, in this part VI the following terms shall have the meanings set out below:

##### ABF Facility

has the meaning given to it in the Credit Agreement

##### ABF Franchise Facility

has the meaning given to it in the Credit Agreement

##### ABF Guarantee Facility

has the meaning given to it in the Credit Agreement

##### ABF SBLC Facility

has the meaning given to it in the Credit Agreement

##### Availability

the amount that is the lowest of:

- (i) the amount remaining (*ruimte*) under the ABF Facility Limit as determined pursuant to clause 81.1; and
- (ii) the amount remaining (*ruimte*) under the other relevant Limit for the relevant financing form or Facility, as determined pursuant to clause 81.2, 81.3, 100 or 103; and
- (iii) the amount of the Borrowing Base reduced by:
  - (a) the total amount of the credit utilisation and issued Letters of Credit at any time arising from the use of the ABF Facility;
  - (b) the percentage of an issued Letter of Credit that Deutsche Bank does not finance under the purchase order financing, as long as Deutsche Bank has not yet administered the Letter of Credit as utilised credit under the receivables financing or the inventory financing;
  - (c) the amount of the Limit of the ABF Guarantee Facility (irrespective of whether Deutsche Bank has issued any Guarantee); and
  - (d) the total amount of the SBLCs issued at any time under the ABF SBLC Facility

##### Borrowing Base

the amount that can be advanced under the ABF Facility as determined based on the Collateral pledged to Deutsche Bank

##### Claim(s)

has the meaning given to it in the GPC, including in any event claims against trade debtors for goods and services supplied, claims arising from Orders and claims arising from bank accounts

##### Collateral

has the meaning given to it in the GPC, including in any event Orders, Stock and Claims

##### Debtor

a party against which the Borrower has or acquires a Claim, either separately or together with entities in same group

##### Deed of Pledge

has the meaning given to it in the GPC

##### Dispute

the situation in which a Debtor (i) contests the Claim in whole or in part, (ii) contests in whole or in part the timely, complete and proper delivery of the Stock or services to which the Claim relates, (iii) refuses or suspends payment of the Claim in whole or in part, (iv) refuses or suspends the acceptance of Stock or services in whole or in part, or (v) asserts the right to set off the Claim in whole or in part against a claim against the Borrower

##### Form of Pledge Specification

standard form to list and pledge Claims and/or Orders as approved by Deutsche Bank

##### GPC

Deutsche Bank's General Pledge Conditions dated April 2018, as amended from time to time

##### Guarantee

a guarantee that falls into one or more of the following categories: bid bonds, delivery guarantees, performance bonds, warranty obligations, advance payment guarantees, payment guarantees, attachment bonds, customs guarantees and rental guarantees, in all cases with a duration acceptable to Deutsche Bank

##### Letter of Credit

guarantees, letters of credit, CAD (*cash against documents*) payments and, to the extent Deutsche Bank is willing to issue them, comparable instruments issued in connection with the purchase of goods and for the purpose of covering obligations to suppliers or producers of goods, in all cases with a duration acceptable to Deutsche Bank;

##### Orders

all claims arising from customer's orders for assets to be purchased under the purchase order financing facility;

##### Pledge

has the meaning given to it in the GPC

##### SBLC

a standby letter of credit or, to the extent Deutsche Bank is willing to issue it, a comparable instrument, in each case with a maturity acceptable to Deutsche Bank

##### Stock

has the meaning given to it in the GPC

##### Termination Date

the date as at which Deutsche Bank terminates the Credit Agreement, with a view to the contractual right of Deutsche Bank to cancel the credit facility/facilities at any time

## 63. BORROWER'S GENERAL TERMS AND CONDITIONS

- 63.1 The Borrower guarantees to Deutsche Bank that the Debtor is bound by the Borrower's general terms and conditions. The Borrower also guarantees that it has handed over its general terms and conditions to its Debtor before or upon entering any agreement with that Debtor. The Borrower shall promptly inform Deutsche Bank in writing of every proposed change in its general terms and conditions.
- 63.2 If an interest group within the meaning of article 6:240 of the Dutch Civil Code takes the position vis-à-vis the Borrower that one or more of the provisions of the Borrower's general terms and conditions are unreasonably onerous, the Borrower shall notify Deutsche Bank of this immediately in writing and shall keep Deutsche Bank advised in writing of the course and outcome of any consultation and/or dispute between the Borrower and that organisation in that regard.

## 64. CREATION OF PLEDGE USING FORMS OF PLEDGE SPECIFICATION

- 64.1 At Deutsche Bank's first request the Borrower shall, through the registration of a Form of Pledge Specification, create a Pledge over Collateral to be designated by Deutsche Bank. The Borrower shall follow Deutsche Bank's instructions with regard to the creation of the Pledge.
- 64.2 Receipt of the Form of Pledge Specification or any other document of pledge acceptable to Deutsche Bank shall serve as evidence of Deutsche Bank's acceptance of the Pledge.

## 65. PAYMENT OF PLEDGED CLAIMS

- 65.1 The Borrower shall ensure that each monetary Claim that has been pledged is paid without set-off by the Debtor. Each such pledged Claim must be paid into an account designated by Deutsche Bank and denominated in the same currency as the relevant Claim. If payment is nevertheless made in some other way, the Borrower shall inform Deutsche Bank hereof immediately in writing and shall immediately, without the necessity of a demand or request, transfer the relevant amounts to such an account, accompanied by the necessary information.
- 65.2 If the pledged Claim must be paid into a bank account held in the name of Deutsche Bank for the Borrower, Deutsche Bank shall inform the Borrower of payments received.

## 66. INVOICES AND CLAIMS

- 66.1 Unless otherwise stipulated in the Credit Agreement, the Borrower shall indicate on the front of every invoice and all copies thereof at least the following information:
- that the Claim to which the invoice relates has been pledged to Deutsche Bank;
  - that payment in discharge of the debt is only possible to an account designated by Deutsche Bank. The Borrower shall follow further instructions from Deutsche Bank in this respect and use a wording to be specified by Deutsche Bank;
  - the applicable payment term; and
  - the applicability of the Borrower's general terms and conditions.
- 66.2 Unless otherwise agreed between Deutsche Bank and the Borrower, the Borrower shall indicate no bank or bank account number on its invoices other than (those of) Deutsche Bank.
- 66.3 The Borrower shall send its invoices to the relevant Debtor within five days after the delivery date and no later than five days after the invoice date.
- 66.4 At Deutsche Bank's first request, the Borrower shall furnish the invoices relating to the Claims and all information and documents which substantiate the invoice and the amount thereof.
- 66.5 The Borrower guarantees to Deutsche Bank:
- the existence and amounts of the Claims pledged by it to Deutsche Bank, including the fact that the Stock or services to which the Claims relate have been delivered timely, completely and properly, and that the Debtors in question have no authority to suspend payment of such -Claims or to set off such Claims against a claim against the Borrower;
  - the applicability of the terms and conditions of delivery and payment made known by the Borrower to Deutsche Bank in respect of the Claims; and
  - the solvency of the Debtor at the time at which the Claims are pledged to Deutsche Bank.
- 66.6 The Borrower shall, in the manner prescribed in the Finance Documents, furnish Deutsche Bank upon first request with the information requested by Deutsche Bank regarding the Claims, including the name and address details of the Debtors and/or the information about them on file with the Chamber of Commerce. Deutsche Bank may at any time give additional instructions for furnishing information about the Claims and amend the relevant forms and guidelines.

## 67. DELIVERY OF STOCK

The Borrower shall retain title to delivered Stock in accordance with article 3:92 of the Dutch Civil Code.

## 68. DISPUTES

- 68.1 In the event of a Dispute the Borrower shall:
- inform Deutsche Bank hereof immediately in writing and at the same time indicate with supporting arguments whether and to what extent it considers the contesting and/or refusal or suspension and/or set-off to be justified;
  - adequately remedy shortcomings with respect to the delivery of the Stock or services, without prejudice to clause 66.5.
- 68.2 Without prejudice to Deutsche Bank's right to cancel (*opzeggen*) the Pledge over a Claim at any time, in the event of a Dispute Deutsche Bank shall, at the Borrower's written request (the choice between a. and b. to be made by Deutsche Bank):
- institute legal or arbitration proceedings in order to demand that the Debtor be ordered to make payment of such Claim to an account designated by Deutsche Bank, or;
  - grant the Borrower powers to institute legal or arbitration proceedings in the Borrower's own name in order to demand that the Debtor be ordered to make payment of such Claim to the Borrower as Deutsche Bank's attorney-in-fact.

## 69. CREDIT NOTES

- 69.1 Credit notes shall be made out immediately when necessary and be notified to Deutsche Bank within seven days.
- 69.2 Notification shall occur according to instructions to be provided by Deutsche Bank and on forms to be specified by Deutsche Bank.

## 70. FOREIGN EXCHANGE RISKS

- 70.1 With respect to Claims of Deutsche Bank against the Borrower denominated in a currency other than Euro, the Borrower shall in all cases cover the currency risk either by corresponding receipts in the relevant currency or by means of a corresponding foreign exchange transaction or a transaction similar thereto. With respect to a balance on an internal account denominated in a currency other than Euro, the Borrower shall, at Deutsche Bank's first request, cover the currency risk by means of a forward exchange transaction or a comparable transaction.

- 70.2 Deutsche Bank may at any time (i) close a positive balance on an internal account denominated in a currency other than Euro and transfer that balance to an internal account denominated in Euros, and (ii) close a positive balance on an internal account denominated in Euros and transfer that balance to an internal account denominated in a currency other than Euro. In the case mentioned under (i) the conversion of the balance in a currency other than Euro shall be made, at Deutsche Bank's election, at the selling rate of the relevant currency for Euros or at any other selling rate determined by a third party or Deutsche Bank itself. In the case mentioned under (ii) the conversion of the balance in Euros shall be made, at Deutsche Bank's election, at the selling rate of Euros for the relevant currency or at any other selling rate determined by a third party or Deutsche Bank itself. The reference selling rate shall be the selling rate on the Amsterdam foreign exchange market as at the date on which the internal account is closed and the balance is transferred to the internal account in Euros or a currency other than Euro, respectively.

## 71. COMMISSION, FEES AND OTHER CHARGES

- 71.1 The Borrower will pay Deutsche Bank commission, fees and other charges for the use of Credit in the form of an Asset Based Finance facility. The obligation to pay the commission, fees and other charges as well as their amount will be laid down in the Credit Agreement, agreements made pursuant thereto and these GCC.
- 71.2 The cost of payment transactions in connection with bank accounts held in the name of Deutsche Bank for a Borrower will be charged in full to the Borrower.
- 71.3 Deutsche Bank may debit commission, fees and other charges owed by a Borrower from the internal accounts, on the dates to be indicated by Deutsche Bank.
- 71.4 Deutsche Bank may at any time change the rates charged for Credit in the form of an Asset Based Finance facility by notice to this effect in writing or via Deutsche Bank's website. Deutsche Bank may increase the above-mentioned rates and individual margins in accordance with clause 18.2.

## 72. USE OF THE SERVICES OF THIRD PARTIES

- 72.1 Deutsche Bank shall be entitled to use the services of third parties in executing orders of the Borrower and in performing other agreements with the Borrower and also to place goods and/or documents of title of the Borrower in the custody of third parties in the name of Deutsche Bank. Deutsche Bank may at any time use the services of a collection agency to collect Claims. Clauses 107.1 and 108 apply *mutatis mutandis*.
- 72.3 Deutsche Bank shall exercise due care in selecting such third parties. Deutsche Bank shall not be liable for shortcomings of such third parties if it can prove that it exercised due care in selecting them. If in such a case the Borrower has suffered damage, Deutsche Bank shall in any case assist the Borrower as much as possible in remedying such damage. This shall not affect the limitation of Deutsche Bank's liability under clause 27.

## 73. RISK OF DISPATCHES

If Deutsche Bank, by order of the Borrower, dispatches goods and/or documents of title to the Borrower or to third parties, any such dispatch shall be at the Borrower's risk.

## 74. DEUTSCHE BANK'S RECORDS

If the Borrower has not contested the contents of Deutsche Bank's confirmations, account statements, invoices or similar documents within one month after such documents can reasonably be deemed to have reached the Borrower, they shall be deemed to have been approved by the Borrower. If such documents contain any arithmetical errors, Deutsche Bank may and shall rectify such errors, even after the expiry of the said one-month period.

## 75. COMMUNICATION

- 75.1 The Borrower shall ensure that orders, statements and communications to Deutsche Bank are clear and contain the correct information. Forms must be fully completed. Other data carriers or means of communication approved by Deutsche Bank may only be used by the Borrower in accordance with Deutsche Bank's instructions. Deutsche Bank may refuse to execute orders given without the use of forms drawn up or approved by Deutsche Bank or other data carriers or means of communication approved by Deutsche Bank. Deutsche Bank may require communications to be made in a specific form.



- 75.2 If the Borrower becomes aware of any irregularity such as loss, theft or misuse with respect to materials provided by Deutsche Bank (such as stamps, forms, data carriers or means of communication), it shall inform Deutsche Bank without delay. Up to the moment this information is received by Deutsche Bank, the consequences of the use of these materials shall be for the account and at the risk of the Borrower, unless the Borrower proves that these consequences are Deutsche Bank's fault. After the said moment such consequences shall be for the account and at the risk of Deutsche Bank, unless Deutsche Bank proves that wilful misconduct or gross negligence can be imputed to the Borrower. Any communication concerning irregularities must be confirmed by the Borrower to Deutsche Bank in writing. If notice of termination of the relationship between the Borrower and Deutsche Bank has been given, the Borrower shall return the materials to Deutsche Bank.
- 75.3 If and insofar as electronic means of communication are developed by Deutsche Bank and have been put at the Borrower's disposal, all information arising from the performance of the Credit Agreement and intended for the Borrower will as much as possible be provided to the Borrower exclusively electronically.
- 75.4 The Borrower undertakes to immediately check information provided electronically.
- 75.5 If the Borrower requests Deutsche Bank to provide the information referred to in this clause also in written form and Deutsche Bank consents, the Borrower shall bear the costs of producing and forwarding said documents.

## 76. EFFECTIVE DATE; DURATION OF CREDIT AGREEMENT; COMPENSATION ON TERMINATION

- 76.1 The Credit Agreement is entered into for the period stipulated therein, starting on the effective date. The effective date is the date on which Credit is first made available to the Borrower.
- 76.2 At the end of the stipulated period the Credit Agreement will be automatically renewed for the same period unless it is terminated by one of the parties. Such a termination can only be effected by registered letter, taking into consideration a notice period of three months before the end of the relevant period. The provisions on termination in clauses 24.3, 24.4 and 24.5 apply *mutatis mutandis*.
- 76.3 The Borrower may terminate the Credit Agreement early, in which case Deutsche Bank is entitled to compensation for losses sustained and lost profit. This compensation will consist, at a minimum, of the expected commission for the remaining contract period (taking into account the agreed minimum commission), as well as the individual margin debit interest over the expected utilisation of the credit facility in that remaining period and the peak utilisation fee over that remaining period. The provisions on termination in clauses 24.3, 24.4 and 24.5 apply *mutatis mutandis*.
- 76.4 In addition to what is stated in clause 76.3, if the Borrower terminates the Credit Agreement early and has not used the Credit for a certain period, Deutsche Bank is entitled to additional compensation for losses sustained and lost profit. This compensation will, at a minimum, consist of (i) the individual margin debit interest over a deemed utilisation of the credit facility in the period during which the Credit was not used and (ii) the peak utilisation fee over that period. Deutsche Bank will determine the deemed utilisation of the credit facility based upon the average utilisation during the contract period.
- 76.5 If Deutsche Bank terminates the Credit Agreement early based on an event set out in clause 24 (other than the event set out in 24(a)), Deutsche Bank is entitled to compensation for losses sustained and lost profit. Clauses 76.3 and 76.4 apply *mutatis mutandis*.
- 76.6 If Deutsche Bank terminates the Credit Agreement early as provided in clause 76.5, it is entitled to charge a Borrower in advance 10% of the entire amount owed by that Borrower as collection costs.
- 76.7 Deutsche Bank will never be obliged to pay compensation or damages of any nature whatsoever for damage, whether direct or indirect (including consequential damage), which the Borrower claims to have sustained as a result of termination of the Credit Agreement.
- 76.8 If Deutsche Bank receives funds in a bank account held in the name of Deutsche Bank for a Borrower, the following applies to the period (i) from the date of the Credit Agreement to the effective date and (ii) after the termination date. Deutsche Bank is willing, until further notice, to make those funds available to the Borrower without further evidence of indebtedness. By entering into the Credit Agreement a Borrower unconditionally and irrevocably undertakes to indemnify Deutsche Bank for all third-party claims arising from its having passed on those funds to the Borrower. The Borrower further undertakes to repay those funds to Deutsche Bank at its first request.

## B. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF AN ABF FACILITY

### 77. GENERAL AND SCOPE

- 77.1 The ABF Facility provides working capital financing in the form(s) – as specified in the Credit Agreement – of receivables financing, purchase order financing or inventory financing.
- 77.2 Each individual financing form is governed by both the provisions in this part VI (B) and its own individual additional provisions set out in B.i, B.ii or B.iii, respectively.

### 78. USE

- 78.1 The ABF Facility may be used to withdraw money and, if purchase order financing has been agreed, to have Letters of Credit issued. Utilisation of the ABF Facility is at all times limited by the Availability.
- 78.2 A Borrower must immediately repay Deutsche Bank, into an account designated by Deutsche Bank, the amount by which the Availability has been exceeded.
- 78.3 For the calculation of whether the utilisation of the credit facility remains within the Limits set out in the Credit Agreement, the balances on internal accounts shall be converted into the currency in which the relevant Limits are denominated.

### 79. ADMINISTRATION IN INTERNAL ACCOUNTS

- 79.1 Deutsche Bank shall open internal accounts in its books and records for the administration of, among other things, the pledged Claims, the payments received in respect of the pledged Claims, the Borrowing Base, the utilisation of the credit facility and interest, commissions, fees, costs and other charges. Separate internal accounts shall be opened for each currency. The internal accounts will be updated on each Business Day. The Borrower can access certain internal accounts via the Asset Based Finance Manager system.
- 79.2 Deutsche Bank shall administer the receivables financing, purchase order financing and inventory financing in separate internal accounts. If a Borrower obtains receivables financing, purchase order financing or inventory financing in a currency other than Euro, Deutsche Bank shall administer that financing in a separate internal account denominated in the relevant currency.

### 80. BORROWING BASE AND AVAILABILITY

- 80.1 Deutsche Bank shall determine the amount of a Borrower's Borrowing Base at any time under the ABF Facility by multiplying the relevant advance rate (*financieringspercentage*) set out in the Credit Agreement by the value of the relevant Collateral pledged by the Borrower to Deutsche Bank, to the extent that Collateral or parts thereof are eligible for financing pursuant to the Finance Documents.
- 80.2 Deutsche Bank shall determine how and when the Borrowing Base and Availability are calculated.
- 80.3 Deutsche Bank may reduce the Borrowing Base or Availability if there are reasonable grounds for suspecting that information supplied regarding the Collateral has led to an incorrect calculation of the actual Borrowing Base or Availability. Deutsche Bank shall revoke the reduction if the Borrower gives an adequate explanation for the differences ascertained, by means of a reconciliation form or in some other way permitted by Deutsche Bank.

### 81. AMOUNT REMAINING (*RUIMTE*) UNDER LIMIT

- 81.1 Deutsche Bank shall determine the amount remaining (*ruimte*) under the Limit of the ABF Facility of a Borrower at any time by reducing the amount of the Limit of the ABF Facility by the following:
- the total amount of the credit utilisation at that time arising from the use of the ABF Facility;
  - the total amount of Letters of Credit issued at that time;
  - the amount of the Limit of the ABF Guarantee Facility (irrespective of whether Deutsche Bank has issued any Guarantees);
  - the total amount of SBLCs that have been issued at that time under the ABF SBLC Facility; and
  - the total amount of the credit utilisation at that time arising from the use of the ABF Franchise Facility.
- 81.2 Deutsche Bank shall determine the amount remaining (*ruimte*) under the Limit of the ABF Facility in the form of purchase order financing of a Borrower at any time by reducing the amount of that Limit by the total amount of Letters of Credit issued at that time and, after payment under Letters of Credit, the credit utilisation at that time arising from the use of purchase order financing. Once Deutsche Bank has administered the amount of a Letter of Credit as credit utilisation under the receivables financing or inventory financing, the amount of the relevant Limit of the ABF Facility in the form of purchase order financing will no longer be reduced by the amount of that Letter of Credit.
- 81.3 Deutsche Bank shall determine the amount remaining (*ruimte*) under the Limit of the ABF Facility in the form of inventory financing of a Borrower at any time by reducing the amount of that Limit by the total amount of the credit utilisation at that time arising from the use of the inventory financing.

### 82. INTEREST AND FEES

- 82.1 In calculating interest on debit balances in Euros within the Limit of the ABF Facility, Deutsche Bank shall apply the EURO Base Rate or the average one-month Euribor rate. The EURO Base Rate or the average one-month Euribor rate shall be increased by the individual margin stated in the Credit Agreement. The Credit Agreement shall determine which of the above underlying rates will be used to calculate the interest. To the extent provided in the Credit Agreement, the interest rate shall be subject to a minimum percentage specified in the Credit Agreement.
- 82.2 Deutsche Bank may change the EURO Base Rate at any time and shall inform the Borrower of such a change as soon as possible.

- 82.3 Deutsche Bank will publish the average one-month Euribor rate on its website (www.deutschebank.nl). The average one-month Euribor rate will be determined by Deutsche Bank on the penultimate Business Day of a calendar month based on the published one-month Euribor rates for the relevant period. The rate as so calculated shall apply to the period from the first up to and including the last day of that calendar month.
- 82.4 Interest on debit balances in currencies other than Euro shall be payable at the rate set out in the Credit Agreement.
- 82.5 Without prejudice to clause 19.3, the interest and fees payable by a Borrower shall be calculated and charged in accordance with the calculation method and calculation period used at any given time by Deutsche Bank for credit in the form of an Asset Based Finance facility.
- 82.6 Deutsche Bank is entitled to charge a Borrower for interest and fees by debiting the amount owed from the internal accounts.
- 82.7 Deutsche Bank may increase the above-mentioned rates and individual margins in accordance with clause 18.2.

### 83. CANCELLATION; REDUCTION OF LIMIT

Both the Borrower and Deutsche Bank may at any time cancel Credit in the form of an ABF Facility or reduce the Limit, without prejudice to the commission, fees and other charges imposed by Deutsche Bank for Credit in the form of an ABF Facility. In the event of cancellation, clauses 24.3 and 24.5 apply *mutatis mutandis*. With immediate effect upon cancellation, no further use may be made of the ABF Facility. If the Limit is reduced, clauses 24.3 and 24.5 apply *mutatis mutandis* to the amount by which the credit utilisation exceeds the reduced Limit. In the event of cancellation the Borrower shall, at Deutsche Bank's first request, cause all contingent obligations arising from non-cash contingent liabilities of Deutsche Bank arising from the issuance of Letters of Credit to terminate, or provide Deutsche Bank with security, to the satisfaction of Deutsche Bank, for the same. In the event of a reduction of the Limit, the above provisions apply *mutatis mutandis* to the amount by which the total contingent obligations arising from non-cash contingent liabilities arising from Letters of Credit exceed the reduced Limit.

## B.i. GENERAL CONDITIONS FOR RECEIVABLES FINANCING

### 84. PLEDGING OF CLAIMS

- 84.1 The Borrower undertakes to pledge all Claims to Deutsche Bank as security for all present and future indebtedness of an Obligor to Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 84.2 The pledge shall be granted in the manner and on the terms indicated in the Finance Documents.

### 85. RESTRICTIONS ON FINANCING

- 85.1 With respect to every Claim, Deutsche Bank reserves the right to limit or exclude the financing made available on the basis of that Claim at any time and on any ground.
- 85.2 Where Deutsche Bank considers the risk of non-payment by a Debtor or the risk of a Dispute with a Debtor to be greater than customary in the sector, Deutsche Bank reserves the right to limit or exclude the financing made available on the basis of Claims against that Debtor.
- 85.3 In the event of substantial shifts in the breakdown of the accounts receivable portfolio (compared to the situation when the Credit Agreement took effect), Deutsche Bank reserves the right to change the advance rate (*financieringspercentage*) for the receivables financing so that it more accurately reflects Deutsche Bank's perception of the country or debtor risk involved.

## B.ii GENERAL CONDITIONS FOR PURCHASE ORDER FINANCING

### 86. LETTER OF CREDIT APPLICATIONS

Each Letter of Credit must be applied for separately, giving Deutsche Bank full details of the transaction concerned.

### 87. PLEDGING OF ORDERS

- 87.1 The Borrower undertakes to pledge all Orders to Deutsche Bank as security for all present and future indebtedness of an Obligor to Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 87.2 The pledge shall be granted in the manner and on the terms indicated in the Finance Documents.

## 88. ENTRY OF CLAIMS IN ASSET BASED FINANCE MANAGER; PLEDGING OF CLAIMS

- 88.1 The Borrower undertakes to enter in the Asset Based Finance Manager system all Claims relating to the sale of assets purchased using the purchase order financing.
- 88.2 The Borrower undertakes to pledge all Claims relating to the sale of assets purchased using the purchase order financing to Deutsche Bank as security for all present and future indebtedness of an Obligor to Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 88.3 The pledge shall be granted in the manner and on the terms indicated in the Finance Documents.

## 89. PLEDGING OF STOCK

- 89.1 The Borrower undertakes to pledge all Stock to Deutsche Bank as security for all present and future indebtedness of an Obligor to Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 89.2 The pledge shall be granted in the manner and on the terms indicated in the Finance Documents.

## 90. TRANSPORT AND STORAGE INSURANCE

- 90.1 The assets to be purchased using the purchase order financing must be adequately insured during transit from the supplier to the delivery address. Such insurance cover is also required if and as long as the assets are stored on the Borrower's premises or elsewhere at its expense and risk.
- 90.2 The rights under the relevant insurance policy or policies must be pledged to Deutsche Bank under a separate agreement.

## 91. ISSUANCE OF LETTERS OF CREDIT

- 91.1 A Letter of Credit may be issued in any currency acceptable to Deutsche Bank provided that it is freely marketable and freely convertible.
- 91.2 Letters of Credit may be issued by every entity within the Deutsche Bank group.
- 91.3 Deutsche Bank may at any time refuse to issue a Letter of Credit.

## 92. POWER OF ATTORNEY

Insofar as necessary, the Borrower hereby grants Deutsche Bank a power of attorney to, after receiving a request from the supplier, perform the obligations under the Letter of Credit and effect payment without delay, in accordance with the provisions of the Letter of Credit. Deutsche Bank may charge the amount in question to the Borrower's relevant internal account.

## 93. FORCE MAJEURE

If in the event of force majeure, including government measures, attachments under Deutsche Bank and court decisions in connection with such attachments or otherwise:

- Deutsche Bank is obstructed from making a payment under a Letter of Credit, Deutsche Bank is entitled to refuse payment under that Letter of Credit; or
- Deutsche Bank is prevented from making a payment under a Letter of Credit without delay and is not released from its obligation to pay:
  - (a) (i) the Letter of Credit shall remain in force and (ii) all provisions of these GCC shall continue to apply unchanged; and
  - (b) the Borrower shall compensate Deutsche Bank for any damage the latter suffers as a consequence hereof.

In addition, all extrajudicial and judicial costs incurred by Deutsche Bank in the event it is taken to court in connection with the Letter of Credit shall be borne by the Borrower. The Borrower hereby irrevocably authorises Deutsche Bank to debit these costs from the Borrower's internal accounts.

## B.iii. GENERAL CONDITIONS FOR INVENTORY FINANCING

### 94. PLEDGING OF STOCK

- 94.1 The Borrower undertakes to pledge all Stock to Deutsche Bank as security for all present and future indebtedness of an Obligor to Deutsche Bank on any account whatsoever (including on account of derivative transactions) and whether or not arising in the ordinary course of banking business.
- 94.2 The pledging shall take place in the manner and on the terms indicated in the Finance Documents.

## 95. RESTRICTIONS ON FINANCING

- 95.1 Deutsche Bank reserves the right to limit or exclude financing made available on the basis of Stock at any time and on any ground.
- 95.2 In the event of substantial shifts in the nature, composition and/or marketability of the Stock, Deutsche Bank reserves the right to change the advance rate (*financieringspercentage*) for the inventory financing.

## 96. STORAGE INSURANCE

- 96.1 The Stock must be adequately insured if and as long as it is stored on the Borrower's premises or elsewhere at its expense and risk.
- 96.2 The rights under the relevant insurance policy or policies must be pledged to Deutsche Bank under a separate agreement.

## C. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF AN ABF GUARANTEE FACILITY OR ABF SBLC FACILITY

### 97. USE

- 97.1 The ABF Guarantee Facility may be used to enter into non-cash contingent liabilities arising out of the issuance of Guarantees. The ABF SBLC Facility may be used to enter into non-cash contingent liabilities arising out of the issuance of SBLCs.
- 97.2 A Guarantee or SBLC may be issued in any currency acceptable to Deutsche Bank provided that it is freely marketable and freely convertible.

### 98. ISSUANCE OF GUARANTEES AND SBLCs

Guarantees and SBLCs may be issued by every entity within the Deutsche Bank group.

### 99. ADDITIONAL CONDITIONS FOR USE

Additional conditions for the use of the ABF Guarantee Facility and the ABF SBLC Facility are laid down in the applicable "Conditions for the issuance of guarantees".

### 100. AMOUNT REMAINING (*RUIMTE*) UNDER LIMIT

Deutsche Bank shall determine the amount remaining (*ruimte*) under the Limit of the ABF Guarantee Facility or ABF SBLC Facility of a Borrower at any time by reducing the relevant Limit by the total amount of that Borrower's non-cash contingent liabilities towards Deutsche Bank at that time arising from the use of the ABF Guarantee Facility or ABF SBLC Facility, respectively.

### 101. CANCELLATION; REDUCTION OF LIMIT

Unless expressly stipulated otherwise in the Credit Agreement, both the Borrower and Deutsche Bank may cancel the ABF Guarantee Facility or the ABF SBLC Facility or reduce the Limit of the ABF Guarantee Facility or the ABF SBLC Facility at any time, irrespective of the fees and other charges owed to Deutsche Bank for the ABF Guarantee Facility or the ABF SBLC Facility. In the event of cancellation the Borrower shall, at Deutsche Bank's first request, cause all contingent obligations arising from non-cash contingent liabilities arising from the Guarantees or SBLCs to terminate, or provide Deutsche Bank with security, to the satisfaction of Deutsche Bank, for the same. In the event of a Limit reduction, the above provisions apply *mutatis mutandis* to the amount by which the total contingent obligations arising from non-cash contingent liabilities exceed the reduced Limit. With immediate effect upon cancellation, no further use may be made of the ABF Guarantee Facility or the ABF SBLC Facility.

## D. GENERAL CONDITIONS FOR CREDIT IN THE FORM OF AN ABF FRANCHISE FACILITY

### 102. USE

The ABF Franchise Facility may be used for withdrawing funds.

### 103. AMOUNT REMAINING (*RUIMTE*) UNDER LIMIT

Deutsche Bank shall determine the amount remaining (*ruimte*) under the Limit of the ABF Franchise Facility of a Borrower at any time by reducing that Limit by the total amount of credit utilisation at that time arising from the use of the ABF Franchise Facility.

### 104. INTEREST AND FEES

With respect to the interest and fees owed by a Borrower in connection with the ABF Franchise Facility, clause 82 apply *mutatis mutandis*.

### 105. ADMINISTRATION OF ABF FRANCHISE FACILITY

Deutsche Bank shall administer the ABF Franchise Facility in a separate internal account. If a Borrower receives money under the ABF Franchise Facility in a currency other than Euro, Deutsche Bank shall administer that financing in a separate account denominated in the relevant currency.

### 106. CANCELLATION; REDUCTION OF LIMIT

Both the Borrower and Deutsche Bank may at any time cancel the Credit in the form of the ABF Franchise Facility or reduce the Limit, without prejudice to the fees and other charges imposed by Deutsche Bank for Credit in the form of the ABF Franchise Facility. In the event of cancellation, clauses 24.3 and 24.5 apply *mutatis mutandis*. With immediate effect upon cancellation, no further use may be made of the ABF Franchise Facility. If the Limit is reduced, clauses 24.3 and 24.5 apply *mutatis mutandis* to the amount by which credit utilisation exceeds the reduced Limit.

## E. GENERAL CONDITIONS FOR DEBTOR MANAGEMENT

### 107. COLLECTION MEASURES

- 107.1 Collection measures shall include both extrajudicial as well as judicial measures such as attachments and legal and arbitration proceedings.
- 107.2 If a Claim pledged to Deutsche Bank has not been paid to Deutsche Bank by the due date, Deutsche Bank shall send a formal payment demand to the Debtor or declare the Debtor in default and if necessary repeat the payment demand.
- 107.3 If a Dispute arises with respect to a Claim pledged to Deutsche Bank, Deutsche Bank shall allow the Borrower a period customary in the Borrower's line of business, but not more than forty-five (45) days, in which to resolve such dispute with said Debtor.
- 107.4 Notwithstanding the provisions of clause 107.2, Deutsche Bank shall be entitled at any time to take immediate collection measures should Deutsche Bank deem this to be necessary for the exercise of its rights and/or the representation of its interests.
- 107.5 Except in the case referred to in clause 68.2(a), Deutsche Bank shall at no time be obliged to take legal measures against the Debtor.
- 107.6 Deutsche Bank may use the services of third parties to collect Claims from Debtors on the Borrower's behalf. The Borrower shall cooperate in any such collection by a third party. At Deutsche Bank's request, the Borrower shall grant Deutsche Bank or such third parties a mandate (*last*) and power of attorney (*volmacht*) for this purpose, which shall include an authorisation to assign or reassign the Claims on the Borrower's behalf.

### 108. COLLECTION COSTS

All and any costs, whether internal or external, associated with collection measures shall be wholly for the Borrower's account. On first request by Deutsche Bank, the Borrower shall provide sufficient security for the collection costs which are for the Borrower's account.