

**FORM OF AGREEMENT FOR CREDIT FACILITIES EXTENDED TO BANKS/FINANCIAL  
INSTITUTIONS**

**AFD AGREEMENT N° [●]**

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**CREDIT FACILITY AGREEMENT**

**dated as of [●]**

**between**

**AGENCE FRANÇAISE DE DEVELOPPEMENT**

The Lender

**and**

**[●]**

The Borrower

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## CREDIT FACILITY AGREEMENT

### BETWEEN:

[●], a [●] incorporated under the laws of [●*insert jurisdiction of the Borrower*] whose registered office is at [●], registered under number [●] at [●], represented by [●], in his/her capacity as [●], duly authorised to sign this Agreement,

(hereinafter referred to as the “**Borrower**”);

### OF THE ONE PART

### AND

**AGENCE FRANCAISE DE DEVELOPPEMENT**, a French public entity (*établissement public à caractère industriel et commercial*) governed by French law, whose registered office is at 5, Rue Roland Barthes, 75598 Paris Cedex 12 – France, registered with the Trade and Companies Register of Paris under number 775 665 599, represented by [●], in his/her capacity as [●], duly authorised to sign this Agreement,

(hereinafter referred to as “**AFD**” or the “**Lender**”);

### OF THE SECOND PART

(hereinafter jointly referred to as the “**Parties**” and individually as a “**Party**”)

### WHEREAS,

- (A) The Borrower has undertaken to make medium and short term loans available to finance [●]<sup>1</sup> (the “**Project**”).
- (B) The Borrower has requested the Lender to make available the Facility for the purpose of financing the Project.
- (C) Pursuant to resolution of the [●] of AFD n°[●] dated [●], the Lender has agreed to make available the Facility to the Borrower pursuant to the terms and conditions set out hereunder.

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<sup>1</sup> Short description of the Project.

**ON THE BASIS OF THE FOREGOING, IT IS HEREBY AGREED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATIONS**

**1.1 Definitions**

All capitalised words and expressions used in this Agreement (including those appearing in the recitals above and in the Schedules) shall have the meaning given to them in Schedule 1A (*Definitions*), except as otherwise provided in this Agreement.

**1.2 Interpretation**

The words and expressions used in this Agreement shall be construed pursuant to the provisions of Schedule 1B (*Interpretation*), except as otherwise provided in this Agreement.

**2. FACILITY, PURPOSE AND CONDITIONS OF UTILISATION**

**2.1 Facility**

The Lender undertakes to make available to the Borrower, upon request and subject to the terms and conditions set out herein, in particular the provisions set out in Clause 2.3 (*Conditions of Utilisation*) hereinafter, a Facility in a maximum aggregate principal amount of [●*insert amount in words*] Euros (EUR [●]).

**2.2 Purpose**

The Borrower shall use all amounts borrowed under this Facility exclusively to finance the Project, excluding Taxes, in accordance with the Project's description set forth in Schedule 2 (*Project Description*).

**2.3 Conditions of Utilisation**

The Lender shall only make a requested Drawdown available if, on the date of the relevant Drawdown Request and on the contemplated Drawdown Date:

- (i) no Event of Default has occurred and is continuing or would result from the Drawdown; and
- (ii) all the conditions precedent listed in Schedule 4 (*Conditions Precedent*) have been fulfilled to the satisfaction of the Lender.

In the event that satisfaction of all or part of the conditions precedent set out in Schedule 4 (*Conditions Precedent*) consists in the delivery of documents:

- the final versions of such documents, the drafts of which would have been (x) previously provided to the Lender and (y) agreed upon by the Lender, shall not reveal substantial differences and/or inconsistencies with such drafts, likely to affect the Project and/or the rights and/or interests of the Lender; and
- all documents, other than those mentioned in the immediately preceding subparagraph, shall be in form and substance satisfactory to the Lender.

### 3. DRAWDOWN OF FUNDS

#### 3.1 Drawdown Amount

The Facility will be made available to the Borrower during the Drawdown Period, within the limits of the Available Credit, in one or several Drawdowns.

Each Drawdown shall be equal to at least [**●insert amount in words**] Euros (EUR [**●**]) or to the Available Credit if such amount is inferior to [**●insert amount in words**] Euros (EUR [**●**]).

#### 3.2 Drawdown Request

Subject to the conditions set forth in Clause 2.3 (*Conditions of Utilisation*) being fulfilled, the Borrower may draw on the Facility upon delivery to the Lender of a duly completed Drawdown Request letter. Each Drawdown Request letter shall be sent by the Borrower to the Lender's local office (to the attention of the Director of the Lender's local office) at the address set out in Clause 16 (*Notices*).

Each Drawdown Request is irrevocable and shall only be deemed valid if:

- (i) it is substantially in the form attached as Schedule 5A (*Form of Drawdown Request letter*);
- (ii) it is submitted to and received by the Lender no later than fifteen (15) Business Days prior to the Deadline for Drawdown;
- (iii) it is submitted together with all necessary documents, including supporting documents, in compliance with the provisions of Clause 3.4 (*Payment Mechanics*); and
- (iv) in accordance with the Agreement, the Borrower has obtained Drawing Rights for an amount at least equal to the requested Drawdown Amount<sup>2</sup>.

#### 3.3 Payment Completion

If all the conditions set out herein are satisfied, the Lender shall make available to the Borrower the requested Drawdown.

The Lender shall promptly address to the Borrower a Drawdown Confirmation Letter substantially in the form attached as Schedule 5B (*Form of Drawdown Confirmation letter*).

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<sup>2</sup> A supprimer en cas d'option A (*Versements sous forme d'avances*).

### 3.4 Payment Mechanics

The fund shall be made available in accordance with the following terms:

#### ***[OPTION A: Drawdown in form of advances]***

##### 3.4.1 First Drawdown

The Lender shall make available to the Borrower the first Drawdown in the form of an advance of [**●insert amount in words**] Euros (EUR [**●**]).

##### 3.4.2 Subsequent Drawdowns

The conditions and amount of subsequent advances shall be specified by exchange of letters between the Parties.

No later than ten (10) Business Days before sending a Drawdown Request letter, the Borrower undertakes to notify the Lender in writing of the amount of the new advance it wishes to receive.

In support of its written request, the Borrower shall provide the Lender with documentation showing the use of the funds of the previous Drawdown, as set out in Schedule 8 (*Documentation of the Use of Funds*).

Undocumented or insufficiently documented amounts shall be deducted from the next Drawdown.

The Borrower undertakes not to part with the original copies of the above mentioned documents as well as of contracts, orders, invoices, vouchers and statements of amounts allocated to Loans, and to make those documents available on a permanent basis to the Lender, which shall examine them, including at the Borrower's premises.

When ninety [percent] ([90]%) of the Facility has been drawn down, the Lender shall suspend Drawdown until the Borrower has documented the use of all of the previous Drawdowns made under the Facility by submitting documentary evidence as set out in Schedule 8 (*Documentation of the Use of Funds*).

##### 3.4.3 Last Drawdown

The Borrower shall evidence the use of the funds under the last Drawdown within a six (6) month period following the last Drawdown Date, by documenting the use of funds as set out in Schedule 8 (*Documentation of the Use of Funds*).

If, at the end of the above six (6) month period, the last Drawdown has not been documented in a manner satisfactory to the Lender, the Borrower shall repay the amounts which have not been documented, or which have not been sufficiently documented. Amounts thus repaid shall be considered as mandatory prepayments within the meaning of Clause 8.2 (*Mandatory Prepayments*).

#### ***[OPTION B: Drawing Right]***

- (a) Each contemplated Loan shall be subject to the granting of a Drawing Right.

In this perspective, the Borrower shall send to the Lender's local office (to the attention of the Director of the Lender's local office) at the address set out in Clause 16 (*Notices*) a prior Drawing Right Request Letter together with the documents set out in Schedule 7 (*Documents to be provided in Support of Drawing Right Request*).

- (b) After examining the Drawing Right Request Letter and, if applicable, requesting information on related matters, the Lender shall grant the Borrower one or more Drawing Rights, as the case may be, for an amount corresponding to all or part of the contemplated Loan(s).

The Lender shall notify the Borrower in writing of the amount of the Drawing Right(s) granted.

- (c) The Borrower shall then be entitled to submit a Drawdown Request to the Lender, as set out in Clause 3.2 (*Drawdown Request*), for an amount at least equal to the amount of the Drawing Right(s).

## 4. INTEREST

### 4.1 Interest Rate

#### 4.1.1 Floating Interest Rate

- (a) Any portion of the Facility of less than three million Euros (EUR 3,000,000) shall bear interest at a floating rate.

The Interest Rate applicable to each Interest Period is the rate per *annum* of the aggregate of EURIBOR and the Margin.

- (b) For each portion of the Facility of an amount equal to or exceeding three million Euros (EUR 3,000,000) (hereinafter a “**Tranche**”), the Borrower may select any of the following options:

- (i) applying a floating rate under the same conditions as those mentioned in paragraph 4.1.1 (a) above; or
- (ii) applying a fixed rate, from the Drawdown Date, requested in a Drawdown Request letter;

Indeed, the Borrower may indicate in the Drawdown Request letter the maximum fixed Interest Rate above which such Drawdown Request shall be cancelled.

For each Tranche drawn down, the applicable Interest Rate shall be the Fixed Reference Rate [increased / reduced] by [**insert percentage in words**] ( $[\bullet]\%$ )<sup>3</sup>, or

- (iii) requesting a conversion of a Tranche into a fixed rate, by sending to the Lender a Rate Conversion Request Letter substantially in the form attached hereto as Schedule 5C (*Form of Rate Conversion Request Letter*) at least thirty (30) calendar days before the Interest Period to which the Borrower intends the Rate Conversion to apply.

In the Rate Conversion Request Letter, the Borrower may indicate the maximum fixed Interest Rate above which such Rate Conversion Request shall be cancelled.

For each converted Tranche, the applicable Interest Rate shall be the fixed Interest Rate as determined in paragraph (ii) above.

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<sup>3</sup> Same Margin applicable to Euribor.

The Rate Conversion is not subject to payment of any costs.

(c) The Interest Rate determined in accordance with this Clause 4.1.1 (*Floating Interest Rate*) shall not:

- exceed [●insert percentage in words] ([●]%) per annum<sup>4</sup>; nor
- be less than zero point twenty-five percent (0.25%) per annum, notwithstanding any decline in rates.

#### 4.1.2 Automatic Conversion Following the Drawdown Period

The Interest Rate applicable to each Interest Period following the Triggering Date shall be equal to the Fixed Reference Rate [increased / reduced] by [●insert percentage in words] ([●]%)<sup>5</sup>.

The Interest Rate determined in accordance with this Clause 4.1.2 (*Automatic Conversion Following the Drawdown Period*) shall not:

- exceed [●insert percentage in words] ([●]%) per annum<sup>6</sup> nor
- be less than zero point twenty-five percent (0.25%) per annum, notwithstanding any decline in rates.

The Rate Conversion is not subject to payment of any costs.

#### 4.2 Calculation and Payment of Interest

The Borrower shall pay interest in arrears on each Payment Date.

Interest payable by the Borrower on any given Payment Date and for a given Interest Period is calculated by aggregating the interest amount due by the Borrower on the Outstanding Principal in respect of all Drawdowns (or Tranches as the case may be) on the immediately preceding Payment Date.

For each Drawdown (or Tranche as the case may be), interest owed by the Borrower shall be calculated on the basis of:

- (i) the Outstanding Principal owed by the Borrower in respect of Drawdown (or Tranche as the case may be) as of the immediately preceding Payment Date or at the relevant Drawdown Date if the Interest Period concerned is the first Interest Period;
- (ii) the basis of 360 days per year and of the actual number of days elapsed during the Interest Period ending on the relevant Payment Date, and
- (iii) the Interest Rate as set out in Clause 4.1 (*Interest Rate*).

#### 4.3 Late-payment Interest

##### 4.3.1 Late-payment Interest on all Amounts Due and not Paid (other than Interest)

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<sup>4</sup> The maximum rate determined by AFD is not applicable for non concessional credit facility

<sup>5</sup> Same Margin applicable to Euribor.

<sup>6</sup> The maximum rate determined by AFD is not applicable for non concessional credit facility

If the Borrower fails to pay the Lender on time any amount (in principal, prepayment compensatory indemnity or incidental expenses of any kind, other than overdue interest) under the Agreement, such amount shall bear interest, within the limits permitted by law, for the period from the said amount's payment date to the date of its actual payment (whether before or after an arbitral award, if any, is made), at the Interest Rate applicable to the Interest Period concerned plus [*insert percentage in words*] ([●]%)<sup>7</sup>, without the need for formal notice from the Lender.

#### 4.3.2 Late-payment Interest on Overdue Interest

Late-payment interest shall be charged on overdue interest in arrears one year or more, as permitted by law, at the Interest Rate applicable to the Interest Period(s) concerned plus [*insert percentage in words*] ([●]%)<sup>8</sup>, without the need for formal notice from the Lender.

The Borrower shall pay any outstanding interest pursuant to this Clause 4.3 (*Late Interest*) upon the Lender's first demand, or at any Payment Date following the outstanding payment.

The collection of late-payment interest by the Lender shall neither imply the grant of a term of payment, nor constitute a waiver of any of its rights hereunder.

#### 4.4 Communication of Interest Rates

The Lender shall promptly inform the Borrower of each Interest Rate set in accordance with the Agreement.

#### 4.5 Overall Effective Rate (*Taux effectif global*)

The Parties acknowledge that due to certain characteristics of the Facility (and in particular to the variability of the applicable Interest Rate), the overall effective rate cannot be calculated at the Signing Date.

With a view to complying with French law and enabling the Borrower to know the actual cost of the Facility, the Lender deems it useful to clarify, pre-supposing that the Facility is entirely drawn down at the Signing Date and assuming an indicative fixed rate on [*date*] of [*percentage in words*] ([●]%) per *annum*, that the Facility overall effective rate would be [*insert percentage in words*] ([●]%) for a half-yearly period and that the overall effective rate per *annum* would be [*insert percentage in words*] ([●]%)<sup>9</sup>.

### 5. **CHANGE OF THE CALCULATION OF INTEREST**

#### 5.1 Notification

In the event that, during an Interest Period, as a result of any circumstances affecting the European interbank market, EURIBOR cannot be fixed, the Lender shall notify the Borrower.

#### 5.2 Replacement Rate

During a period of thirty (30) calendar days following the notification given by the Lender in compliance with Clause 5.1 (*Notification*) above, the Parties shall negotiate a replacement rate applicable to the Facility, provided that such replacement rate shall not be refused without reasonable grounds. The replacement rate (if any) shall apply retroactively as from the first day of the relevant Interest Period.

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<sup>7</sup> Rate determined by AFD.

<sup>8</sup> Rate determined by AFD.

<sup>9</sup> Indicative rate determined by AFD few dates before the Signing Date.

## 6. FEES

### 6.1 Commitment Fees

From the Signing Date, the Borrower shall pay to the Lender a commitment fee of [●*insert percentage in words*] ([●]%)<sup>10</sup> per annum.

The commitment fee shall be calculated, based on the actual number of calendar days elapsed, on the amount of the Facility reduced by the aggregate amount of the Drawdowns made from time to time and, if applicable, by the portions of the Facility that have been cancelled pursuant to Clause 8.3 (*Cancellation by the Borrower*) and Clause 8.4 (*Cancellation by the Lender*).

The first commitment fee shall be calculated for the period from (i) the Signing Date (exclusive) to (ii) the following Payment Date (inclusive). Subsequent commitment fees shall be calculated for periods commencing on the date immediately following a Payment Date and ending on the next Payment Date.

The commitment fee will be due and payable in arrears (i) on each Payment Date within the Availability Period, (ii) on the Payment Date following the last day of the Drawdown Period and, (iii) in the event the Available Credit is cancelled in full, on the Payment Date following the effective date of such cancellation.

### 6.2 Front-end Fee

The Borrower shall pay to the Lender a flat front-end fee of [●*insert percentage in words*] ([●]%)<sup>11</sup> calculated on the principal amount of the Facility and payable on the date indicated by the Lender and no later than on the Signing Date.

## 7. REPAYMENT

From the end of the Grace Period, the Borrower shall repay to the Lender the principal amount of the Facility in [●*insert number of instalment in words*] ([●]) half-yearly instalments, due and payable on each Payment Date.

The first instalment shall be due and payable on [●] and the last instalment shall be due and payable on [●].

At the end of the Drawdown Period, subject to the potential cancellation of the Facility pursuant to Clause 8.3 (*Cancellation by the Borrower*) and Clause 8.4 (*Cancellation by the Lender*), the Lender shall deliver to the Borrower an amortization schedule of the Facility.

## 8. PREPAYMENT AND CANCELLATION

### 8.1 Voluntary Prepayment

No prepayment of all or part of the Facility shall occur before [●*insert the date corresponding to the mid term of the Facility*].

As from that date, the Borrower may prepay all or part of Outstanding Principal owing under the Facility, subject to the following conditions:

- (i) the Lender having received a written and irrevocable prior notice from the Borrower no later than thirty (30) calendar days prior to the contemplated prepayment date; and

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<sup>10</sup> Rate determined by AFD.

<sup>11</sup> Rate determined by AFD.

- (ii) the amount to be prepaid being equal to an integer number of instalments in principal.

The prepayments shall be permitted only on Payment Dates.

## 8.2 Mandatory Prepayment

- (a) The Borrower shall immediately and fully prepay the Facility upon receipt of a written notice from the Lender informing the Borrower of any of the following events:
  - (i) the performance by the Lender of any of its obligations hereunder become(s) illegal under laws or regulations applicable to the Lender; or
  - (ii) the Lender accelerates the Facility pursuant to Clause 13 (*Events of Default*); or
- (b) The Borrower shall prepay to the Lender the remaining sums due under the Facility, on a pro rata basis, in the event the Borrower is compelled to prepay all or part of the sums due to a Co-Financier<sup>12</sup>.

## 8.3 Cancellation by the Borrower

Up to the Deadline for Drawdown, the Borrower may cancel all or part of the Available Credit, by sending to the Lender a prior written notice of not less than three (3) Business Days.

## 8.4 Cancellation by the Lender

The Lender is entitled to cancel all or part of the Available Credit upon delivery of a written notice to the Borrower, which shall be immediately effective, if:

- (i) the Available Credit is not equal to zero (0) on the Deadline for Drawdown; or
- (ii) the Borrower has not sent to the Lender the first Drawdown Request and the conditions precedent to the first Drawdown listed in Schedule 4 (*Conditions Precedent*) have not been fulfilled to the satisfaction of the Lender within a maximum period of eighteen (18) months from the date of approval of the Facility by the Lender's competent bodies (i.e. [●]); or
- (iii) an Event of Default has occurred and is continuing.

## 8.5 Restrictions

- (i) Any notice of prepayment or cancellation given by a Party pursuant to this Clause 8 (*Prepayment and Cancellation*) shall be irrevocable and final, and, unless otherwise provided in this Agreement, shall specify the date or dates on which the prepayment or cancellation may be made and the relevant amounts to be prepaid or cancelled;
- (ii) The Borrower may only prepay or cancel all or part of the Facility on the dates and in accordance with the terms expressly provided in this Agreement;
- (iii) Any prepayment shall be made together with the payment of outstanding interest on the amount prepaid and with the payment of the indemnity set out in Clause 9.2 (*Prepayment Compensatory Indemnity*);
- (iv) Prepaid amounts shall be applied to the remaining instalments, in reverse order of maturity; and

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<sup>12</sup> To be deleted if no Co-Financier.

- (v) The Borrower may not re-borrow all or part of the Facility which will have been prepaid or cancelled.

## 9. ADDITIONAL PAYMENT OBLIGATIONS

### 9.1 Incidental Expenses

- (a) The Borrower shall pay directly to the Lender- or shall reimburse the Lender, in the case the payments were made in advance - the amount of any reasonable fees and expenses (in particular lawyer's fees) which the Lender may incur in relation to the negotiation, preparation and signing of (i) the Agreement or any document relating thereto (including the legal opinion) and (ii) any other documents relating to the Agreement and signed after the Signing Date.
- (b) In the event that an amendment to the Agreement is required, the Borrower shall reimburse to the Lender all fees (in particular lawyer's fees) which it will have reasonably incurred in connection with the assessment or negotiation of such an amendment.
- (c) The Borrower shall reimburse to the Lender any fees and expenses (in particular lawyer's fees) which the Lender will have reasonably incurred in reserving or in enforcing its rights pursuant to the Agreement.
- (d) The Borrower shall pay directly to the Lender – or shall reimburse the Lender in case the payments were made in advance – any and all fees and expenses related to transfers of funds to, or for the account of, the Borrower from the Paris financial market to any other financial market agreed with the Lender, as well as any transfer fees and expenses relating to payment of all sums due under the Facility.

### 9.2 Prepayment Compensatory Indemnity

On account of any breakage cost (or other similar losses) incurred by the Lender as a result of the prepayment of all or part of the Facility pursuant to Clause 8.1 (*Voluntary Prepayment*) or Clause 8.2 (*Mandatory Prepayment*), the Borrower shall indemnify the Lender by paying to the Lender an amount calculated on the aggregate of the Drawdowns (or Tranches as the case may be) by applying the following rules to each of the Drawdown (or Tranches as the case may be)<sup>13</sup>:

- in the event the interest rate applicable to a Drawdown (or Tranche as the case may be) increased by [*insert percentage in words*] ([●]%)<sup>14</sup>, is less than or equal to the Reinvestment Rate, no indemnity shall be due;
- in the event the interest rate applicable to a Drawdown (or Tranche as the case may be) increased by [*insert percentage in words*] ([●]%)<sup>15</sup> (the “**Increased Rate**”), exceeds the Reinvestment Rate, the Borrower shall pay to the Lender an indemnity equal to the discounted difference, which should come to the Lender's prejudice between the amount of the interest borne by the Drawdown (or Tranche as the case may be) at the Increased Rate if no prepayment had been made and the amount of the interest obtained by placing an amount equal to the prepaid amount with the same amortization schedule.

The discount rate used shall be equal to the Reinvestment Rate. The date used to calculate the present value shall be the date of the prepayment.

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<sup>13</sup> Replace « Drawdown / Tranche » par « Facility » when the only one Drawdown.

<sup>14</sup> Rate determined by AFD.

<sup>15</sup> Rate determined by AFD.

### 9.3 Taxes and Duties

#### 9.3.1 Registration Costs

The Borrower shall directly pay (or as the case may be, reimburse to the Lender if the Lender has made any advances thereon) any stamp duty, registration costs and other similar taxes which may be payable in connection with this Agreement.

#### 9.3.2 Withholding tax

The Borrower undertakes that all payments made to the Lender under this Agreement shall be made free of any levies, taxes, duties, or withholding taxes, and expressly undertakes to increase the amount of any such payments to such amount which leaves the Lender with an amount equal to the payment which would have been due if no deduction of tax and duties had been required. The Borrower shall reimburse to the Lender all expenses, taxes and rights to be borne by the Borrower and which may have been paid by the Lender, other than levies, taxes and duties payable in France.

### 9.4 Additional Costs

Within five (5) Business Days of receiving a request from the Lender, the Borrower shall pay to the Lender all additional costs, including any reduction of an amount due and payable under the Agreement, as a result of the introduction of or change in any legal or regulatory provisions, or any change in the application or interpretation whether made by a French or foreign competent authority, of a law or regulation, following the Signing Date.

### 9.5 Currency Indemnity

In the event that any sum due by the Borrower under the Agreement, or under any order, judgment or arbitral award given relating to this sum, has to be converted from the currency in which that sum is denominated into another currency, the Borrower shall indemnify the Lender against all its expenses and losses, and shall indemnify it against all cost, loss or liability arising out of or as a result of the said conversion including any discrepancy between (i) the exchange rate between the two currencies used to convert that sum and (ii) the exchange rate(s) available to the Lender at the time of receipt of that sum. Such indemnification obligation is independent from any other obligations of the Borrower under the Agreement.

### 9.6 Payment Dates

Any indemnity, payment or repayment payable by the Borrower to the Lender under this Clause 9 (*Additional Payment Obligations*) is due and payable on the Payment Date immediately following the events that have given rise to the relevant indemnity, payment or repayment.

Notwithstanding the foregoing, indemnities relating to prepayment pursuant to Clause 9.2 (*Prepayment Compensatory Indemnity*) shall be due and payable on the prepayment date.

## 10. **REPRESENTATIONS AND WARRANTIES**

The Borrower makes the representations and gives the warranties set out in this Clause 10 (*Representations and Warranties*) to the Lender on the Signing Date. The representations and warranties shall be deemed repeated by the Borrower on the date of each Drawdown Request and on each Payment Date.

### 10.1 Status

The Borrower is a company duly incorporated and validly existing under the laws of its jurisdiction of incorporation.

The Borrower has all requisite powers to validly own its assets and carry on its business as currently conducted. The Borrower's articles of association or constitutional documents are in conformity with all applicable laws and regulations.

### 10.2 Binding Obligations

The Borrower's obligations under the Agreement:

- (i) are in compliance with the laws and regulations applicable in the Borrower's jurisdiction of incorporation; and
- (ii) constitute valid and binding obligations of the Borrower, enforceable in accordance with their terms; and
- (iii) may be enforced by a court of law or by means of arbitration.

### 10.3 No-Conflict with other Obligations

The execution and performance of the Agreement by the Borrower and the performance of the obligations arising therefrom do not conflict with any applicable domestic and/or foreign law and/or regulation or any of its corporate or constitutional documents (or similar documents) or any agreement or instrument binding upon the Borrower or affecting any of its assets.

### 10.4 Power and Authority

The Borrower has all requisite powers to execute the Agreement and to perform the obligations arising therefrom, to conduct its business in compliance with its corporate purpose with which the Facility is in compliance, and has taken all necessary actions in this respect.

### 10.5 Validity and Admissibility in Evidence

All required Authorizations:

- (i) to enable the Borrower to lawfully enter into, exercise its rights and comply with its obligations under the Agreement; and
- (ii) to make the Agreement admissible in evidence in the courts of the Borrower's jurisdiction of incorporation or in arbitral proceedings;

have been obtained and are in full force and effect, and no proceedings or circumstances of any nature whatsoever could result in the withdrawal, non-renewal or modification, in whole or in part, of any such Authorizations.

### 10.6 Governing Law; Enforcement

- (i) The choice of French law as the governing law of the Agreement will be recognized and enforced by the arbitral tribunals and courts of the Borrower's jurisdiction of incorporation.
- (ii) Any judgment of a French court and/or any award by an arbitral tribunal in relation to the Agreement will be recognised and enforced in the Borrower's jurisdiction of incorporation.

#### 10.7 Registration Costs and Stamp Duties

Under the laws of the Borrower's jurisdiction of incorporation, the Agreement shall not be filed, recorded or enrolled with any Authority in that jurisdiction and no stamp duties, registration costs or similar tax are payable on, or in relation to the Agreement or the transactions contemplated therein.

#### 10.8 Free Transfer of Funds

All amounts due by the Borrower to the Lender under the Agreement are freely transferable to France or to any other country.

#### 10.9 No Event of Default

No Event of Default has occurred, is continuing, or is reasonably expected to occur.

#### 10.10 No Misleading Information

All information and documents provided by the Borrower to the Lender are true, accurate and are up to date as at the date they were provided or, as the case may be, as at the date to which they refer and they have neither been amended, modified, terminated, cancelled, distorted nor are untrue or misleading in any material respect, as a result of omission, the occurrence of a new event or the disclosure or non-disclosure of information.

#### 10.11 Pari Passu Ranking

The Borrower's payment obligations under the Agreement rank at least *pari passu* with all its other unsecured and unsubordinated obligations.

#### 10.12 Taxes

All Taxes owed by the Borrower have been paid when due and there are no assessments made by the tax Authorities with regards to Tax liabilities that are not capable of being challenged in good faith by the Borrower.

#### 10.13 No Litigation

Except for the potential or pending claims that have been expressly declared by the Borrower, to the best of the Borrower's knowledge and belief, no litigation, arbitration or administrative proceedings before any court, arbitral body or other authority which, if adversely determined, might reasonably be expected to have a Material Adverse Effect, are pending or have been threatened against the Borrower or any of its assets.

#### 10.14 Insolvency Proceedings

The Borrower is not insolvent or subject to or threatened with any insolvency or bankruptcy proceedings or any similar proceedings whatsoever.

#### 10.15 Licit Origin of the Funds

The Borrower represents and warrants that (i) its share capital, shareholder loans and/or grants and (ii) the funds invested in the Project are not of illicit origin under:

- (i) French law and in particular (without limitation) are not linked to drug trafficking, fraud against the financial interests of the European Communities, corruption, organised criminal activities or the financing of terrorism; and/or

(ii) the laws of its jurisdiction of incorporation.

#### 10.16 No Corruption

The Borrower represents that the Project (in particular the negotiation, award and performance of contracts financed with the Facility) has not given rise to any Corruption.

#### 10.17 Insurance

The Borrower represents that it has subscribed all insurance policies necessary to conduct its business and has paid all related premiums.

#### 10.18 No Material Adverse Effect

The Borrower represents that no event likely to have a Material Adverse Effect has occurred since the date of its last representations made and warranties given pursuant to this Clause 10 (*Representations and Warranties*).

***[Other Representations and Warranties to be made/given depending on the Project and/or the Borrower]***

### **11. UNDERTAKINGS**

The undertakings set out in this Clause 11 (*Undertakings*) shall take effect at the Signing Date and shall remain in full force and effect for as long as any amount remains outstanding under the Agreement.

#### 11.1 Legal Existence

The Borrower undertakes to keep its legal existence and its general business and shall not change its legal form, its registered office, its jurisdiction of incorporation, its corporate purpose and its activity without the prior agreement of the Lender.

#### 11.2 Authorisations

The Borrower undertakes to promptly obtain, renew, comply with and do all that is necessary to maintain in full force and effect any Authorisation required under any applicable law or regulation to enable it to perform its obligations under the Agreement and to ensure their legality, validity, enforceability and/or admissibility in evidence.

The Borrower undertakes to obtain, maintain and comply with all provisions, conditions and limitations (if any) set forth in, or imposed by, any agreement, Authorisation, approval or Authorities or courts' decisions or orders, except for non significant breaches, and to take all actions and steps which should be necessary pursuant to any applicable law for the performance of any of the Borrower's obligations.

#### 11.3 Compliance with Laws and Regulations

The Borrower undertakes to comply with all laws and regulations to which it may be subject or which may be applicable to Eligible Projects, in particular relating to environmental protection, safety and labour issues.

#### 11.4 Pari Passu Ranking

The Borrower undertakes to procure that its payment obligations under the Agreement rank at least *pari passu* with its other unsecured and unsubordinated obligations.

### 11.5 Negative Pledge

The Borrower undertakes not to grant or create to a third party, for any new loan (including but not limited to interbank loans, marketable debt securities or bond debt) any Security over its assets or income or to give a personal guarantee, unless:

- the Borrower obtains the Lender’s prior written agreement on the Security to be granted or created; and
- if the Lender so request, the Borrower grants to the Lender the same kind of Securities with equal rank.

### 11.6 Changed Circumstances

The Borrower undertakes to notify the Lender of any decision or event likely to materially affect the performance of Eligible Projects and/or the Borrower’s ability to comply with some or all of its undertakings in respect of this Agreement.

### 11.7 Audit

The Borrower authorizes the Lender to proceed with follow-up missions to assess the conditions of implementation and operating of the Eligible Projects financed through the Facility as well as the financial position of the Borrower.

For such purpose, the Borrower undertakes to receive those representatives and/or advisers of the Lender carrying out such mission, whose visits to inspect the site(s) and document(s) will take place with such frequency and in such conditions which shall be determined by the Lender, after consultation with the Borrower. The Borrower also undertakes to grant a free access to its financial statements and employees.

### 11.8 Taxes

The Borrower undertakes to file all tax returns for which it is liable, and to pay when due and payable all Taxes, except if such amounts are being challenged by the Borrower in good faith and have been duly funded to in its financial statements.

### 11.9 Financial Year and Auditors

The Borrower undertakes not to change its financial year-end date without the Lender’s prior approval.

In the event of a change of the Auditors, the Borrower undertakes to choose its Auditors among reputable auditing firms.

The Borrower undertakes to inform the Lender prior to any change of its Auditors or alternate Auditors.

### 11.10 Articles of Association

The Borrower undertakes not to amend the current provisions of its articles of association as of the Signing Date in any manner that may affect the Lender’s interests and rights.

#### 11.11 Business Relationships

The Borrower undertakes not to enter into a business relationship with any person, group or entity which is listed on any Financial Sanctions Lists (including in particular the fight against financing of terrorism).

The Borrower undertakes not to purchase or supply any equipment or to perform any activity in any sector which is subject to an embargo by:

- the United Nations; and/or
- the European Union; and/or
- France.

#### 11.12 Licit Origin of the Funds

The Borrower undertakes to procure that:

- (a) its share capital, shareholder loans and/or grants and/or the funds invested in the Project are not of illicit origin under French law, and in particular are not linked to drug trafficking, fraud against the financial interests of the European Communities, corruption, organised criminal activities or the financing of terrorism, without limited; and
- (b) the funds referred to in paragraph (a) above are not of illicit origin under the laws of its jurisdiction of incorporation.

In all circumstances, the Borrower undertakes to promptly notify the Lender in the event that information comes to its attention causing it to suspect that the funds may be of illicit origin.

#### 11.13 No Corruption

The Borrower undertakes that the Project (including the negotiation, award and performance of contracts financed with the Facility) shall not give rise to Corruption.

#### 11.14 Prevention of Money Laundering and the Financing of Terrorism

For the entire term of the Facility, the Borrower undertakes to:

- use procedures with its customers consistent with the obligation of vigilance prescribed by FATF standards;
- provide the Lender, if so requested, with all information (including private data) if it should change, concerning each of its Clients Beneficiaries and Beneficial Owners;
- authorise the Lender to verify or to arrange for the verification of the manner in which the Borrower complies with its obligation of vigilance in respect of Clients Beneficiaries.

#### 11.15 Environmental and Social Liability

In order to promote sustainable development, the Parties agree that it is necessary to ensure compliance with internationally recognised environmental and labour standards, including the fundamental conventions of the International Labour Organisation (ILO) and international environmental treaties.

To that effect, the Borrower undertakes to:

- (i) carry out its business in compliance with pursuant to laws and regulations applicable in the country of implementation of the Project and to comply with environmental and social standards;
- (ii) require the Clients Beneficiaries to comply with all standards and regulations set out in the preceding paragraph in the operation of their businesses.

***[OPTION 1: the Borrower environmental and social policies are considered as satisfactory by the Lender]***

- (iii) act in a socially and environmentally responsible manner, evidenced by:
  - a list of excluded projects that the Borrower undertakes not to finance;
  - a process for managing environmental and social risks affecting projects financed by the Borrower; and
  - a corporate social responsibility programme (CSR).
- (iv) deliver to the Lender, on each anniversary date of the Agreement, an annual progress report regarding its environmental and social liability policies.

***[OPTION 2: the Lender considers that the Borrower's environmental and social policies need to be elaborated or improved]***

- (iii) elaborate and implement, within a two (2) year period from the Signing Date, environmental and social liability policies, in compliance with the ESAP set out in Schedule 10 (*Environmental and Social Action Plan*).

**OR**

- (iii) improve within a eighteen (18) month period from the Signing Date, its environmental and social liability policies, in compliance with the ESAP set out in Schedule 10 (*Environmental and Social Action Plan*)<sup>16</sup>.
- (iv) deliver to the Lender, on each anniversary date of the Agreement, an annual progress report regarding the implementation actions of its environmental and social liability policies together with next steps schedule.

#### 11.16 No Competition

The Borrower undertakes not to submit to any donor other than the Lender, Drawing Rights Requests or Drawdown Requests in the forms of advances<sup>17</sup> for an Eligible Project to be financed with the Facility (however, if an Eligible Project is partially financed with the Facility, this provision shall only apply to the portion of the Eligible Project financed with the Facility).

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<sup>16</sup> If the ESAP is not made at as the Signing Date, the delivery of the ESAP (to the satisfactory of the Lender) shall be a condition precedent to the first Drawdown. The Borrower shall also undertake to implement it and deliver to the Lender annual follow-up reports.

<sup>17</sup> To be deleted according to the chosen option in Clause 3.4 (*Payment Mechanics*).

#### 11.17 Financial Undertakings

The Borrower undertakes to comply with the financial undertakings set by the central bank of the jurisdiction where it has its registered office, as well as with the following financial undertakings: [●].

- mandatory financial ratios;
- an operating ratio below [●];
- a capital adequacy ratio above [●];
- a ratio of impaired loans (net of provisions) to equity below [●];
- a payout ratio below [●]; and
- *[Other ratios to be added depending on the Project and the Borrower]*

#### 11.18 Clients Beneficiaries

The Borrower undertakes that the selected Client Beneficiary shall be the only recipient of the Loan extended to it.

#### 11.19 Implementation of the Project

The Borrower undertakes to implement the Project, including in particular the extension of Loans, strictly in accordance with the criteria set out in Schedule 3A (*Technical and Financial Eligibility Criteria*) for the financing of Eligible Projects, exclusive of any other project of Eligible Clients.

#### 11.20 Re-use of Funds

In the event of the repayment of a Loan by a Client Beneficiary before the term of the Facility, the Borrower undertakes to use the repaid funds to finance new Eligible Projects to Clients Beneficiaries until the term of the Facility.

#### 11.21 Procurement

The Borrower undertakes to insert in all Loan agreements with a Client Beneficiary clauses pursuant to which:

- the Client Beneficiary undertakes to award contract for the execution of works and the provision of services necessary for the implementation of the Eligible Project to companies offering sufficient guarantees regarding their capacity to successfully perform such works or services. No exception pertaining to contracts awarded may be raised or enforced against the Lender;
- the Client Beneficiary represents that *“it has not engaged in any practice liable to influence the Project’s implementation process at the Borrower’s expense, and that there is and shall be no present or future Collusion between the bidders.”*
- the Client Beneficiary represents that *“the negotiation, procurement and performance of the contract has not given rise to and shall not give rise to a corruption act, as defined in the United Nations’ convention against corruption dated October 31, 2003”*;

- the Client Beneficiary authorises the Borrower to provide the Lender with the documents evidencing the conditions in which these contracts are performed, if the lender so requests.

*[Other Undertakings to be added depending on the Project and/or the Borrower]*

## **12. INFORMATION UNDERTAKINGS**

The undertakings in this Clause 12 (*Information Undertakings*) remain in full force and effect from the Signing Date for as long as any amount is outstanding under the Agreement.

### **12.1 Financial Statements**

(a) Within three (3) months after each financial year end, the Borrower shall provide the Lender with:

- its audited Financial Statements (balance sheet, income statement, and schedules thereto) prepared in accordance with Applicable Accounting Principles; and
- the Auditors' audit letter to management pertaining to the Financial Statements for each financial year.

(b) The Borrower shall also provide the Lender with:

Option 1: on a half-yearly basis, all of the reports made to the central bank, including prudential ratio reports;

Option 2: on a half-yearly basis, the following prudential ratio reported to the central bank: [●];

(c) at the Lender's request, all additional information on:

- the position of the Borrower's account and the condition of its business, including a breakdown of loans outstanding by sector and maturity, the division of risks, sources of funds by origin and maturity, capital resources and commitments (including off-balance-sheet commitments), if the said information is not included in the half-yearly reports listed in paragraph (b) above;
- its accounting methods, rules and procedures and the delegation of credit authority.

The Borrower accepts that the Lender may conduct annual audits of its financial position when the Financial Statements are prepared. However the Borrower may, if it so requests and subject to the express approval of the Lender, be discharged from its obligations relating to annual audits provided that it receives an annual credit rating by a Rating Agency approved by the Lender, for the entire term of the Facility, and that it undertakes to provide the Lender annually with a copy of its complete credit rating report and all other information delivered by the said Rating Agency concerning the Borrower's financial position.

### **12.2 Reports**

The Borrower undertakes to deliver to the Lender, as soon as they become available:

- the Central Bank inspection reports;
- the credit rating report, if any, issued by a Rating Agency; and

- the management letters sent by the Auditors.

### 12.3 Progress Report

Throughout the term of the Facility, the Borrower shall provide to the Lender:

- (i) on a half-yearly basis, a technical and financial progress report relating to the implementation of the Project as well as the Performance Indicators as set out in Schedule 9 (*Performance Indicators*) and, where applicable, reports on granted financings; and
- (ii) an annual report on the implementation of its environmental and social liability policy in connection with the Project.

Within [*insert number of month in words*] ([●]) months following the last Drawdown, the Borrower shall provide the Lender with a general progress report relating to the implementation of the Project.

### 12.4 Co-Financing<sup>18</sup>

The Borrower shall promptly inform the Lender of any total or partial cancellation or prepayment of any Co-Financing.

### 12.5 Clients Beneficiaries

The Borrower undertakes to provide the Lender with:

- if the Lender so requests, the annual financial statements of the Client(s) Beneficiary(ies) (balance sheet and income statement) as soon as they are approved, as well as any information which the Lender may reasonably request regarding the financial position of the Client(s) Beneficiary(ies);
- any other information concerning the Client(s) Beneficiary(ies) that the Lender may reasonably request; and
- annually, a report on the use of the funds resulting from any repayment or prepayment of Loans.

### 12.6 Loan Repayments

The Borrower undertakes to notify the Lender of any Loan repayment by a Client Beneficiary, no later than fifteen (15) Business Days from the date of the said repayment.

### 12.7 Miscellaneous Information

The Borrower shall inform the Lender of:

- any event which constitutes or might constitute an Event of Default or might have a Material Adverse Effect, the nature of such event, and all the actions taken to remedy it, if any, as promptly as practicable upon becoming aware of any such event;
- detailed information on any litigation, arbitration or administrative proceedings which are current, threatened or pending and which might have a Material Adverse Effect, as promptly as practicable upon becoming aware of any such proceedings;

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<sup>18</sup> To be deleted if no Co-Financing.

- any incident or accident directly related to the implementation of the Eligible Project(s) which might have a significant effect on the environment or on the work conditions of its employees or its contracting parties working for the implementation of the Eligible Project(s), the nature of such incident or accident and all the actions taken or to be taken, as the case may be, by the Borrower to remedy it, as promptly as practicable following the occurrence of such incident or accident;
- any decision or event which might affect the organization, completion or continuance of the Eligible Project(s), as promptly as practicable;
- any amendments to its statutory documents which must legally be published;
- any transaction which might result in a transfer of ownership of five percent (5%) or more of the share capital of the Borrower, or in a direct or indirect change of Control of the Borrower; and
- any other information concerning its financial condition, business or operations or any elements or evidence that the Lender may reasonably request, as promptly as practicable.

***[Other Information Undertakings to be added depending on the Project and/or the Borrower]***

### **13. EVENTS OF DEFAULT ACCELERATION**

#### **13.1 Events of Default**

Each of the events or circumstances set out in this Clause 13.1 (*Events of Default*) constitutes an Event of Default.

##### **13.1.1 Payment Default**

The Borrower does not pay on the due date any amount due pursuant to this Agreement at the agreed location and/or in the agreed currency, unless the payment is fully made by the Borrower within a maximum of five (5) Business Days following its due date.

##### **13.1.2 Undertakings and Obligations**

The Borrower breaches any of the provisions of the Agreement and in particular, without limitation, any of its undertakings given pursuant to Clause 11 (*Undertakings*) and Clause 12 (*Information Undertakings*) of this Agreement.

Except for undertakings taken pursuant to Clauses 11.11 (*Business Relationship*), 11.12 (*Licit Origin of Funds*) and 11.13 (*No Corruption*) for which no grace period shall be granted, no Event of Default pursuant to this Clause 13.1.2 (*Undertakings and Obligations*) shall be declared if the breach of such provisions has been cured within five (5) Business Days from the date of delivery of a notice by the Lender to the Borrower or the date the Borrower becomes aware of such breach.

##### **13.1.3 Misrepresentations**

Any representation, warranty and/or statement made or reputed to be made by the Borrower pursuant to the Agreement and in particular under Clause 10 (*Representations and Warranties*) or under any other documents provided by or on behalf of the Borrower pursuant to or relating to the Agreement, is inaccurate or misleading at the time it was made or considered to be made.

#### 13.1.4 Cross Default

- (a) Any indebtedness of the Borrower (other than the Facility) is not paid to the Borrower's creditor(s) on its due date or, as the case may be, within any grace period granted pursuant to the relevant documentation.
- (b) The creditor with whom the Borrower has contracted an indebtedness, has cancelled or suspended its obligation, or has declared the acceleration of the indebtedness or pronounced full prepayment of the indebtedness, as a result of the occurrence of an event of default (or any equivalent named otherwise) pursuant to the relevant documentation.
- (c) No Event of Default shall occur under this Clause 13.1.4 (*Cross Default*) if the aggregate amount under any indebtedness or the commitment relating to any indebtedness falling within the scope of paragraphs (a) and (b) above is less than [*insert amount in words*] Euros (EUR [•])<sup>19</sup> (or its equivalent in any other currency(ies)).

#### 13.1.5 Insolvency

The Borrower is unable, or declares to be unable, to pay its debts as they fall due, suspends payments of any of its debts or, by reason of current or anticipated financial difficulties, initiates negotiations with one or more of its creditors with a view to rescheduling of its indebtedness or any part thereof.

#### 13.1.6 Bankruptcy

A decision of a managing body of the Borrower is made or a judicial proceeding is commenced, or any step is taken regarding the suspension of payments, moratorium of any indebtedness, or the liquidation, dissolution, judicial administration, reorganisation or the restructuring of the Borrower or any similar proceeding or measure.

#### 13.1.7 Unlawfulness

It is or becomes unlawful or impossible for the Borrower to perform any of its obligations under the Agreement.

#### 13.1.8 Material and Adverse Change of Situation

An event (including a change in the political situation of the country of the Borrower) or a measure likely to have a Material Adverse Effect, occurs or is likely to occur.

#### 13.1.9 Change of Control

Any change of Control occurs.

#### 13.1.10 Use of the Facility

A Loan extended by the Borrower is not used in whole or in part to finance an Eligible Project.

#### 13.1.11 Withdrawal from or Suspension of the Project

One of the following events occurs:

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<sup>19</sup> Amount determined by AFD.

- the implementation of one of the Eligible Projects is suspended or postponed for a period exceeding six (6) months; or
- one of the Eligible Projects has not been completed by the Deadline for Drawdown, unless the rescheduling of the date has been approved by the Lender
- the Borrower withdraws from the Eligible Project or ceases to be part thereof.

#### 13.1.12 Authority Intervention

An Authority:

- takes any measure in order to liquidate, judicially administrate, reorganize or restructure the Borrower; or
- takes any measure that would prevent the Borrower to conduct and carry out all or part of its activities or operations.

#### 13.1.13 Authorisations

Any required Authorisations for the Borrower to perform or to comply with its obligations under the Agreement or which is required in the normal and ordinary course of the Eligible Project(s) is not obtained within the required timeframe, is cancelled or becomes invalid or ceases to be in full force and effect, for any reason whatsoever.

#### 13.1.14 Judgments, Rulings or Decisions having a Material Adverse Effect

Any judgment, arbitral award or judicial or administrative decision or order affecting the Borrower has or may reasonably have a Material Adverse Effect.

#### 13.1.15 Financial Statements Auditing

The Auditors issue a qualified, disclaimer opinion or adverse opinion regarding the certification of the annual financial statements of the Borrower.

#### 13.1.16 Business Relationships

The existence of a business relationship between a Borrower and any person, group or entity listed on one of the Financial Sanctions Lists (including in particular the fight against financing of terrorism).

The Borrower purchases or supplies any equipment or performs any activity in any sector under embargo by:

- the United Nations
- the European Union
- France

#### 13.1.17 Illicit Origin of Funds

The Borrower's shareholder capital, shareholder loans and/or grants or the funds invested in the Project are of illicit origin pursuant to French law, including but not limited to, are linked to drug trafficking, fraud against the financial interests of European Communities, corruption, organized criminal activities or the financing of terrorism.

The Borrower's shareholder capital, shareholder loans and/or grants or the funds invested in the Project are of illicit origin pursuant to the law of the jurisdiction where the Borrower has its registered office.

#### 13.1.18 Corruption

The Project (in particular at the time of the negotiation, procurement and performance of the contracts financed through the Facility) has given rise to Corruption.

#### 13.1.19 Downgrading or Loss of Rating<sup>20</sup>

The Borrower's credit Rating falls below [●] or the equivalent thereof on the scale of a Rating Agency using a different notation for its Ratings.

The Borrower's credit is no longer rated and the Parties cannot agree on an alternative solution within twenty (20) Business Days.

#### 13.2 Acceleration

On and at any time after the occurrence of an Event of Default, the Lender may, without any formal notice or commencing any court or arbitration proceedings, by written notice given to the Borrower, declare that all or part of the Facility, together with accrued or outstanding interest and all other amounts outstanding under the Agreement, shall become immediately due and payable.

Without prejudice to the foregoing, in the event of occurrence of an Event of Default set out in Clause 13.1 (*Events of Default*), the Lender reserves the right, following a written notice given to the Borrower, to (i) suspend or postpone Drawdowns under the Facility and/or (ii) suspend the finalization of the agreements relating to any potential additional financing offers which would have been notified by the Lender to the Borrower and/or (iii) postpone or suspend any drawdown under any other Facility or loan agreement entered into between the Borrower and the Lender.

Should drawdowns be postponed or suspended by a Co-Financier under an agreement between the said Co-Financier and the Borrower, the Lender reserves the right to postpone or suspend the Drawdowns under the Facility.<sup>21</sup>

#### 13.3 Notification of an Event of Default

As provided for in Clause 12.7 (*Miscellaneous Information*), the Borrower undertakes to promptly notify the Lender upon becoming aware of any event constituting or likely to constitute an Event of Default, and to inform the Lender of all the measures contemplated by the Borrower to remedy it.

### 14. ADMINISTRATION OF THE FACILITY

#### 14.1 Payments

All payments received by the Lender under the Agreement shall be applied to the payment of expenses, fees and interest, principal repayments or any other sum owed under the Agreement in the following order:

- 1) incidental expenses (if any);

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<sup>20</sup> Only for Borrower with credit rating.

<sup>21</sup> To be deleted if no Co-Financier.

- 2) fees;
- 3) late-payment interest (if any);
- 4) interest payment;
- 5) principal repayments.

Payments by the Borrower shall be applied first to the sums due and payable under the Facility, or under other loans extended by the Lender to the Borrower, should it be in the Lender's interest to apply these sums to such loans, in the order set out above.

#### 14.2 Set-off

Without any prior approval of the Borrower or any prior notification to the Borrower, the Lender may, at any time, in compliance with and within the limits of French Law, set off all amounts due and unpaid by the Borrower with all amounts held by the Lender on behalf of the Borrower or any amount due and payable by the Lender to the Borrower. If these amounts are denominated in foreign currencies, the Lender may convert any of these currencies at the prevailing currency exchange rate for the purpose of the set off.

All payments to be made by the Borrower under the Agreement will be calculated without taking into account any possible set off. The Borrower shall be prohibited from applying or making any set off.

#### 14.3 Business Day

Any payment which is due on a day other than a Business Day shall be made on the immediate preceding Business Day.

#### 14.4 Currency of Payment

The payment of any sum due by the Borrower under the Agreement shall be made in Euros, except as provided for in Clause 14.6 (*Closing Place and Payments*).

#### 14.5 Day Count Convention

Any interest, fees or expenses due under the Agreement shall accrue on the basis of the actual number of days elapsed, compared to a year of three hundred and sixty (360) days, in compliance with the European interbank market practice.

#### 14.6 Closing Place and Payments

- (a) The funds of the Facility shall be transferred by the Lender to any Borrower's bank account in France specifically assigned to that purpose by the Borrower.

Notwithstanding the provisions of the preceding paragraph, and subject to the Lender's prior agreement, the amounts of the Facility may be transferred to a Borrower's bank account opened in the jurisdiction of incorporation of the Borrower or in any other location.

The funds shall then be transferred to any financial institution located in the jurisdiction of incorporation of the Borrower and, upon the Borrower's request, be either made (i) in Euros to a bank account denominated in Euros, or (ii) in the exchange value on the day of the Drawdown in the currency having legal tender in the jurisdiction of incorporation of the Borrower to a bank account denominated in that currency or (iii) in a currency convertible to a bank account denominated in such currency.

- (b) Any payment to be made by the Borrower to the Lender shall be paid on the due date by no later than 11:00 am (Paris time) into the following bank account:

Name A/C: Agence Française de Développement

RIB Code : [●]

IBAN Code: [●]

*Banque de France* SWIFT code (BIC): [●]

opened by the Lender with *Banque de France* (Central Agency) in Paris, or to any other account notified by the Lender to the Borrower.

- (c) The Borrower undertakes to request from its bank in charge of wiring the amounts to the Lender that it provides comprehensively and in the same order, the following information in wire transfer messages (the caption numbers referring to SWIFT MT 202 and 103 protocol):

Principal: name, address, bank account number (field 50)

Principal's bank (field 52)

Reference: name of the Borrower, name of the Project, number of the Agreement (field 70)

- (d) The exchange rates are those applicable by the *Banque de France* on the Drawdown Date.
- (e) Only payments made pursuant to the terms of this Clause 14.6 (*Closing Place and Payments*) will be deemed made in full discharge.

## 15. MISCELLANEOUS

### 15.1 Language

The language of the Agreement is English. If a translation is made thereof, only the English version shall be deemed authentic in the event of conflicting interpretations of the Agreement's provisions or disputes between the Parties.

All communication or document sent and/or provided under or in connection with this Agreement shall be written in English.

If such communication or document is not written in English and if the Lender so requests, it shall be accompanied with a certified English translation and, in this event, the English translation shall prevail, except if the relevant document is the articles of association of a company, a legal text or any other document having an official character.

### 15.2 Certifications and Calculations

Any certification or determination by the Lender of a rate or amount under the Agreement is, unless in the event of a manifest error, conclusive evidence of the matters to which it relates.

### 15.3 Partial Invalidity

If, at any time, any provision of the Agreement is or becomes invalid, the validity of the other provisions under the Agreement shall not be affected.

The invalidity of a provision under any law of a country shall not affect its validity under the law of another country.

#### 15.4 No Waiver

The Lender shall not be considered to waive a right pursuant to this Agreement due to the fact that it postponed the exercise of, or did not exercise, any of its rights hereunder.

The partial exercise of a right shall not be considered as an impediment to either its later exercise or more generally the exercise of rights and claims by law.

The rights and claims set forth in this Agreement are cumulative and non exclusive of the rights and claims provided by law.

#### 15.5 Assignment

The Borrower may not assign, cede, delegate or transfer, in any manner whatsoever, all or part of its rights and/or obligations under the Agreement without the prior written consent of the Lender.

The Lender may assign, cede, delegate or transfer to any third party its rights and/or obligations under the Agreement and enter into any sub-participation agreement relating thereto.

#### 15.6 Legal Value

The Schedules hereto and the recitals hereof form part of this Agreement and have the same legal value.

#### 15.7 Cancellation of the Preceding Agreements

As from the Signing Date, the Agreement represents the entire agreement between the Parties relating to the subject matter hereof, and supersedes and replaces all previous documents, agreements or understandings which may have been exchanged or communicated as part of the negotiation of the Agreement.

#### 15.8 Amendment

No provision of the Agreement shall be amended, unless such amendment shall be expressly agreed in writing between the Parties.

#### 15.9 Disclosure of Information

Notwithstanding any existing confidentiality agreement, the Lender may disclose all information or document in relation to the Project (i) to its auditors, counsels, rating agencies, (ii) to any person or entity to whom the Lender expects to assign or transfer all or part of its rights and obligations under the Agreement and (iii) to any person or entity for the purpose of taking any protective measures or protecting the rights of the Lender under the Agreement.

### **16. NOTICES**

#### 16.1 Written Notices

Any notice, request or other communication to be given or made under this Agreement or relating to it shall be made in writing and, unless provided to the contrary herein, any such communication shall be delivered by facsimile or by letter to the Party's following address and number:

To the Borrower:

**[NAME OF THE BORROWER]**

Address: [●]

Telephone: [●]

Facsimile: [●]

Attention: [●]

To the Lender:

**AFD – PARIS HEAD OFFICE**

Address: 5, rue Roland Barthes – 75598 Paris Cedex 12, France

Telephone: [●]

Facsimile: [●]

Attention: [●]

**With copy to:**

**AFD – [●insert country of the AFD office] OFFICE**

Address: [●]

Telephone: [●]

Facsimile: [●]

Attention: [●]

or at such other address, facsimile number or department or responsible person as a Party notifies to the other.

## 16.2 Receipt

Any notice, request or communication made or any document send by a Party to another under or relating to the Agreement shall be effective:

- (a) for facsimiles, when received in a readable form; and
- (b) for letters when delivered at the correct address;

and in the event that a responsible person or a department has been specified, on condition that the communication is addressed to the relevant person or department.

### 16.3 Electronic Communications

- (a) Any communication made under or in connection with this Agreement may be made by electronic mail or other electronic means if the Parties:
  - (i) agree on such communication, unless and until notified to the contrary;
  - (ii) inform each other in writing of their electronic mail address and /or provide any other contact information required to enable the information exchange by that means; and
  - (iii) notify each other of any change to their address or any other contact information provided by them.
- (b) Any electronic communication made between the Parties will be effective only upon receipt in a readable form.

## 17. **GOVERNING LAW, ENFORCEMENT AND CHOICE OF DOMICILE**

### 17.1 Governing Law

This Agreement is constructed and governed by French law.

### 17.2 Jurisdiction

Any dispute arising from the Agreement (including any litigation concerning the existence, the validity, the interpretation or the termination of this Agreement), which cannot be settled amicably, will be submitted to the jurisdiction of the Paris Commercial Court.

This Clause 17.2 (*Jurisdiction*) is exclusively provided in favour of the Lender. As a consequence, the Lender may bring any lawsuit in connection with the Agreement before any other competent court.

To the extent permitted by law, the Lender may file and follow simultaneous lawsuits in several countries.

### 17.3 Choice of Domicile

Without prejudice to any applicable legal provision, the Borrower irrevocably chooses its registered office and the Lender chooses its "Paris Head Office", at the addresses mentioned in Clause 16.1 (*Written Notice*) as domicile, for the purpose of serving judicial and extrajudicial documents which may result in any action or proceeding mentioned above.

## 18. **EFFECTIVENESS AND TERMINATION**

This Agreement shall come into force as of the Signing Date and shall remain in full force and effect for so long as any amount is outstanding under the Agreement.

Executed in [●insert number in words] ([●])<sup>22</sup> originals, at [●], on [●].

**BORROWER**

[NAME OF THE BORROWER]

Represented by

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**Name:** [●]

**Capacity:** [●]

**LENDER**

**AGENCE FRANÇAISE DE DÉVELOPPEMENT**

Represented by

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**Name:** [●]

**Capacity:** [●]

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<sup>22</sup> Two originals for AFD + number of originals required by the Borrower.

## SCHEDULE 1A- DEFINITIONS

<b>Agreement</b>	means this Facility agreement, including its recitals, Clauses, Schedules and, if applicable, any future written amendments thereto.
<b>Applicable Accounting Principles</b>	means the IFRS ( <i>International Financial Reporting Standards</i> ) rules, as promulgated and interpreted by the IASB ( <i>International Accounting Standards Board</i> ) <sup>23</sup> .
<b>Auditors</b>	means the auditors of the Borrower.
<b>Authority(ies)</b>	means any government or any body, department, commission exercising a public prerogative or any administration, court, agency or state or any governmental, administrative, tax or judicial entity.
<b>Authorization(s)</b>	means any consents, registrations, filings, conventions, certificates, authorizations, approvals, permits and/or mandates, or any exemptions thereof, obtained from or provided by an Authority, whether granted by means of an explicit act or due to an absence of answer within a defined time limit, as well as any approvals and consents granted by the managing bodies, creditors and shareholders of the Borrower.
<b>Available Credit</b>	means, at a given period of time, the maximum principal amount set out in Clause 2.1 ( <i>Facility</i> ), less (i) the amount of the Drawdowns made, (ii) the amount of the Drawdowns to be made pursuant to the ongoing Drawdown Requests and (iii) the portions of the Facility cancelled pursuant to the provisions of Clause 8.3 ( <i>Cancellation by the Borrower</i> ) and Clause 8.4 ( <i>Cancellation by the Lender</i> ).
<b>Availability Period</b>	means the period from the Signing Date to the Deadline for Drawdown.
<b>Average Residual Term</b>	means the average, expressed as a number of calendar days, of terms remaining for each instalment, weighted by the corresponding amounts of flux in principal.
<b>Beneficial Owner</b>	means the individual or individuals who ultimately own or exercise Control over the Client Beneficiary and/or the person for whom the Eligible Loan is executed.
<b>Business Day</b>	means a full day other than a Saturday or a Sunday or public holiday on which banks are open for business in Paris (France).
<b>Clause</b>	means a clause contained in this Agreement.
<b>Client(s) Beneficiary(ies)</b>	means each natural or legal person who is a customer of the

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<sup>23</sup> Definition to be modified according the accounting principals applicable to the Borrower (to the satisfaction of the Lender).

	Borrower and is the recipient of one or more Loans.
<b>Co-Financing</b> <sup>24</sup>	means together the [● <i>insert credits</i> ] and separately any of them.
<b>Co-Financier(s)</b> <sup>25</sup>	means:  [●] for an amount (known or contemplated) of [● <i>insert amount in words</i> ] ([●]).
<b>Collusion</b>	means concerted action, agreements, express or implied collusion or alliances, including through the intermediary of an affiliate operating in any country whatsoever, intended or liable to prevent, restrain or distort competition in a market, including by: <ul style="list-style-type: none"> <li>(i) restricting access to the market or the free play of competition by other businesses;</li> <li>(ii) impeding the determination of free market prices by artificially raising or lowering them;</li> <li>(iii) limiting or controlling production, outlets, capital expenditures or technical advances;</li> <li>(iv) allocating markets and supply sources.</li> </ul>
<b>Control</b>	means a direct or indirect holding by any person or entity of a portion of a company's share capital granting it a majority of the voting rights at that company's general meetings.
<b>Corruption</b>	means the following: <ul style="list-style-type: none"> <li>- the promise, offering or giving, to a Public Official, directly or indirectly, of an undue advantage of any nature, for the Public Official himself or herself or another person or entity, in order that the Public Official acts or refrains from acting in the exercise of his or her official duties;</li> <li>- the solicitation or acceptance by a Public Official, directly or indirectly, of an undue advantage of any nature, for the Public Official himself or herself or another person or entity, in order that the Public Official acts or refrains from acting in the exercise of his or her official duties.</li> </ul>
<b>Deadline for Drawdown</b>	means [●], date after which no Drawdown may be made.
<b>Drawdown</b>	means the payment of all or part of the funds made available by the Lender to the Borrower in connection with the Facility pursuant to the conditions set out in Clause 3 ( <i>Drawdown of Funds</i> ).
<b>Drawdown Confirmation Letter</b>	means a letter in the form appended hereto as Schedule 5B ( <i>Form of Drawdown Confirmation Letter</i> ) sent by the Lender to the

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<sup>24</sup> To be deleted if no Co-Financing.

<sup>25</sup> To be deleted if no Co-Financier.

Borrower setting out terms in response to a Drawdown Request.

<b>Drawdown Date</b>	means the date on which a Drawdown is made available by the Lender.
<b>Drawdown Period</b>	means the period from the first Drawdown Date to the earliest of the following dates:  (a) the date on which the Available Credit is equal to zero (0); and  (b) the Deadline for Drawdown.
<b>Drawdown Request</b>	means a request by the Borrower to the Lender, that a Drawdown be made available by the Lender, which request shall be conveyed to the Lenders by means of a Drawdown Request letter in the form appended hereto as Schedule 5A ( <i>Form of Drawdown Request letter</i> ).
<b>Drawing Rights<sup>26</sup></b>	means, for all Drawing Right Requests accepted by the Lender, the right granted to the Borrower to draw on the Facility in order to obtain a Drawdown as set out in the Agreement.
<b>Drawing Right Request</b>	means the request by the Borrower to the Lender that a contemplated Eligible Project be applied against the Facility for the purpose of obtaining a Drawing Right, which request shall be conveyed to the Lender by means of a Drawing Right Request letter.
<b>Facility</b>	means the facility granted by the Lender in accordance with this Agreement in a maximum principal amount set out in Clause 2.1 ( <i>Facility</i> ).
<b>Eligible Client(s)</b>	[•]
<b>Eligible Project</b>	means a project contemplated by an Eligible Client, contributing to the Project by means of the Facility, that meets the technical and financial eligibility criteria which are set out in Schedule 3A ( <i>Technical and Financial Eligibility Criteria</i> ). A project in any of the sectors listed in Schedule 3B ( <i>Exclusions</i> ) cannot be an Eligible Project.
<b>ESAP</b>	means the environmental and social action plan attached as a Schedule 10 ( <i>Environmental and Social Action Plan</i> ) <sup>27</sup> . This plan includes <i>inter alia</i> the operational documents stating and describing the operational methods, the calendar, the human and financial resources dedicated by the Borrower to its environmental and social improvement, in order to build or improve (i) its own exclusion list, (ii) its environmental and social risk management with respect to projects it finances and (iii) its internal environmental and social liability.

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<sup>26</sup> Only if Option B chosen at Clause 3.4 (*Payment Mechanics*).

<sup>27</sup> To be deleted if no ESAP is required for the Project.

**EURIBOR** means the interbank rate applicable to the Euro for the deposits in Euros with a term comparable to the Interest Period (the “**Reference Term**”), as determined by the European Union Banking Federation at 11:00 am (Brussels time), two Business Days before the first day of the Interest Period. The Parties agree that the Reference Term will be of one (1) month if the Interest Period is less than sixty (60) calendar days, of three (3) months if it is between sixty (60) and one hundred and thirty five (135) calendar days, of six (6) months if it is between one hundred and thirty five (135) and two hundred and seventy (270) calendar days and twelve (12) months in other cases.

**Euro(s) or EUR** means the single European currency of member States of the European Economic and Monetary Union, including France, and having legal tender in such States.

**Event of Default** means any of the events or circumstances set out in Clause 13.1 (*Events of Default*) or which may constitute any events or circumstances set out in Clause 13.1 (*Events of Default*).

**Financial Sanctions Lists** Facility means the list(s) of persons, groups or entities which are subject to United Nations, European Union or French financial sanctions.

For information purposes only and for the convenience of the Borrower (who may not take any advantage whatsoever of or rely on) the following references/website addresses are set out below:

- **As regards the United Nations**, the lists may be consulted at the following addresses:

<http://www.un.org/french/sc/committees/1267/consolist.shtml>

(Taliban/Al Qaida)

<http://www.un.org/french/sc/committees/1737/index.shtml> (Iran)

<http://www.un.org/Docs/sc/committees/INTRO.htm>;

- **As regards the European Union**, the lists may be consulted at the following address:

[http://ec.europa.eu/external\\_relations/cfsp/sanctions/list/consol-list.htm](http://ec.europa.eu/external_relations/cfsp/sanctions/list/consol-list.htm)

- **As regards France**, the lists may be consulted at the following address:

[http://www.minefe.gouv.fr/directions\\_services/dgtpe/sanctions/sanctionsliste\\_nationale.php](http://www.minefe.gouv.fr/directions_services/dgtpe/sanctions/sanctionsliste_nationale.php)

The websites listed above do not comprise an exhaustive list.

**Financial Statements** means, for any given financial year, the Borrower’s annual consolidated financial statements for the period ending on the last

day of the said financial year.

<b>Fixed Reference Rate</b>	<p>means the fixed rate which, if applied to a notional loan with the following attributes:</p> <ul style="list-style-type: none"><li>- the loan's final maturity date is the last principal payment date of the Facility or part thereof,</li><li>- there is a "grace period" equal to the period, rounded off to the nearest six months, from the Rate Setting Date to the first principal payment date or part thereof,</li><li>- the loan is repayable in half-yearly instalments,</li></ul> <p>would make the present value of all future interest payments and principal repayments (discounted using the zero coupon yield curve of the interest-rate swap market in Euros, as calculated on the Rate Setting Date based on the Reference Financial Institution quotations on or after 11 a.m.- Paris time) equal to the amount of the said notional loan.</p>
<b>Grace Period</b>	<p>means the period from the Signing Date and expiring [<i>insérer nombre en lettres</i>] [●] months thereafter during which no repayment of the principal of the Facility is due.</p>
<b>Initial Financial Statements</b>	<p>means the Financial Statements of the Borrower for the financial year ending on [●], as certified by the Auditors</p>
<b>Interest Period</b>	<p>means the period from a Payment Date (exclusive) to the next Payment Date (inclusive). For each Drawdown made under the Facility, the first Interest Period shall start on the Drawdown Date (exclusive) and end on the first following Payment Date (inclusive).</p>
<b>Interest Rate</b>	<p>Facility means the interest rate expressed as a percentage determined pursuant to the provisions of Clause 4.1 (<i>Interest Rate</i>).</p>
<b>Loan(s)</b>	<p>mean each loan financed through the Facility, granted or to be granted by the Borrower to an Eligible Client to finance an Eligible Project.</p>
<b>Margin</b>	<p>means [<i>insérer pourcentage en lettres</i>] ([●]%) per annum.</p>
<b>Material Adverse Effect</b>	<p>means any event or circumstance which is affecting or could reasonably be expected to be materially adverse to the business, the assets or the financial condition of the Borrower or the ability of the Borrower to meet any of its obligations under the Agreement.</p>
<b>OAT</b>	<p>means the French Treasury bonds (<i>obligations assimilables du Trésor</i>) denominated in Euros as valued by the Reference Financial Institution as from 11:00 am (Paris time).</p>
<b>Performance Indicators</b>	<p>means [●], as set out in Schedule 9 (<i>Performance Indicators</i>)</p>

<b>Outstanding Principal</b>	means, in respect of a given Drawdown (or, where applicable, a Tranche) the outstanding amount owed on this Drawdown (or Tranche), which corresponds to the aggregate of the sums made available by the Lender to the Borrower in respect of the said Drawdown (or Tranche) less all principal repayments invoiced by the Lender in respect of the said Drawdown (or Tranche).
<b>Payment Dates</b>	means the [●] and [●] of each year.
<b>Project</b>	means the project as described in Schedule 2 ( <i>Project Description</i> ).
<b>Public Official</b>	means: <ul style="list-style-type: none"> <li>- any holder of legislative, executive, administrative or judicial office (in a State or subdivision thereof), appointed or elected, serving on a permanent basis or otherwise, paid or unpaid, regardless of rank;</li> <li>- any other person exercising a public function, including for a public agency or enterprise, or providing a public service;</li> <li>- any other person defined as a public official under the domestic law of the Borrower's jurisdiction.</li> </ul>
<b>Rate Conversion</b>	means the conversion of the floating rate applicable to all or part of the Facility into fixed rate pursuant to Clause 4.1 ( <i>Interest Rate</i> ). The determined fixed rate shall take effect the day immediately following a Payment Date.
<b>Rate Conversion Request Letter</b>	means a letter substantially in the form attached as Schedule 5C ( <i>Form of Rate Conversion Request Letter</i> ).
<b>Rate Setting Date</b>	means the date on which the Lender determines the interest rate of its loans. It shall be the first Wednesday (or, if that is a public holiday, the immediately following Business Day) following the date of receipt by the Lender of a Drawdown Request letter or Rate Conversion Request Letter, provided that the said date is at least two (2) Business Days prior to the said Wednesday. Otherwise, the Rate Setting Date shall be the second Wednesday (or the immediately following Business Day if that is a public holiday in France) after the said date of receipt.
<b>Rating Agency</b>	means Standard & Poor's, Moody's or Fitch Ratings.
<b>Reference Financial Institution</b>	means a financial institution chosen as a stable reference by the Lender and which publishes, on a regular basis, on one of the international financial information networks, its quotations of financial instruments according to the practices recognized by the banking industry. On the Signing Date, the reference financial institution is the group <i>Caisse des dépôts</i> for the OAT and Garban Intercapital for rate exchanges. In the event of unavailability of a reference rate mentioned in the Agreement, another substitution rate, recognized by the banking industry, shall apply.

<b>Reinvestment Rate</b>	means the yield rate of fixed-rate French Treasury Bonds (OAT)) whose maturity date is the closest to the Average Residual Term, calculated at the date of prepayment of all or part of the Facility. Such rate shall be the rate recorded as from 11:00 am (Paris time) seven (7) Business Days before the prepayment date, recorded on the quotation pages of the Reference Financial Institution.
<b>Schedule</b>	means a schedule or schedules to this Agreement
<b>Security(ies)</b>	means all and any pledges, mortgages, delegations, liens, charges, leases, guarantees, priority, security interest, title retention and/or any other instrument having a similar effect than a security of any type created or existing over an asset with a view to securing the obligations of a person.
<b>Signing Date</b>	means the signing date of this Agreement.
<b>Tax(es)</b>	means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).
<b>Triggering Date</b>	means the Business Day after the last day of the Drawdown Period.

## **SCHEDULE 1B- INTERPRETATION**

- (a) “assets” includes (but is not limited to) present and future property, revenues and rights of any nature;
- (b) any reference to the “Borrower”, a “Party” or the “Lender” includes its successors, assigns and beneficiaries;
- (c) any reference to the Agreement, to any other agreement or instrument is a reference to the Agreement, or to such other agreement or instrument as amended, restated or supplemented and includes, if applicable, any instrument which replaces it through novation, in accordance with the Agreement;
- (d) a “guarantee” means any security or any guarantee including any autonomous and irrevocable guarantee of payment;
- (e) a “person” includes any person, firm, company, corporation, partnership, trust, government, state or state agency or any association, or group of two or more of the foregoing (whether or not having separate legal personality);
- (f) a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, direction, or any division of any other authority or organisation;
- (g) any reference to a provision of law includes a reference to that provision as amended;
- (h) unless otherwise provided, any reference to a time of day is a reference to Paris time;
- (i) section, Clause and Schedule headings are for ease of reference only and shall not influence the interpretation of this Agreement;
- (j) unless otherwise provided, words and expressions used in any other document related to the Agreement or in any notice given under or in connection with the Agreement shall have the meaning ascribed to it in this Agreement;
- (k) an Event of Default is “continuing” if it has not been remedied or if the Lender has not waived any of its rights relating thereto;
- (l) references to a Clause or Schedule shall be a reference to a Clause or Schedule of this Agreement.

## **SCHEDULE 2- PROJECT DESCRIPTION**

I – Sector and background

II – Project Objectives

III – Project Implementation

**SCHEDULE 3A – TECHNICAL AND FINANCIAL ELIGIBILITY CRITERIA**

**SCHEDULE 3B – EXCLUSIONS LIST**

## **SCHEDULE 4- CONDITIONS PRECEDENT**

### **PART I – CONDITIONS PRECEDENT TO BE SATISFIED ON THE SIGNING DATE**

Delivery by the Borrower to the Lender of the following documents:

- (i) a copy of each (a) the memorandum and articles of association and (b) the certificate of incorporation of the Borrower. These copies must be certified by a director of the Borrower as complete, up-to-date and in full force and effect;
- (ii) a copy of the resolution(s) of the Borrower's competent body (which resolution(s) is(are) to be worded to the satisfaction of the Lender):
  - authorising the Borrower to enter into the Agreement;
  - approving the terms and conditions of the Agreement;
  - approving the execution of the Agreement; and
  - authorising a specified person or persons to execute the Agreement on its behalf.

The copy of the resolution(s) shall be certified by the Borrower as a true copy of duly passed resolution(s) which is (are) in full force and effect.

- (iii) documents attesting that the governing bodies of the Co-Financiers have agreed to the planned financing<sup>28</sup>.
  - (iv) a certificate issued by a director of the Borrower listing the person(s) authorized to sign, on behalf of the Borrower, the Drawdown Request letters and any certificate under this Agreement and to take all measures or sign all other authorized or required documents on behalf of the Borrower under this Agreement; and
  - (v) the certified specimen of signature of each person listed in the certificate mentioned in the preceding paragraph.
- (b) Payment by the Borrower to the Lender of the fee and expenses due under the Agreement.

### **PART II- CONDITIONS PRECEDENT TO THE FIRST DRAWDOWN**

(a) Delivery by the Borrower to the Lender of the following documents:

- (i) evidence of any filing or registration, deposit or publicity requirements of the Agreement and of the payment of any stamp duty, registration fee or similar duty concerning the Agreement, if applicable;
- (ii) a standard Loan agreement;
- (iii) the ESAP<sup>29</sup>;
- (iv) a certified true copy of the Initial Financial Statements;

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<sup>28</sup> To be deleted if no Co-Financiers

<sup>29</sup> To be deleted if no ESAP is required for the Project or if the ESAP (to the satisfaction of the Lender) has been delivered by the Borrower to the Lender before the Signing Date.

- (v) an original legal opinion both in the form and substance deemed satisfactory to the Lender issued by an independent and external lawyer of the jurisdiction of incorporation of the Borrower chosen with the Lender's prior approval;
- (b) Application to its customers of procedures consistent with the obligation of vigilance prescribed by the FATF standards.

**PART III – CONDITIONS PRECEDENT TO EACH DRAWDOWN (INCLUDING THE FIRST DRAWDOWN)**

- (a) No Event of Default has occurred or is continuing;
- (b) Delivery by the Borrower to the Lender of the following original documents:
  - (i) the relevant Drawdown Request letter together with all relevant supporting documents as set out in Clause 3.4 (*Payment Mechanics*);
  - (ii) a certified copy of each Loan agreement signed with a Client Beneficiary as of the date of the Drawdown Request;
  - (iii) documentation of Drawing Rights granted by the Lender for an amount greater than or equal to the amount of the requested Drawdown<sup>30</sup>;
  - (iv) documentation stating the implementation of the environmental and social policies of the Borrower and the implementation calendar of the next steps<sup>31</sup>.
- (c) Payment by the Borrower to the Lender of all fees and expenses due under the Agreement.

**PART IV - CONDITIONS PRECEDENT TO EACH DRAWDOWN (EXCEPTING THE FIRST DRAWDOWN)**

Delivery by the Borrower to the Lender of the documentation of the use of the preceding Drawdown, including the use of funds, as set out in Schedule 8 (*Documentation of the Use of Funds*).<sup>32</sup>

***[Other Condition Precedent to be added depending on the Project and/or the Borrower]***

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<sup>30</sup> Only when the Option B chosen at Clause 3.4 (*Payment Mechanics*).

<sup>31</sup> To be deleted if no ESAP is required for the Project or if the ESAP (to the satisfaction of the Lender) has been delivered by the Borrower to the Lender before the Signing Date.

<sup>32</sup> Only when Option A chosen at Clause 3.4 (*Payment Mechanics*).

## SCHEDULE 5A- FORM OF DRAWDOWN REQUEST LETTER

*(Borrower's letterhead)*

From: *the Borrower*

To: AGENCE FRANÇAISE DE DÉVELOPPEMENT

On: [date]

**Borrower's Name – Credit Facility Agreement n°[●], signed on [●]**

**Drawdown Request n°[●]**

Dear Sirs,

1. We refer to the Credit Facility Agreement n° [●] entered into between the Borrower and the Lender on [●] (hereinafter the “**Agreement**”). Capitalised words and expressions used but not defined herein have the meanings given to them in the Agreement.
2. This letter is a Drawdown Request.
3. We hereby irrevocably request the Lender to make the Drawdown pursuant to the following terms:

Amount: EUR [●] or, if less, the Available Credit.

Interest Rate: fixed / floating

Contemplated Drawdown date: [●]

4. The Interest Rate shall be determined in accordance with the provisions of Clause 4 (*Interest*) of the Agreement. The Interest Rate applicable to the Drawdown will be provided to us in writing and we hereby agree on such Interest Rate (subject to, as the case may be, application of the paragraph below).

In the event the Interest Rate applicable to the requested Drawdown is greater than [*percentage in words*] ([●]%), we request that you to cancel this Drawdown Request.

5. We confirm that each condition set out in Clause 2.3 (*Conditions of Utilisation*) is fulfilled on the date of this Drawdown Request. We undertake to immediately inform the Lender in the event any of the said conditions would appear not to be fulfilled before or on the Drawdown Date.
6. The Drawdown shall be credited to the following bank account:
  - (a) Name [of the Borrower]: [●]
  - (b) Address [of the Borrower]: [●]
  - (c) IBAN Account Number : [●]
  - (d) SWIFT Number: [●]

(e) Bank and bank's address [of the Borrower]: [●]

(f) [if currency other than Euro] correspondent bank and account number of the Borrower's bank: [●]

7. This request is irrevocable.

8. We attach hereto all relevant supporting document as set out set out in Clause 3.4 (*Payment Mechanics*) of the Agreement:

*[List of supporting documents]*

Sincerely,

.....

Authorised signatory of Borrower

.....

**SCHEDULE 5B- FORM OF DRAWDOWN CONFIRMATION LETTER**

*(on Agence Française de Développement letterhead)*

From: AGENCE FRANÇAISE DE DÉVELOPPEMENT

To: *the Borrower*

Date: [●]

Re: Drawdown Request n° [●] dated [●]

**Borrower's Name – Credit Facility Agreement n°[●], signed on [●]**

**Drawdown Confirmation n°[●]**

Dear Sirs,

1. We refer to the Credit Facility Agreement n°[●] entered into between the Borrower and the Lender on [●] (hereinafter the “**Agreement**”). Capitalised words and expressions used but not defined herein have the meanings given to them in the Agreement.
2. By a Drawdown Request letter dated [●], the Borrower requested the Lender to make a Drawdown in the amount of EUR [●], pursuant to the conditions of the Agreement.
3. The characteristics of the Drawdown made in connection with your Drawdown Request are the following:
  - Amount: *[amount in words]* ([●])
  - Applicable interest rate: *[percentage in words]* ([●]%) per annum
  - Overall effective rate (half-yearly period): *[percentage in words]* ([●]%)
  - Overall effective rate (per annum): *[percentage in words]* ([●]%)
  - Drawdown Date: [●]

For information purposes:

- Rate Setting Date: [●]
- Fixed Reference Rate: *[percentage in words]* ([●]%) per annum
- Index Rate: *[percentage in words]* ([●]%)
- Index Rate on the Rate Setting Date: [●].

Sincerely,

.....

Authorised signatory of *Agence Française de Développement*

**SCHEDULE 5C- FORM OF RATE CONVERSION REQUEST LETTER**

*(on the Borrower's letterhead)*

From: *the Borrower*

To: AGENCE FRANÇAISE DE DÉVELOPPEMENT

On: *[date]*

**Borrower's Name – Credit Facility Agreement n°[●], signed on [●]**

**Rate Conversion Request n°[●]**

Dear Sirs,

1. We refer to the Credit Facility Agreement n°[●] entered into between the Borrower and the Lender on [●] (hereinafter the “**Agreement**”). Capitalised words and expressions used but not defined herein have the meanings given to them in the Agreement.
2. The Facility bears interest at a floating rate. Please convert this floating rate into a fixed rate pursuant to the conditions set forth in the Agreement.
  - Rate Setting Date: [●]
  - Amount to be converted: *[amount in words]* EUR ([●])
  - Maximum interest rate above which the present request shall be deemed cancelled: *[percentage in words]* ([●]%) per annum.

Sincerely,

.....

Authorised signatory of *Borrower*

**SCHEDULE 5D- FORM OF RATE CONVERSION CONFIRMATION LETTER**

*(on Agence Française de Développement letterhead)*

From: AGENCE FRANÇAISE DE DÉVELOPPEMENT

To: *the Borrower*

Date: [●]

Re: Rate Conversion Request n° [●] dated [●]

**Borrower's Name – Credit Facility Agreement n°[●], signed on [●]**

**Rate Conversion Confirmation n°[●]**

Dear Sirs,

**Re:** Conversion of floating interest rate to fixed interest rate

1. We refer to the Credit Facility Agreement n°[●] entered into between the Borrower and the Lender on [●] (hereinafter the “**Agreement**”). Capitalised words and expressions used but not defined herein have the meanings given to them in the Agreement.
2. In response to your Rate Conversion Request dated [●], we hereby confirm the fixed interest rate applicable to the Facility extended by *Agence Française de Développement* pursuant to the Agreement].
3. Accordingly, starting from [●], the rate set out in Clause 4 (*Interest*) of the Agreement shall be as follows:
  - Interest rate: [●]% per *annum*
  - Overall effective rate: [●]%
  - [Six month] [quarterly] percentage rate

For information:

- Amount to which the conversion applies: [●] Euros
- Theoretical loan rate: [●]% per annum
- Term of theoretical loan: [●]
- Rate Setting Date: [●]

Sincerely yours,

.....

Authorised representative of *Agence Française de Développement*

**SCHEDULE 6- WAIVER OF BANK SECRECY**



<p><b><u>2. Information concerning the project</u></b></p> <p>2.1 Type of project:</p> <p>2.2 Description of the investment:</p> <p>2.3 Project location (region, town):</p> <p>2.4 Project timetable:</p> <p>2.5 Total cost:</p> <p>2.6 Other financing obtained by the Borrower for the project:</p> <p>2.7 Environmental impact:</p> <p>Class of project:</p> <p>Summary of environmental impact study (see attached environmental data sheet):</p> <p><i>Date of approval of the impact study (if any) by ANPE?</i></p>	<p>Including the features of the financed project making it eligible in terms of the AFD Project. Eligibility criteria should be referred to (see chapter I of the “<i>Manuel de Procédures</i>”).</p>
<p>2.12 Appropriate sector indexes and expected values (to be selected from among the indices listed in chapter J)</p> <p><b><u>3. Information concerning the financing by the Bank</u></b></p> <p>3.1 Amount of financing requested on the AFD credit line:</p> <p>3.2 Timetable for fund releases:</p> <p>3.3 Term of the Loan:</p> <p>3.4 Grace period:</p> <p>3.5 Interest rate applied and Borrower’s margin:</p> <p>3.7 Repayment:</p> <p>3.8 Securities or guarantees requested</p>	<p>-</p>

Officials’ signatures:

## **SCHEDULE 8- DOCUMENTATION OF THE USE OF FUNDS**

The use of funds may be documented, *inter alia*, by a list of the Loans setting out the full eligibility criteria, or by copies of the loan application files.

## **SCHEDULE 9- PERFORMANCE INDICATORS**

**SCHEDULE 10- ENVIRONMENTAL AND SOCIAL ACTION PLAN<sup>33</sup>**

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<sup>33</sup> To be deleted if no ESAP is required for the Project.