

PLATO No. 1 S.A.

(a public company with limited liability ("société anonyme") incorporated under the laws of the Grand Duchy of Luxembourg)

€700,000,000 Class A Asset Backed Floating Rate Notes due 2017
€30,000,000 Class B Asset Backed Floating Rate Notes due 2017
€461,100,000 Class C Asset Backed Notes due 2017
each at an issue price of 100 per cent.

Plato No. 1 S.A., a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg as a securitisation company (*société de titrisation*) within the meaning of, and governed by, the law of 22 March 2004 on securitisation, as amended (the "**Luxembourg Securitisation Law**") having its registered office at 7, Val Ste Croix, L-1371 Luxembourg, Grand Duchy of Luxembourg and registered with the Register of Trade and Companies of Luxembourg under number B147322 (the "**Issuer**") will issue the Class A Asset Backed Floating Rate Notes (the "**Class A Notes**") in an initial principal amount of €700,000,000, the Class B Asset Backed Floating Rate Notes (the "**Class B Notes**") in an initial principal amount of €30,000,000 and the Class C Asset Backed Notes (the "**Class C Notes**") in an initial principal amount of €461,100,000. The Class A Notes, the Class B Notes and the Class C Notes are together referred to as the "**Notes**".

On 3 February 2010 (the "**Closing Date**"), the Issuer will apply the net proceeds of the issue of the Notes to purchase from HSH Nordbank AG (the "**Seller**") a portfolio of receivables arising under certain commercial real estate loans (the "**Initial Purchased Loan Receivables**") at their respective principal amounts outstanding and to fund a prefunding reserve for the purchase of further commercial real estate loan receivables from the Seller as further described herein.

Interest on the Notes will be payable quarterly in arrear in euro on the 28th day in February, May, August and November of each year commencing in May 2010, subject to adjustment for non-business days as described herein (each a "**Payment Date**"). Except in certain circumstances, the Notes will be redeemed at their then Outstanding Principal Amount on the Payment Date falling in February 2017 (the "**Scheduled Maturity Date**"). If any Notes remain outstanding after the Scheduled Maturity Date, such Notes will mature no later than the Payment Date falling in February 2020 (the "**Final Maturity Date**"). Before the Final Maturity Date, the Notes will be subject to mandatory and/or optional redemption in whole or in part in certain circumstances (as set out in Condition 11 (*Redemption*), Condition 12 (*Amortisation*) and Condition 13 (*Early Redemption*) of the terms and conditions of the Notes (the "**Terms and Conditions**"). All Notes will be secured by the same security, subject to the priorities described in the Terms and Conditions. Notes of each class will rank *pari passu* with other notes of the same class.

This document constitutes a prospectus for the purposes of Article 5.3 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (the "**Prospectus Directive**") and the Luxembourg law on prospectuses of 10 July 2005 implementing the Prospectus Directive in Luxembourg (the "**Prospectus Law**").

Application has been made to the *Luxembourg Commission de Surveillance du Secteur Financier* (the "**CSSF**"), in its capacity as competent authority under the Prospectus Law for its approval of this Prospectus as a prospectus issued in compliance with the Prospectus Directive.

Application has been made to list the Notes on the official list of the Luxembourg Stock Exchange (*Bourse de Luxembourg*) (the "**Luxembourg Stock Exchange**") and to trade the Notes on the regulated market of the Luxembourg Stock Exchange. The Luxembourg Stock Exchange's regulated market is a regulated market for the purposes of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.

The Class A Notes are expected, on issue, to be assigned a rating of "AAA" and the Class B Notes are expected, on issue, to be assigned a rating of "A+" by Fitch Ratings Limited (the "**Rating Agency**"). The Class C Notes are not expected to be rated. **A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time.**

The Class A Notes are intended to be held in a manner which will allow Eurosystem eligibility. This means only that the Class A Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper and does not necessarily mean that the Class A Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem, either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria as specified by the European Central Bank.

The Notes will be governed by the laws of the Federal Republic of Germany.

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

For a discussion of certain significant factors affecting investments in the Notes, see "RISK FACTORS". An investment in the Notes is suitable only for financially sophisticated investors who are capable of evaluating the merits and risks of such investment and who have sufficient resources to be able to bear any losses which may result from such investment.

The date of this Prospectus is 2 February 2010.

For references to definitions of capitalised terms appearing herein, see "INDEX OF DEFINED TERMS".

Arranger and Lead Manager
HSH Nordbank AG

IMPORTANT NOTICE

THE NOTES ARE OBLIGATIONS SOLELY OF THE ISSUER. THE NOTES DO NOT REPRESENT AN INTEREST IN, OR CONSTITUTE A LIABILITY OR OTHER OBLIGATION OF ANY KIND, OF THE SELLER, THE SERVICER, THE SPECIAL SERVICER, THE LIQUIDITY FACILITY PROVIDER, THE RR EXPENSES FACILITY PROVIDER, THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE ISSUER RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR, THE REPORTING AGENT, THE CORPORATE SERVICES PROVIDER, THE INTEREST RATE SWAP COUNTERPARTY, THE TRUSTEE, THE LEAD MANAGER, ANY AGENT OR ANY OF THEIR RESPECTIVE AFFILIATES OR ANY THIRD PERSON OR ENTITY. THE NOTES ARE NOT, AND WILL NOT, BE INSURED OR GUARANTEED BY THE SELLER, THE SERVICER, THE SPECIAL SERVICER, THE LIQUIDITY FACILITY PROVIDER, THE RR EXPENSES FACILITY PROVIDER, THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE ISSUER RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR, THE REPORTING AGENT, THE CORPORATE SERVICES PROVIDER, THE INTEREST RATE SWAP COUNTERPARTY, THE TRUSTEE, THE LEAD MANAGER, ANY AGENT OR ANY OF THEIR RESPECTIVE AFFILIATES OR ANY OTHER PERSON OR ENTITY AND NONE OF THE FOREGOING ASSUMES, OR WILL ASSUME, ANY LIABILITY OR OBLIGATION TO THE HOLDERS OF THE NOTES IF THE ISSUER FAILS TO MAKE ANY PAYMENT DUE IN RESPECT OF THE NOTES. SEE "*THE SECURITY*" AND "*TERMS AND CONDITIONS OF THE NOTES – CONDITION 18 - APPLICATION OF MONIES ON ENFORCEMENT*".

THE NOTES ARE DIRECT, SECURED AND LIMITED RECOURSE OBLIGATIONS OF THE ISSUER. THE ISSUER'S ABILITY TO SATISFY ITS PAYMENT OBLIGATIONS UNDER THE NOTES AND ITS OPERATING AND ADMINISTRATIVE EXPENSES WILL BE WHOLLY DEPENDENT UPON RECEIPT BY IT IN FULL OF (A) COLLECTIONS OF THE PURCHASED LOAN RECEIVABLES FROM THE SERVICER AND THE SPECIAL SERVICER, (B) DEEMED COLLECTIONS (IF ANY) FROM THE SELLER, (C) DRAWINGS (IF ANY) UNDER THE LIQUIDITY FACILITY AGREEMENT, (D) DRAWINGS (IF ANY) UNDER THE RR EXPENSES FACILITY AGREEMENT, (E) PAYMENTS (IF ANY) DUE FROM THE INTEREST RATE SWAP COUNTERPARTY UNDER THE INTEREST RATE SWAP TRANSACTIONS, (F) INTEREST INCOME ON THE ISSUER OPERATING ACCOUNTS, THE PREFUNDING ACCOUNT, THE VERITY ACCOUNT AND THE REPLACEMENT RESERVE ACCOUNTS, (G) PAYMENTS (IF ANY) UNDER THE OTHER TRANSACTION DOCUMENTS IN ACCORDANCE WITH THE TERMS THEREOF AND (H) INTEREST ON AUTHORISED INVESTMENTS (IF ANY). OTHER THAN THE FOREGOING, THE ISSUER WILL HAVE NO OTHER FUNDS AVAILABLE TO MEET ITS OBLIGATIONS UNDER THE NOTES AND THE NOTES WILL NOT GIVE RISE TO ANY PAYMENT OBLIGATION IN EXCESS OF THE FOREGOING. RECOURSE TO THE ISSUER SHALL BE LIMITED TO THE PROCEEDS OF THE REALISATION OF THE SECURITY, APPLIED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE NOTES. IF THE AFOREMENTIONED PROCEEDS ULTIMATELY PROVE INSUFFICIENT (AFTER PAYMENT OF ALL CLAIMS RANKING *PARI PASSU* WITH OR IN PRIORITY TO AMOUNTS DUE UNDER THE NOTES) TO PAY IN FULL ALL PRINCIPAL AND INTEREST ON THE NOTES, THEN THE ISSUER SHALL NOT BE LIABLE FOR ANY SHORTFALL ARISING. THE TERMS ON WHICH THE SECURITY IS TO BE HELD PROVIDE THAT UPON ENFORCEMENT THEREOF, CERTAIN EXCLUDED PROCEEDS AND CERTAIN FEES, COSTS, EXPENSES, AND LIABILITIES OF THE ISSUER (INCLUDING FEES PAYABLE TO THE TRUSTEE, THE SERVICER AND THE SPECIAL SERVICER, CERTAIN PAYMENTS UNDER THE LIQUIDITY FACILITIES AND THE RR EXPENSES FACILITY AND THE ISSUER PAYMENTS UNDER THE INTEREST RATE SWAP AGREEMENT AND CERTAIN SWAP AMOUNTS PAYABLE BY BORROWERS TO THE SELLER) WILL RANK SENIOR TO AMOUNTS OWED BY THE ISSUER TO THE NOTEHOLDERS UNDER THE NOTES.

The Issuer has not been and will not be registered under the United States Investment Company Act of 1940, as amended (the "**Investment Company Act**"). The Notes have not been, and will not be, registered under the United States Securities Act of 1933, as amended (the "**Securities Act**"). Consequently, the Notes may not be offered, sold, resold, delivered or transferred within the United States, or to or for the account or benefit of, U.S. persons (as defined in Regulation S under the Securities Act), except pursuant to an exemption from or in a transaction not subject to the registration requirements of the Securities Act and under circumstances designed to preclude the Issuer from having to register under the Investment Company Act.

THE NOTES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION, ANY STATE SECURITIES COMMISSION OR ANY OTHER REGULATORY AUTHORITY, NOR HAVE ANY OF THE FOREGOING AUTHORITIES PASSED

UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENCE.

The Lead Manager has represented and warranted to, and agreed with, the Issuer that the Notes have not and will not be offered or sold in or from Luxembourg other than in accordance with the requirements of Luxembourg law concerning public offerings of securities. No advertisement, document or other material has or will be distributed to the public or published in Luxembourg. A listing of the Notes on the official list of the Luxembourg Stock Exchange does not imply that a public offering of the Notes in Luxembourg has been authorised.

For a description of certain further restrictions on offers and sales of the Notes and distribution of this Prospectus, see "SUBSCRIPTION AND SALE".

Each person receiving this Prospectus should, if in doubt as to any aspect of this Prospectus, consult his, her or its stockbroker or other registered dealer in securities, bank manager, lawyer, professional accountant or other professional adviser.

The Issuer accepts responsibility for the information contained in this Prospectus other than the HSH Information, the Trustee Information, the Issuer Account Bank Information and the Corporate Services Provider Information (each as defined below) (together, the "**Excluded Information**"). To the best of the knowledge and belief of the Issuer (which has taken all reasonable care to ensure that such is the case), the information contained in this Prospectus (other than the Excluded Information) is in accordance with the facts and does not omit anything likely to affect the import of such information. The Issuer accepts responsibility accordingly.

HSH Nordbank AG accepts responsibility for the information contained in this Prospectus relating to itself under the headings "HSH NORDBANK AG", the information under the headings "THE INITIAL PORTFOLIO" and "CREDIT AND COLLECTION POLICIES", "RISKS RELATING TO THE ASSETS" under "RISK FACTORS" and the description of its rights and obligations under the Loan Receivables, the Loan Collateral, the Loan Receivables Purchase Agreement, the Servicing Agreement, the Issuer Reserve Account Agreement, the Interest Rate Swap Agreement, the Liquidity Facility Agreement, the RR Expenses Facility Agreement, the HSH Account Agreement and the HSH Deed of Charge (each as defined herein) under the heading "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" (together, the "**HSH Information**"). To the best of the knowledge and belief of HSH Nordbank AG (which has taken all reasonable care to ensure that such is the case), the HSH Information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information. Other than in respect of the HSH Information, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by HSH Nordbank AG as to the accuracy or completeness of any information contained in this Prospectus or any other information supplied in connection with the Notes or their sale.

Bank of America Trustees Limited accepts responsibility for the information contained in this Prospectus relating to itself under the heading "THE TRUSTEE" (the "**Trustee Information**"). To the best of the knowledge and belief of Bank of America Trustees Limited (which has taken all reasonable care to ensure that such is the case), the Trustee Information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information. Other than in respect of the Trustee Information, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by Bank of America Trustees Limited as to the accuracy or completeness of any information contained in this Prospectus or any other information supplied in connection with the Notes or their sale.

Bank of America, National Association accepts responsibility for the information contained in this Prospectus relating to itself under the heading "THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR AND THE AGENTS" (the "**Issuer Account Bank Information**"). To the best of the knowledge and belief of Bank of America, National Association (which has taken all reasonable care to ensure that such is the case), the Bank of America, National Association Information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information. Other than in respect of the Issuer Account Bank Information, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by Bank of America, National Association as to the accuracy or completeness of any information contained in this Prospectus or any other information supplied in connection with the Notes or their sale.

Structured Finance Management (Luxembourg) S.A. accepts responsibility for the information contained in this Prospectus relating to itself under the heading "THE CORPORATE SERVICES PROVIDER" (the "**Corporate**

Services Provider Information") and the description of its rights and obligations under "Corporate Services" under the heading "THE ISSUER". To the best of the knowledge and belief of Structured Finance Management (Luxembourg) S.A. (which has taken all reasonable care to ensure that such is the case), the Corporate Services Provider Information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information. Other than in respect of the Corporate Service Provider Information, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by Structured Finance Management (Luxembourg) S.A. as to the accuracy or completeness of any information contained in this Prospectus or any other information supplied in connection with the Notes or their sale.

No person has been authorised to give any information or to make any representations, other than those contained in this Prospectus, in connection with the issue and sale of the Notes and, if given or made, such information or representations must not be relied upon as having been authorised by or on behalf of the Issuer, the directors of the Issuer, the Seller or any associated body of the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Trustee, the Interest Rate Swap Counterparty, the Lead Manager or any Agent or any of their respective affiliates or shareholders or the shareholders of the Issuer.

Neither the delivery of this Prospectus nor the offering, sale or delivery of any Notes shall, in any circumstances, create any implication that the information contained in this Prospectus is true subsequent to the date hereof.

The distribution of this Prospectus (or of any part hereof) and the offering of the Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Prospectus (or any part hereof) comes are required by the Issuer and the Lead Manager to inform themselves about and to observe any such restrictions. This Prospectus does not constitute, and may not be used for, or in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation. For a further description of certain restrictions on offerings and sales of the Notes and distribution of this Prospectus or any part hereof, see "SUBSCRIPTION AND SALE".

This Prospectus contains summaries believed to be accurate with respect to certain terms of certain documents, and such summaries are qualified in their entirety by reference to such documents. The contents of this Prospectus are not to be construed as legal, business or tax advice.

If any withholding or deduction for or on account of tax is applicable to the Notes, payment of interest on, and principal in respect of, the Notes will be made subject to such withholding or deduction. In such circumstances, none of the Issuer, the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Trustee, the Interest Rate Swap Counterparty, the Lead Manager or any Agent or any other party to the Transaction Documents will be obliged to pay any additional amounts as a consequence.

All references in this document to "euro", "Euro", "EUR" or "€" are to the currency introduced at the commencement of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union.

Further, all references to "billion" are references to one thousand million. Numbers presented throughout this Prospectus may not add up precisely, and percentages may not precisely reflect absolute figures, due to rounding.

Each of the Notes will be in bearer form represented by a Permanent Global Note representing the relevant Class of Notes. The Notes represented by the Global Notes may be transferred in book-entry form only. Each Class of Notes will be issued in denominations of €50,000. The Global Note representing the Notes will not be exchangeable for definitive securities. The Global Notes will be deposited with a common safekeeper (a "Common Safekeeper") for Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, *société anonyme* ("Clearstream Luxembourg") on or about the Closing Date.

This Prospectus does not constitute an offer of, or an invitation by or on behalf of, the Issuer or the Lead Manager to subscribe for or purchase any of the Notes.

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1. PRINCIPAL CHARACTERISTICS OF THE NOTES

The following is a brief overview of the principal characteristics of the Notes referred to in this Prospectus. This information is subject to, and more fully explained in, the other sections of the Prospectus.

<u>Notes</u>	<u>Class A Notes</u>	<u>Class B Notes</u>	<u>Class C Notes</u>
Initial Principal Amount	€700,000,000	30,000,000	461,100,000
Issue price	100%	100%	100%
Interest rate ^{1,2}	3 month EURIBOR + 0.90% per annum	3 month EURIBOR + 1.25% per annum	Not stated
Weighted Average Life of the Notes	3.8 years	4.5 years	Not stated
Final Maturity Date	February 2020	February 2020	February 2020
Day count	Actual/360	Actual/360	Actual/360
Business Days	Target Settlement Day, Kiel, Hamburg, Luxembourg and London		
Payment Dates	Quarterly on the 28 th day in February, May, August and November in each year, commencing in May 2010 ³		
Form of Notes	New Global Notes	New Global Notes	New Global Notes
Denomination	€50,000	€50,000	€50,000
Clearing system	Euroclear and Clearstream Luxembourg		
Credit enhancement	Subordination of the Class B Notes and the Class C Notes	Subordination of the Class C Notes	No subordination of any other Class of Notes
Listing	Luxembourg Stock Exchange		
ISIN	XS0474352266	XS0474352340	XS0474352696
Common Code	047435226	047435234	047435269
Expected rating	AAA	A+	Not rated
Intended to be held in a manner which would allow Eurosystem eligibility. ⁴	Yes	No	No

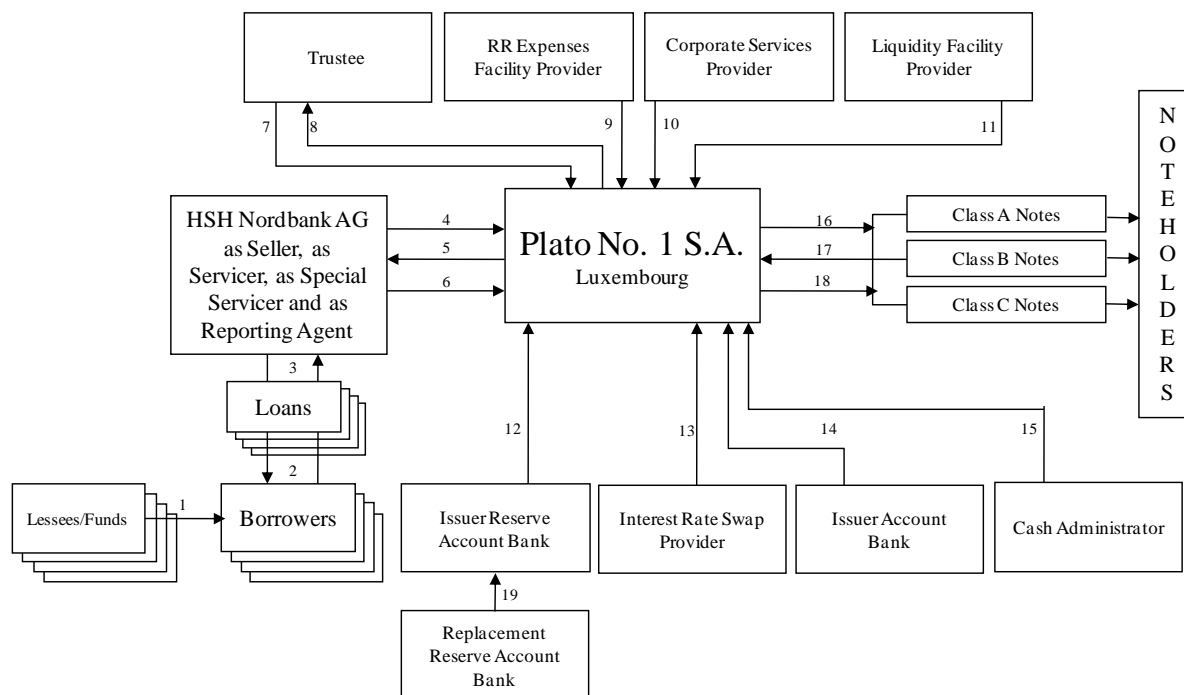
¹ 3 month EURIBOR (save that the Applicable Rate of Interest for the first Interest Period shall be determined through the use of straight line interpolation by reference to the rates available for three (3) month and four (4) month euro deposits) as determined on the relevant Interest Determination Date, up to (and including) the Scheduled Maturity Date.

² Per annum shall be construed to mean a 360 day year and all calculations shall be made on that basis.

³ Subject, in each case, to adjustment for-non Business Days, as further described in the Terms and Conditions.

⁴ Note that the designation "yes" simply means that the Notes are intended upon issue to be deposited with one of the ICSDs as common safekeeper and does not necessarily mean that the Class A Notes will be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.

2. TRANSACTION DIAGRAM



1. (Direct or indirect) rental income, claims for reimbursement of expenses from Funds in relation to some of the Loans
2. Loans (including Loans with claims for reimbursement of expenses)
3. Payments of principal and interest on Loans
4. Sale of Loan Receivables (including, in certain cases, registration in the Refinancing Register)
5. Payment of purchase price
6. Servicing of Purchased Loan Receivables (including special servicing)
7. Verification of, *inter alia*, Loan Losses
8. Security over assets of the Issuer

9. RR Expenses Facility
10. Corporate services
11. Class A Liquidity Facility and Class B Liquidity Facility
12. Holding and operating Prefunding Account and Issuer Reserve Accounts (Class A Stand-By I Account, Class B Stand-By I Account, RR Expenses Stand-By I Account, Interest Rate Swap Collateral Reserve Account and Verity Account)
13. Interest Rate Swaps
14. Holding and operating Issuer Interest Account, Issuer Principal Account, RR Expenses Account and Issuer Post-Notification Account

15. Cash administration services in respect of Issuer Accounts
16. Issue of Notes
17. Note issue proceeds
18. Payments of interest and principal on Notes
19. Holding and operating Replacement Reserve Accounts (Class A Stand-By II Account, Class B Stand-By II Account, RR Expenses Stand-By II Account, Interest Rate Swap Collateral Replacement Reserve Account and Replacement Verity Account) registered in the Refinancing Register for the benefit of the Issuer

3. TRANSACTION OVERVIEW

The following transaction overview is qualified in its entirety by reference to the detailed information appearing elsewhere in this Prospectus.

Capitalised terms used but not defined in this transaction overview shall bear the meaning ascribed thereto in Annex 1 to the Terms and Conditions of the Notes. For references to such capitalised terms, see "Index of Defined Terms".

3.1 GENERAL OVERVIEW

3.1.1 Loan Portfolio

Plato No. 1 S.A., a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg as a securitisation company (*société de titrisation*) within the meaning of, and governed by, the law of 22 March 2004 on securitisation, as amended (the "**Luxembourg Securitisation Law**") having its registered office at 7, Val Ste Croix, L-1371 Luxembourg, Grand Duchy of Luxembourg and registered with the Register of Trade and Companies of Luxembourg under number B147322 as purchaser (the "**Issuer**"), HSH Nordbank AG as seller (the "**Seller**") and Bank of America Trustees Limited (the "**Trustee**") have entered into a loan receivables purchase agreement dated on or prior to the Closing Date (the "**Loan Receivables Purchase Agreement**"), whereby the Seller has agreed to sell, transfer and/or assign (as applicable) to the Issuer all its rights, title, interests, claims and benefit, present and future, actual and contingent (and interests arising in respect thereof) in, to, under and in respect of receivables (the "**Loan Receivables**") arising under certain commercial real estate loans (the "**Loans**") denominated in euro and governed by the laws of Germany, England

or The Netherlands (each, a "**Loan Jurisdiction**") to borrowers (the "**Borrowers**") in any EU member state or the Isle of Man pursuant to loan agreements (each, a "**Loan Agreement**") and secured or supported by mortgages, mortgage increase undertakings, mortgage creation undertakings, accessory and/or non-accessory security interests, guarantees, insurances, share pledges and/or other arrangements (the "**Loan Collateral**").

Certain characteristics of the loan receivables comprised in the portfolio (the "**Initial Portfolio**") as at 1 April 2009 (the "**Initial Cut-off Date**") are described under "THE INITIAL PORTFOLIO" herein.

3.1.2 Sale and Purchase of Loan Receivables

On the Closing Date, the Issuer will apply the net proceeds of the issue of the Notes (a) towards the purchase of the Initial Portfolio by payment of €652,006,000 towards the purchase price therefor, (b) to fund a prefunding reserve of €235,000,000 (the "**Prefunding Reserve**") for application towards the payment of the purchase price of further Loan Receivables to be purchased from the Seller after the Closing Date subject, *inter alia*, to having sufficient funds for the purpose and certain prefunding criteria as described herein having been met and (c) a verity amount of €304,094,000 (the "**Verity Amount**") for payment from time to time to the Seller upon delivery by the Seller to the Issuer of satisfactory legal opinions as to the enforceability of certain Loan Receivables and/or Loan Collateral in the Initial Portfolio or application towards payment of principal on the Class A Notes as described herein.

After the Closing Date, the Issuer may purchase further Loan Receivables offered to it by the Seller subject, *inter alia*, to the Issuer having sufficient funds for the purpose and certain substitution criteria as described herein having been met.

The Loan Receivables in respect of which the amounts referred to in paragraphs (a) and (c) above have been paid or reserved by the Issuer or, after the Closing Date, the Loan Receivables in respect of which the purchase price has been paid by the Issuer (other than any such Loan Receivables subsequently sold by the Issuer), are referred to herein as the "**Purchased Loan Receivables**".

The Seller and the Issuer have agreed in the Loan Receivables Purchase Agreement that the Seller will not be liable for the credit risk relating to a Purchased Loan Receivable and that the credit risk (*Delkredererisiko*) relating to all Purchased Loan Receivables is intended to pass from the Seller to the Issuer in a true-sale for the purposes of Eurosystem eligibility.

In certain circumstances, the Issuer may from time to time sell Purchased Loan Receivables, including defaulted Loan Receivables as described herein.

3.1.3 Transfer and Refinancing Register

Pursuant to the Loan Receivables Purchase Agreement, on the Closing Date, the Seller will be obliged to transfer to the Issuer the Loan Receivables in the Initial Portfolio in respect of which the purchase price under paragraph 3.1.2(a) and (c) has been paid or reserved by the Issuer, together with the Loan Collateral related thereto, other than as specified in paragraphs (a)(i), (ii) and (iii) below, which will not be transferred to the Issuer on the Closing Date, but held as set out below.

Prior to the Closing Date, HSH Nordbank AG will establish a refinancing register (*Refinanzierungsregister*) within the meaning of Section 22a *et seq.* of the German Banking Act (*Kreditwesengesetz*) (the "**Refinancing Register**").

On the Closing Date, HSH Nordbank AG will:

- (a) register in the Refinancing Register its claims under or in respect of (i) the Purchased Loan Receivables comprised in the Initial Portfolio secured by Belgian mortgages and/or share pledges over the entity holding the relevant Belgian Property and the related Loan Collateral, (ii) the German law governed non-certificated mortgages (*Buchgrundschulden*) comprised in the Loan Collateral related to the Purchased Loan Receivables in the Initial Portfolio, (iii) the Spanish law governed mortgage comprised in the Loan Collateral and the Purchased Loan Receivable related thereto which is included in the Initial Portfolio and (iv) replacement bank accounts which will be opened by HSH Nordbank AG in its own name on or prior to the Closing Date as Replacement Reserve Accounts, as defined in paragraph 3.1.6. below (together, the "**Initial RR Assets**");

- (b) establish a transfer claim in favour of the Issuer in respect of each Initial RR Asset referred to in paragraph (a) above; and
- (c) hold each Initial RR Asset on a fiduciary basis (*treuhänderisch*) for the economic benefit of the Issuer until the transfer thereof has been effected and transfer all income on, and other proceeds of, each Initial RR Asset to the Issuer.

In respect of any further purchase of Loan Receivables by the Issuer, HSH Nordbank AG and the Issuer will agree, prior to such purchase, whether any such Loan Receivables and/or Loan Collateral related thereto will be registered and held by HSH Nordbank AG in the Refinancing Register as outlined above (together with the Initial RR Assets, the "**RR Assets**").

A transfer of the RR Assets will be required to be effected in certain circumstances, including upon the request of the Issuer at any time or the initiation of insolvency proceedings in respect of HSH Nordbank AG.

3.1.4 Servicing of Purchased Loan Receivables

Pursuant to a servicing agreement entered into on or prior to the Closing Date between, *inter alios*, the Issuer, HSH Nordbank AG in its capacity as servicer (the "**Servicer**") and as special servicer (the "**Special Servicer**") and the Trustee (the "**Servicing Agreement**"), the Servicer and upon, *inter alia*, any delinquency or default in respect of any Purchased Loan Receivables, the Special Servicer will administer, enforce and collect the Purchased Loan Receivables and related Loan Collateral on behalf of the Issuer in accordance, *inter alia*, with the Credit and Collection Policies set out in "CREDIT AND COLLECTION POLICIES" herein.

3.1.5 Interest Rate Swap

The Issuer will enter into interest rate swap transactions (the "**Interest Rate Swap Transactions**") with HSH Nordbank AG in its capacity as interest rate swap counterparty (the "**Interest Rate Swap Counterparty**") pursuant to an interest rate swap agreement governed by a 1992 ISDA Master Agreement, rating compliant schedule and credit support annex and confirmations (the "**Interest Rate Swap Agreement**") to mitigate interest rate mismatches between the interest payments received by the Issuer under the certain Purchased Loan Receivables in respect of which interest is payable at a fixed rate of interest and the floating rate interest payment obligations of the Issuer under the Notes (other than the Class C Notes).

3.1.6 Reserves

In certain circumstances as described herein, the Issuer shall be entitled to draw in full (i) an expenses facility made available to it by HSH Nordbank AG as a reserve for funding certain expenses incurred by the Issuer in the event that a transfer of any RR Asset becomes necessary (the "**RR Expenses Stand-By Drawing**"), (ii) a liquidity facility made available to it by HSH Nordbank AG, as a reserve for funding certain interest shortfalls under the Class A Notes (the "**Class A Stand-By Drawing**") and (iii) a liquidity facility made available to it by HSH Nordbank AG, as a reserve for funding certain interest shortfalls under the Class B Notes (the "**Class B Stand-By Drawing**"), and is required to deposit the proceeds of such drawings and the proceeds of any swap collateral provided by HSH Nordbank AG as the Interest Rate Swap Counterparty pursuant to the Interest Rate Swap Agreement into separate reserve accounts in the name of the Issuer (together, with the Verity Account, the "**Issuer Reserve Accounts**") with HSH Nordbank AG as Issuer Reserve Account Bank.

In certain circumstances as described herein, HSH Nordbank AG is required to transfer the credit balances in each of the Issuer Reserve Accounts into separate replacement reserve accounts opened by it on or before the Closing Date in its own name with Bank of America, National Association (the "**Replacement Reserve Accounts**"). HSH Nordbank AG has undertaken that it will register and hold its claims under or in respect of the Replacement Reserve Accounts in the Refinancing Register for the benefit of the Issuer on the Closing Date as outlined above in paragraph 3.1.3(a)(iv), (b) and (c).

3.2 TRANSACTION PARTIES

Issuer	Plato No. 1 S.A., a public limited liability company (<i>société anonyme</i>) incorporated under the laws of the Grand Duchy of Luxembourg as a securitisation company (<i>société de titrisation</i>) within the meaning of, and governed by, the Luxembourg Securitisation Law and having its registered office at 7, Val Ste Croix, L-1371 Luxembourg, Grand Duchy of Luxembourg and registered with the Register of Trade and Companies of Luxembourg under number B147322 (the " Issuer " or the " Purchaser ").
Seller	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Seller " or " HSH Nordbank ").
Servicer	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Servicer ").
Special Servicer	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Special Servicer ").
Trustee	Bank of America Trustees Limited, having its registered office at 2 King Edward Street, London, EC1A 1HQ, United Kingdom (the " Trustee ").
Interest Determination Agent	Bank of America, National Association, a national banking association chartered under the federal laws of the United States of America, charter number 13044 with its main office at 101 South Tryon Street, Charlotte, North Carolina, USA with its registered branch in England located at 2 King Edward Street, London EC1A 1HQ, England, with number FC 002983, authorised and regulated by the Financial Services Authority in the United Kingdom (the " Interest Determination Agent ").
Principal Paying Agent	Bank of America, National Association, a national banking association chartered under the federal laws of the United States of America, charter number 13044 with its main office at 101 South Tryon Street, Charlotte, North Carolina, USA with its registered branch in England located at 2 King Edward Street, London EC1A 1HQ, England, with number FC 002983, authorised and regulated by the Financial Services Authority in the United Kingdom (the " Principal Paying Agent ").
Cash Administrator	Bank of America, National Association, a national banking association chartered under the federal laws of the United States of America, charter number 13044 with its main office at 101 South Tryon Street, Charlotte, North Carolina, USA with its registered branch in England located at 2 King Edward Street, London EC1A 1HQ, England, with number FC 002983, authorised and regulated by the Financial Services Authority in the United Kingdom (the " Cash Administrator ").
Reporting Agent	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at

Martensdamm 6, 24103 Kiel, Germany (the "**Reporting Agent**").

Corporate Services Provider	Structured Finance Management (Luxembourg) S.A., a public limited liability company (<i>société anonyme</i>) incorporated under the laws of the Grand Duchy of Luxembourg and having its registered office at 7, Val Ste Croix, L-1371 Luxembourg, Grand Duchy of Luxembourg and registered with the Register of Trade and Companies of Luxembourg under number B95021 (the " Corporate Services Provider ").
Issuer Account Bank	Bank of America, National Association, a national banking association chartered under the federal laws of the United States of America, charter number 13044 with its main office at 101 South Tryon Street, Charlotte, North Carolina, USA with its registered branch in England located at 2 King Edward Street, London EC1A 1HQ, England, with number FC 002983, authorised and regulated by the Financial Services Authority in the United Kingdom (the " Issuer Account Bank ").
Issuer Reserve Account Bank	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Issuer Reserve Account Bank ").
Liquidity Facility Provider	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Liquidity Facility Provider ").
RR Expenses Facility Provider	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " RR Expenses Facility Provider ").
Interest Rate Swap Counterparty	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Interest Rate Swap Counterparty ").
Replacement Reserve Account Bank	Bank of America, National Association, a national banking association chartered under the federal laws of the United States of America, charter number 13044 with its main office at 101 South Tryon Street, Charlotte, North Carolina, USA with its registered branch in England located at 2 King Edward Street, London EC1A 1HQ, England, with number FC 002983, authorised and regulated by the Financial Services Authority in the United Kingdom (the " Replacement Reserve Account Bank ").
Lead Manager	HSH Nordbank AG, registered at the commercial registers (<i>Handelsregister</i>) of the local court (<i>Amtsgericht</i>) of Hamburg under HRB 87366 and Kiel under HRB 6127 and having its principal offices at Gerhart-Hauptmann-Platz 50, 20095 Hamburg, Germany and at Martensdamm 6, 24103 Kiel, Germany (the " Lead Manager ").
Listing Agent	BGL BNP Paribas Société Anonyme, incorporated under the laws of the Grand Duchy of Luxembourg and having its registered office at 50

Avenue John F. Kennedy, L-2951 Luxembourg, Grand Duchy of Luxembourg and registered with the Register of Trade and Companies under number B6841 (the "**Listing Agent**").

Rating Agency

Fitch Ratings Limited ("**Fitch**" or the "**Rating Agency**").

3.3 THE LOAN RECEIVABLES

Initial Loan Receivables On the Closing Date, the Purchaser will purchase the Loan Receivables offered to it by the Seller on such date together with the related Loan Collateral (the "**Initial Loan Receivables**"). The Initial Loan Receivables are receivables arising from commercial real estate loans denominated in euro and made by the Seller to borrowers (the "**Borrowers**"), including certain German investment fund companies (*Kapitalanlagegesellschaften* (each, a "**KAG**")) in Germany, Belgium, The Netherlands, Spain, Luxembourg and the Isle of Man (each, an "**Initial Borrower Jurisdiction**"), governed by the laws of Germany, England and The Netherlands (each, an "**Initial Loan Jurisdiction**") for the purpose of financing properties situated in Germany, Belgium, France, The Netherlands and/or Spain (each, an "**Initial Property Jurisdiction**").

See "THE INITIAL PORTFOLIO" herein.

Aggregate Outstanding Loan Principal Amount As at the Initial Cut-off Date, the aggregate Outstanding Loan Principal Amount of the Initial Loan Receivables was €956,100,000.

Interest rates Interest on the Initial Loan Receivables is payable at a fixed rate of interest or a floating rate of interest.

Initial Loan Collateral Each of the Initial Loan Receivables is secured by one or more of the following security interests, either directly or by a security agent or security trustee:

- (a) a first ranking mortgage on one or more related properties;
- (b) if there is a partial mortgage, an undertaking of the related Borrower to agree to an increase in the amount secured under any existing mortgage, subject to certain conditions;
- (c) if the Borrower is a KAG, an undertaking of the related Borrower to grant, upon request, a mortgage on one or more related properties forming part of a fund managed by it and a security of assignment of reimbursement claims in respect of expenses (*Aufwendungsersatzansprüche*);
- (d) accessory security interests and any dependent ancillary rights;
- (e) non-accessory security interests and any independent ancillary rights other than those mentioned above;
- (f) claims against the related Borrower Security Trustee;
- (g) other rights under or in respect of the related properties;
- (h) guarantees, insurances and other credit support; and/or
- (i) share pledges,

together, the "**Initial Loan Collateral**".

Finance Documents In respect of any Loan Receivable, the Finance Documents (as defined in the relevant loan agreement), including the relevant Loan Agreement, related finance documents, intercreditor agreements, subordination agreements, security documents creating the Loan Collateral and ancillary agreements (together, the "**Finance**

Documents").

Finance Parties

In respect of any Loan Receivable, the lenders (including the Issuer in that capacity, any senior counterparty and any subordinated counterparty) and the other persons named as finance parties and/or secured parties for such Loan (such parties, the "**Finance Parties**").

Borrower Security Trustees

The entities who from time to time hold on trust or, as the case may be, administer, the Loan Collateral in connection with any Loan on behalf of the relevant Finance Parties (the "**Borrower Security Trustees**").

Additional Loan Receivables

The Issuer may, from time to time on a Payment Date after the Closing Date, purchase further Loan Receivables together with the related Loan Collateral offered to it by the Seller pursuant to the Loan Receivables Purchase Agreement upon the advice of a representative of all of the Class C Noteholders (which, for the avoidance of doubt, the Issuer may accept at its own discretion) if:

- (a) such purchase is made prior to the Substitution Period End Date and the Aggregate Outstanding Loan Principal Amount of the offered Loan Receivables does not exceed the Net Disposal Proceeds on such Payment Date; and/or
- (b) such purchase is made prior to the Final Prefunding Date and the Aggregate Outstanding Loan Principal Amount of the offered Loan Receivables does not exceed the Available Prefunded Amount on such Payment Date,

and, in each case, if (*inter alia*) the following conditions are satisfied:

- (i) in the case of a purchase under paragraph (a) above, the Substitution Criteria have been satisfied or, in the case of a purchase under paragraph (b) above, the Prefunding Criteria have been satisfied;
- (ii) the respective offer satisfies the requirements under the Loan Receivables Purchase Agreement;
- (iii) no Event of Default or Amortisation Event is continuing or would occur as a result of such purchase;
- (iv) the Issuer has entered into, or will enter into, an Interest Rate Swap Transaction (if necessary); and
- (v) the Issuer has received the prior written confirmation from the Rating Agency that the then ratings of the Rated Notes will not be downgraded as a result of the purchase.

Each Loan Receivable purchased by the Issuer after the Closing Date shall, upon the payment of the purchase price therefor, be referred to herein as an "**Additional Loan Receivable**" and the related Loan Collateral will be referred to as the "**Additional Loan Collateral**". The term "**Purchased Loan Receivables**" shall include all Additional Loan Receivables.

"**Substitution Period End Date**" means the earlier of (a) the Payment Date falling in February 2013 or (b) the occurrence of an Amortisation Event.

"**Final Prefunding Date**" means the earlier of:

- (a) the occurrence of an Amortisation Event;
- (b) the Payment Date falling in August 2011; or
- (c) the occurrence of an IRAB Transfer Event.

Representations and Warranties

The Loan Receivables Purchase Agreement will contain certain representations and warranties given by the Seller in relation to the Purchased Loan Receivables. The Seller will be required, if there has been a material breach of the representations and warranties in respect of the Purchased Loan Receivables and such breach is not capable of remedy or, if capable of remedy, has not been remedied within the time specified in the Loan Receivables Purchase Agreement, *inter alia*, to indemnify the Issuer in respect of all losses, claims, demands, expenses and other liabilities incurred by the Issuer as a result of such breach. In certain circumstances the Seller will be obliged to pay an amount equal to the Deemed Collections to the Issuer.

Refinancing Register

On the Closing Date, HSH Nordbank will:

- (a) register in the Refinancing Register its claims under or in respect of (i) the Purchased Loan Receivables comprised in the Initial Portfolio secured by Belgian mortgages and/or share pledges over the entity holding the relevant Belgian Property and the related Loan Collateral, (ii) the German law governed non certificated mortgages (*Buchgrundschulden*) comprised in the Loan Collateral related to the Purchased Loan Receivables in the Initial Portfolio, (iii) the Spanish law governed mortgage comprised in the Loan Collateral and the Purchased Loan Receivable related thereto which is included in the Initial Portfolio and (iv) replacement bank accounts which will be opened by HSH Nordbank in its own name on or prior to the Closing Date as Replacement Reserve Accounts (together, the "**Initial RR Assets**");
- (b) establish a transfer claim in favour of the Issuer in respect of each Initial RR Asset referred to in paragraph (a) above; and
- (c) hold each Initial RR Asset on a fiduciary basis (*treuhänderisch*) for the economic benefit of the Issuer until the transfer thereof has been effected and transfer all income on, and other proceeds of, each Initial RR Asset to the Issuer.

In respect of any further purchase of Loan Receivables by the Issuer, HSH Nordbank and the Issuer will agree, prior to such purchase, whether any such Loan Receivables and/or Loan Collateral related thereto will be registered and held by HSH Nordbank in the Refinancing Register as outlined above (together with the Initial RR Assets, the "**RR Assets**").

A transfer of the RR Assets will be required to be effected in certain circumstances, including upon the request of the Issuer at any time or the initiation of insolvency proceedings in respect of HSH Nordbank.

Servicing of Purchased

As of and following the Closing Date, the Servicer will service and administer the Purchased Loan Receivables in the ordinary course of

Loan Receivables

its business, including making certain calculations and preparing reports in respect of the Purchased Loan Receivables pursuant to a servicing agreement among, *inter alios*, the Issuer, the Servicer and the Special Servicer (the "**Servicing Agreement**"). The Servicer will be paid a fee for servicing the Purchased Loan Receivables in accordance with the terms of the Servicing Agreement.

Special Servicing of the Purchased Loan Receivables

Pursuant to the Servicing Agreement, the Special Servicer will be appointed to act as the initial Special Servicer in respect of the Purchased Loan Receivables. A substitute Special Servicer may be appointed in respect of any Purchased Loan Receivable at any time after the Closing Date pursuant to the Servicing Agreement. The Special Servicer will only act as Special Servicer in relation to any Purchased Loan Receivable in relation to which a Servicer Transfer Event has occurred and following the fulfilment of certain other conditions as more particularly described in the section entitled "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE SERVICING AGREEMENT".

Upon the occurrence of a Servicer Transfer Event (which includes a default under the relevant Purchased Loan Receivable as further described herein) the relevant Purchased Loan Receivable will become a Specially Serviced Loan Receivable and the Special Servicer will become responsible for servicing and administering such Specially Serviced Loan Receivable, save for certain limited responsibilities which will remain with the Servicer.

A Purchased Loan Receivable will cease to be a Specially Serviced Loan Receivable and will become a Corrected Loan Receivable if the events giving rise to the relevant Servicer Transfer Event are cured.

See "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE SERVICING AGREEMENT".

Sale of Purchased Loan Receivables

The Issuer may, from time to time on any Collection Period End Date falling on or prior to the Scheduled Maturity Date, sell Purchased Loan Receivables:

- (a) that are not Specially Serviced Loan Receivables, upon the advice of or on behalf of the Class C Noteholders (which, for the avoidance of doubt, the Issuer may accept at its own discretion); and
- (b) that are Specially Serviced Loan Receivables, upon the recommendation of the Special Servicer pursuant to the Servicing Agreement (which, for the avoidance of doubt, the Issuer may accept at its own discretion),

in each case, *inter alia*, if the following conditions are satisfied:

- (i) in the case of paragraph (a) above, the advice of the Class C Noteholders or, in the case of paragraph (b) above, the advice of the Special Servicer, contains a confirmation that the sale price of each such Purchased Loan Receivable represents a fair market value and has been verified by the Trustee in accordance with the Trust Agreement;
- (ii) no Event of Default or Amortisation Event is

continuing; and

- (iii) the Issuer has received the prior written consent of the Trustee.

3.4 PRINCIPAL FEATURES OF THE NOTES

The Notes The Notes will have an aggregate initial principal amount of €1,191,100,000 (the "**Aggregate Initial Principal Amount**") and each Class of Notes will have the initial principal amount (each, an "**Initial Principal Amount**") as indicated in the table below:

Class of Notes	Initial Principal Amount €	Due
Class A Notes	700,000,000	2017
Class B Notes	30,000,000	2017
Class C Notes	461,100,000	2017

Each of the Class A Notes, the Class B Notes and the Class C Notes is referred to as a "**Class**" or a "**Class of Notes**" and together, as the "**Notes**".

Closing Date 3 February 2010.

Limited Recourse The Notes are direct, secured and limited recourse obligations of the Issuer. The Issuer's ability to satisfy its payment obligations under the Notes and its operating and administrative expenses will be wholly dependent upon receipt by it in full of (a) Collections of the Purchased Loan Receivables from the Servicer or the Special Servicer, (b) Deemed Collections (if any) from the Seller, (c) drawings (if any) under the Liquidity Facility Agreement, (d) drawings (if any) under the RR Expenses Facility Agreement, (e) payments (if any) due from the Interest Rate Swap Counterparty under the Interest Rate Swap Transactions, (f) interest income on the Issuer Operating Accounts, the Prefunding Account, the Verity Account and the Replacement Reserve Accounts, (g) payments (if any) under the other Transaction Documents in accordance with the terms thereof and (h) interest on Authorised Investments (if any).

Other than the foregoing, the Issuer will have no funds available to meet its obligations under the Notes and the Notes will not give rise to any payment obligation in excess of the foregoing. Recourse to the Issuer shall be limited to the proceeds of the realisation of the Security, applied in accordance with the Terms and Conditions. If the aforementioned proceeds ultimately prove insufficient (after payment of all claims ranking in priority to amounts due under the Notes) to pay in full all principal and interest on the Notes, then the Issuer shall not be liable for any shortfall arising.

Use of Proceeds On the Closing Date, the Issuer will apply the proceeds of the issue of the Notes (a) towards the purchase of the Initial Portfolio by payment of €652,006,000 towards the purchase price therefor, (b) to fund a prefunding reserve of €235,000,000 (the "**Prefunding Reserve**") for application towards the payment of the purchase price of further Loan Receivables to be purchased from the Seller after the Closing Date subject, *inter alia*, to having sufficient funds for the purpose and certain prefunding criteria as described herein having been met and (c) a verity amount of €304,094,000 (the "**Verity Amount**") for payment from time to time to the Seller upon delivery by the Seller to the Issuer of satisfactory legal opinions as to the enforceability of certain Loan Receivables and/or Loan Collateral in the Initial Portfolio or application towards payment of principal on

the Class A Notes as described herein.

Outstanding Principal Amount

The "**Outstanding Principal Amount**" of the Notes (or any Class of Notes) as at any Payment Date will be an amount equal to the sum of the Initial Principal Amount of the Notes (or such Class of Notes), as reduced by the aggregate amount of payments of principal made in respect thereof and/or allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) thereto, in accordance with the Terms and Conditions, on or before such Payment Date.

Form and Denomination

Each of the Class A Notes, the Class B Notes and the Class C Notes will be in bearer form represented by a Permanent Global Note representing the relevant Class of Notes, as described herein. The Notes represented by the Global Notes may be transferred in book-entry form only. Each Class of Notes will be issued in denominations of €50,000. The Global Note representing the Notes will not be exchangeable for definitive securities. The Global Notes will be deposited with a common safekeeper (a "**Common Safekeeper**") for Euroclear Bank S.A./N.V. ("**Euroclear**") and Clearstream Banking, *société anonyme* ("**Clearstream Luxembourg**") on or about the Closing Date.

The interests of individual noteholders in each bearer Global Note will be represented by the records of Euroclear and Clearstream Luxembourg. Reference to the records of Euroclear or Clearstream Luxembourg (the "**Clearing Systems**" and each a "**Clearing System**") shall be to the records that each of Euroclear and Clearstream Luxembourg holds for its customers which reflect the amount of such customer's interest in the Notes (but excluding the interests in the Notes of one Clearing System shown in the records of the other Clearing System).

Each Note will be in the form of a new global note. The Class A Notes are intended to be held in a manner which allows Eurosystem eligibility. This means that the Class A Notes are intended upon issue to be deposited with one of the ICSDs as Common Safekeeper and does not necessarily mean that the Class A Notes will be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem either upon issue or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria.

Status

Upon enforcement of the Security, the Class A Notes will rank equally amongst themselves but in priority to the Class B Notes and the Class C Notes, the Class B Notes will rank equally amongst themselves but in priority to the Class C Notes and the Class C Notes will rank equally amongst themselves in point of priority, subject to the limitations on the amount of principal and/or interest payable to the Noteholders of any Class of Notes in certain circumstances as described herein (the "**Order of Seniority**").

Accrual of Interest

Interest will accrue on the Outstanding Principal Amount of the Notes, in respect of the first Payment Date, from (and including) the Closing Date to (but excluding) the first Payment Date and, in respect of any subsequent Payment Date, from (and including) the immediately preceding Payment Date to (but excluding) such Payment Date (each, an "**Interest Period**").

Payment Dates

Interest on the Outstanding Principal Amount of the Notes will be payable quarterly in arrear on the 28th day in February, May, August

and November of each year commencing in May 2010, subject, in each case, to adjustment for non-Business Days, as further described in the Terms and Conditions (each such date, a "**Payment Date**").

"**Collection Period End Date**" means, so long as any Notes are outstanding, the last day in January, April, July and October in each year, commencing in April 2010, subject, in each case, to adjustment for non-Business Days, as further described in the Terms and Conditions.

See "TERMS AND CONDITIONS OF THE NOTES –
CONDITION 6.3 – PAYMENT DATES"

Payment of Interest

Interest accrued during the applicable Interest Period on the Outstanding Principal Amount of each Note will be payable on each Payment Date until the Scheduled Maturity Date at the applicable rate per annum indicated below until the Scheduled Maturity Date:

Class of Notes	Applicable Rate of Interest
Class A	EURIBOR* + 0.90%
Class B	EURIBOR* + 1.25%
Class C	Not stated

* 3-month EURIBOR (save that the Applicable Rate of Interest for the first Interest Period shall be determined through the use of straight line interpolation by reference to the rates available for three (3) month and four (4) month euro deposits) as determined on the relevant Interest Determination Date, up to (and including) the Scheduled Maturity Date.

The Class C Notes do not have a stated rate of interest. On each Payment Date, the Issuer shall pay, the amount available for application under item (s) of the Interest Priority of Payments, in respect of interest on the Class C Notes, subject to the paragraph below.

To the extent that any Note is outstanding after the earlier of (a) the Final Regular Amortisation Date or (b) the Scheduled Maturity Date, (i) interest will be payable on the aggregate Outstanding Principal Amount of the Class A Notes and the Class B Notes on each subsequent Payment Date until the Final Maturity Date (at the latest), in each case, in an amount equal to the lower of the aggregate of the Interest Amount applicable to such Class of Notes and the Interest Recoveries of the relevant Collection Period, in accordance with the Interest Priority of Payments and (ii) interest on the Class C Notes shall be deferred until the earlier of (1) the Payment Date on which all Class A Notes and the Class B Notes have been redeemed in full or (2) the Final Maturity Date, and will be payable on the aggregate Outstanding Principal Amount of the Class C Notes up to an amount equal to the Interest Recoveries of the relevant Collection Period in accordance with the Interest Priority of Payments on the earlier of (x) such Payment Date on which all Class A Notes and the Class B Notes are redeemed in full (and each Payment Date thereafter) or (y) the Final Maturity Date.

See "*Scheduled Maturity Date and Final Maturity Date*" below and "TERMS AND CONDITIONS OF THE NOTES – CONDITION 6.4 – RATE OF INTEREST".

Scheduled Maturity Date

Unless redeemed earlier or reduced to zero as described herein, the

and Final Maturity Date

Notes will be redeemed at their then Outstanding Principal Amount on the Payment Date falling in February 2017 (the "**Scheduled Maturity Date**"), **provided that** if any Purchased Loan Receivables have become Specially Serviced Loan Receivables and the Loan Losses in respect thereof have not been finally determined in accordance with the Trust Agreement as at the Scheduled Maturity Date, the Notes (including all or part of any such Class of Notes) that are affected by such Specially Serviced Loan Receivables, will remain outstanding until the Payment Date falling in February 2020 (the "**Final Maturity Date**") at the latest. Payments of principal will be made on such Notes on each Payment Date until the Final Maturity Date at the latest (after allocation of the respective Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to such Notes on each such date), in the case of any such Notes then outstanding, to the extent of the Available Principal Recoveries of the relevant Collection Period in accordance with the Order of Seniority on such Payment Date.

See "TERMS AND CONDITIONS OF THE NOTES – CONDITION 10 – PRINCIPAL REDUCTIONS and CONDITION 11 - REDEMPTION".

Principal Reductions

On each Payment Date, an amount equal to the Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) (if any) on Specially Serviced Loan Receivables not previously allocated in accordance with the Terms and Conditions shall be allocated to reduce the Outstanding Principal Amount of each Class of Notes and any such amount will be allocated to reduce the Outstanding Principal Amount of *first*, the Class C Notes, *second*, the Class B Notes and *third*, the Class A Notes, in each case, *pari passu* on a *pro rata* basis within any Class of Notes in the amount equal to the Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to such Class of Notes on such Payment Date until the Outstanding Principal Amount of each such Class of Notes is reduced to zero (the "**Reverse Order of Seniority**"), subject to the allocation of each such Loan Loss having been verified by the Trustee in accordance with Clause 17 (*Verification of Loan Losses and Recoveries*) of the Trust Agreement prior to such allocation.

"**Loan Loss**" means, in respect of a Specially Serviced Loan Receivable, following the termination of the workout upon determination by the Special Servicer that all amounts expected to be recovered by it from the Obligors have been received, an amount equal to the outstanding principal amount of such Loan Receivable on the Purchase Date thereof less the sum of all Principal Collections (including, for the avoidance of doubt, all Available Principal Recoveries allocated to such Specially Serviced Loan Receivable).

See "TERMS AND CONDITIONS OF THE NOTES – CONDITION 10 – PRINCIPAL REDUCTIONS".

Amortisation of the Notes

Unless redeemed earlier or reduced to zero as described herein, the Notes will be subject to redemption in part on each Payment Date up to (and including) the Scheduled Maturity Date to the extent that the Issuer has available to it sufficient funds for the purpose (after application towards the purchase (if any) of Additional Loan Receivables in accordance with the Terms and Conditions of the Notes) at their then Outstanding Principal Amount on such date (after allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the relevant

Classes of Notes on any such date) in accordance with the Principal Priority of Payments together with interest accrued on the Notes (other than the Class C Notes) to (but excluding) such Amortisation Date in accordance with the Interest Priority of Payments.

To the extent that any Notes remain outstanding only as a result of Loan Losses in respect of Specially Serviced Loan Receivables not having been verified by the Trustee in accordance with the Trust Agreement after redemption of all other Notes on an Amortisation Date (the "**Final Regular Amortisation Date**"), the Notes which remain outstanding will be redeemed on each Payment Date after the Final Regular Amortisation Date to the extent of the Available Principal Recoveries (after allocation of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to such Notes on such date) in accordance with the Principal Priority of Payments and interest thereon will be payable as described above under "Payment of Interest".

The majority of the Initial Loan Receivables are only required to be repaid on the maturity date of the relevant Initial Loan Receivable.

See "TERMS AND CONDITIONS OF THE NOTES –
CONDITION 6 – INTEREST and CONDITION 12 –
AMORTISATION".

**Optional Early
Redemption following a
Tax Event**

The Notes will be subject to optional early redemption in whole, but not in part, prior to the Scheduled Maturity Date if (i) a Tax Event has occurred which has a Material Adverse Effect on the Issuer and (ii) the Issuer has given neither more than sixty (60) nor less than thirty (30) days' written notice to the Trustee and to the Noteholders in accordance with Condition 22 (*Notices*) (the "**Tax Event Notice**"), on the Payment Date following the delivery of a Tax Event Notice (the "**Optional Early Redemption Date**"), together with accrued interest thereon (if any) to (but excluding) the Optional Early Redemption Date, **provided that** on the Payment Date on which such notice expires, no Enforcement Notice has been served.

In any such case, the Issuer must certify to the Trustee that it will have sufficient funds at least equal to the then aggregate Outstanding Principal Amount of the Notes (after deduction from such aggregate Outstanding Principal Amount of the Notes of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them on the proposed date of redemption thereof) together with all interest accrued thereon (except in the case of the Class C Notes) and all obligations of the Purchaser ranking in priority thereto in the Interest Priority of Payments.

See "TERMS AND CONDITIONS OF THE NOTES –
CONDITION 13.1 – OPTIONAL EARLY REDEMPTION
FOLLOWING A TAX EVENT" and "THE TRUST
AGREEMENT".

**Early Redemption
following a Clean-up Call**

The Notes will be subject to early redemption in whole, but not in part, prior to the Scheduled Maturity Date on the Payment Date together with accrued interest thereon (if any) to (but excluding) the Early Redemption Date immediately following notice of the Seller's exercise of its right (the "**Clean-up Call**") to purchase all Purchased Loan Receivables at their then current value in the event that the then Outstanding Loan Principal Amount of all Purchased Loan Receivables represents less than ten per cent. (10%) of the Aggregate

Outstanding Loan Principal Amount of all Purchased Loan Receivables as at the Closing Date as further described in the Terms and Conditions.

See "TERMS AND CONDITIONS OF THE NOTES – CONDITION 13.2 – EARLY REDEMPTION UPON EXERCISE OF CLEAN-UP CALL" and "THE TRUST AGREEMENT".

Early Redemption following an Event of Default

The Notes will be subject to early redemption in whole, but not in part, prior to the Scheduled Maturity Date on the Payment Date together with accrued interest thereon (if any) to (but excluding) the Early Redemption Date immediately following the delivery by the Trustee of an Enforcement Notice to the Issuer upon the occurrence of an Event of Default.

See "TERMS AND CONDITIONS OF THE NOTES – CONDITION 13.3 – EARLY REDEMPTION FOLLOWING A DELIVERY OF ENFORCEMENT NOTICE" and "THE TRUST AGREEMENT".

Each Payment Date on which the Notes are redeemed in accordance with Condition 13.2 (*Early Redemption Upon Exercise Of Clean-Up Call*) or 13.3 (*Early Redemption Following Delivery of an Enforcement Notice*) is referred to as an "**Early Redemption Date**".

3.5 OTHER ASPECTS OF THE TRANSACTION

Trust Agreement

The Trustee has agreed to act as trustee (*Treuhänder*) for, *inter alios*, the Noteholders upon the terms and conditions of a trust agreement to be dated on or before the Closing Date between, *inter alios*, the Issuer and the Trustee (the "**Trust Agreement**"). Accordingly, the Trustee shall, *inter alia*, hold and administer the Security for the benefit of the Secured Parties and verify determinations and calculations of the Servicer, the Special Servicer, the Reporting Agent and the Cash Administrator, in connection with the Notes. See "THE TRUST AGREEMENT".

Security

As security for the obligations of the Issuer to the Noteholders, the Trustee, the Corporate Services Provider, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Interest Determination Agent, the Principal Paying Agent, the Servicer, the Special Servicer and the Interest Rate Swap Counterparty (together, the "**Secured Parties**") under the Notes or the Transaction Documents, the Issuer will create security interests in favour of the Trustee on the Closing Date as described in Condition 4 (*The Security*) of the Terms and Conditions (together, the "**Security**").

Liquidity Facilities

Pursuant to a liquidity facility agreement (the "**Liquidity Facility Agreement**") to be entered into on the Closing Date between, *inter alios*, the Liquidity Facility Provider, the Issuer, the Cash Administrator and the Trustee, the Liquidity Facility Provider will provide to the Issuer a committed liquidity facility.

The Issuer (or the Cash Administrator on behalf of the Issuer) will apply drawings (to the extent available to the Issuer) under the Liquidity Facility Agreement to:

- (a) cover shortfalls in the Available Interest Distribution Amount to pay on the relevant Payment Date:
 - (i) such of the Issuer's expenses referred to in items (a) to (h) (inclusive) of the Interest Priority of Payments; and/or
 - (ii) interest on the Class A Notes,(a "**Class A Shortfall**"); and
- (b) cover shortfalls in the Available Interest Distribution Amount to pay on the relevant Payment Date:
 - (i) such of the Issuer's expenses referred to in items (j) to (l) (inclusive) of the Interest Priority of Payments; and/or
 - (ii) interest on the Class B Notes,(a "**Class B Shortfall**") **provided that** a drawing under paragraph (a) above in respect of such Payment Date is also made,

in each case as determined from time to time by the Cash Administrator on the Calculation and Reporting Date immediately preceding the relevant Payment Date **provided that** the Servicer has

notified the Cash Administrator that any such shortfall would not occur as a result of interest accrued under a Purchased Loan Receivable that is a Specially Serviced Loan Receivable as at the relevant Collection Period End Date immediately preceding such Calculation and Reporting Date.

"SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE LIQUIDITY FACILITY AGREEMENT".

RR Expenses Facility

Pursuant to an expenses facility agreement to be entered into on the Closing Date between, *inter alios*, the RR Expenses Facility Provider, the Issuer, the Cash Administrator and the Trustee (the "**RR Expenses Facility Agreement**"), the RR Expenses Facility Provider will provide to the Issuer an RR expenses facility to fund the payment of certain RR Asset Expenses (the "**RR Expenses Facility**"). See "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE RR EXPENSES FACILITY AGREEMENT".

Issuer Operating Accounts

Under an account agreement to be entered into by the Issuer, the Cash Administrator, the Issuer Account Bank and the Trustee on or prior to the Closing Date (the "**Issuer Account Agreement**") the Issuer will establish, *inter alia*, bank accounts in euro in its own name at the Issuer Account Bank for Principal Collections (the "**Issuer Principal Account**") and Interest Collections (the "**Issuer Interest Account**") and, together with the Issuer Principal Account and Issuer Post-Notification Account, the "**Issuer Operating Accounts**").

See "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE ISSUER ACCOUNT AGREEMENT".

Issuer Reserve Accounts

In certain circumstances as described herein, the Issuer shall be entitled to draw in full (i) the RR Expenses Facility (the "**RR Expenses Stand-By Drawing**"), (ii) the Class A Liquidity Facility (the "**Class A Stand-By Drawing**") and (iii) the Class B Liquidity Facility (the "**Class B Stand-By Drawing**"), and is required to deposit the proceeds of such drawings and the proceeds of any swap collateral provided by HSH Nordbank as the Interest Rate Swap Counterparty pursuant to the Interest Rate Swap Agreement into separate reserve accounts in the name of the Issuer (together, with the Verity Account, the "**Issuer Reserve Accounts**") with HSH Nordbank as Issuer Reserve Account Bank.

In certain circumstances described herein, HSH Nordbank is required to transfer the credit balances in each of the Issuer Reserve Accounts into separate reserve accounts opened by it on or before the Closing Date in its own name with Bank of America, National Association (the "**Replacement Reserve Accounts**"). HSH Nordbank has undertaken that it will register and hold its claims under or in respect of the Replacement Reserve Accounts in the Refinancing Register for the benefit of the Issuer on the Closing Date.

See "SUMMARY OF OTHER PRINCIPAL DOCUMENTS" under "THE ISSUER RESERVE ACCOUNT AGREEMENT" and "THE HSH ACCOUNT AGREEMENT".

Interest Rate Swap

As certain Purchased Loan Receivables bear interest at a fixed rate of interest in accordance with the Loan Agreements and the Notes

Transactions

(other than the Class C Notes) will bear interest at a floating rate calculated by reference to EURIBOR, the Issuer will enter into swap transactions (the "**Interest Rate Swap Transactions**") from time to time pursuant to an interest rate swap agreement to be entered into by the Issuer, the Interest Rate Swap Counterparty and the Trustee on or prior to the Closing Date governed by a 1992 ISDA Master Agreement, rating compliant schedule and credit support annex and confirmations (the "**Interest Rate Swap Agreement**") to mitigate such interest rate mismatches between the interest payments received under the Purchased Loan Receivables and the floating rate interest payment obligations of the Issuer under the Notes (other than the Class C Notes).

Cash Administration

Under a cash administration agreement to be entered into, *inter alios*, by the Issuer, the Servicer, the Special Servicer, the Issuer Reserve Account Bank, the RR Expenses Facility Provider, the Liquidity Facility Provider, the Reporting Agent, the Interest Rate Swap Counterparty, the Cash Administrator, the Issuer Account Bank, the Replacement Reserve Account Bank, the Principal Paying Agent, the Interest Determination Agent, the Corporate Services Provider and the Trustee on or prior to the Closing Date (the "**Cash Administration Agreement**"), the Cash Administrator will be responsible, among other things, for the operation of the Issuer Accounts (other than the Issuer Profit and Capital Account) and the Replacement Reserve Accounts and the calculation of the Available Principal Distribution Amount and the Available Interest Distribution Amount.

The Cash Administrator shall, *inter alia*:

- (a) pay no later than 10:30 a.m. (London time) on each Payment Date the Issuer Payments due and payable by the Issuer under the Interest Rate Swap Transactions to the Interest Rate Swap Counterparty and the Interest Rate Swap Counterparty shall pay on such Payment Date all Floating Payments to the Issuer Interest Account in each case, until (and including) the Interest Rate Swap Termination Date and prior to the termination of the Interest Rate Swap Agreement prior to the Interest Rate Swap Termination Date;
- (b) on each Payment Date during the Prefunding Period, procure such transfers as are necessary from the Prefunding Account to the Seller as purchase price for Additional Loan Receivables or, thereafter, into the Issuer Principal Account;
- (c) on each Payment Date, procure such transfers to and from the Issuer Reserve Accounts and the Replacement Reserve Accounts as are necessary under the Transaction Documents;
- (d) on each Payment Date, procure that the relevant amounts standing to the credit of the Issuer Principal Account will be distributed in accordance with the Principal Priority of Payments; and
- (e) on each Payment Date, procure that the relevant amounts standing to the credit of the Issuer Interest Account will be distributed in accordance with the Interest Priority of

Payments.

Any amount standing to the credit of the Issuer Interest Account, the Issuer Principal Account, the RR Expenses Account, the Issuer Reserve Accounts or the Replacement Reserve Accounts (other than the Verity Account and the Replacement Verity Account) may be invested by the Cash Administrator, as instructed by the Issuer, in Authorised Investments.

See "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS" under "THE CASH ADMINISTRATION AGREEMENT".

Corporate Services

Under a corporate services agreement entered into by the Issuer, the Corporate Services Provider and the sole shareholder of the Issuer on 16 July 2009 to the Closing Date (the "**Corporate Services Agreement**"), the Corporate Services Provider will be responsible for the day to day administrative activities of the Issuer, including providing secretarial, clerical, administrative and related services to the Issuer and maintaining the books and records of the Issuer. See "THE CORPORATE SERVICES PROVIDER".

Selling Restrictions

The Notes will not be offered, sold or delivered within the United States or to U.S. persons. These restrictions and other restrictions on sale and transfer in the United States (Regulation S, Category 2 and TEFRA C), United Kingdom, Luxembourg, France, Netherlands, Belgium and Spain will be specified.

Listing and Admission to Trading

An application has been made to list the Notes on the official list of the Luxembourg Stock Exchange and to trade the Notes on the regulated market of the Luxembourg Stock Exchange.

Settlement

It is expected that delivery of the Notes will be made on or about the Closing Date through the book-entry facilities of Euroclear or Clearstream Luxembourg in respect of the Notes represented by the Global Notes, in each case, free of payment.

Withholding or Deduction for Taxes

Payments with respect to the Notes will be made by the Issuer in euro and without deduction or withholding on account of taxes, unless otherwise required by law. The Notes will not provide for gross-up payments in the event that interest payable under the Notes is or becomes subject to income taxes (including withholding taxes) or taxes on capital.

Governing Law

The Notes, the Trust Agreement, the Subscription Agreement, the Agency Agreement, the Loan Receivables Purchase Agreement, the Servicing Agreement, the Liquidity Facility Agreement, the RR Expenses Facility Agreement, the Cash Administration Agreement, the Issuer Pledge Agreement and the Issuer Reserve Account Agreement will be governed by and construed in accordance with, German law.

The Issuer Account Agreement, the Interest Rate Swap Agreement, the HSH Account Agreement, the HSH Deed of Charge and the Issuer Deed of Charge will be governed by, and construed in accordance with, English law.

The Dutch Deed of Pledge will be governed by, and construed in accordance with, Dutch law.

The Corporate Services Agreement will be governed by, and construed in accordance with, the laws of the Grand Duchy of

Luxembourg.

The foregoing documents and any other agreement made pursuant thereto or otherwise in connection with the Notes and the rights and benefits comprised in the security are referred to as the "**Transaction Documents**" and references to "**Transaction Document**" shall be construed accordingly.

Rating

The Class A Notes and the Class B Notes are expected to be rated upon issue by Fitch as follows:

Notes	Fitch
Class A	AAA
Class B	A+

The Class C Notes are not expected to be rated.

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

Transaction

The Transaction Documents, together with all agreements and documents executed in connection with the issue of the Notes, the performance thereof and all other acts, undertakings and activities connected therewith, are referred to herein as the "**Transaction**".

4. RISK FACTORS

The following is a summary of certain factors, which prospective investors should, apart from information taken from any other investigation, as they deem relevant, consider carefully prior to investing in the Notes. The following statements are not complete, and are in addition to all of the information set forth elsewhere in this Prospectus. Capitalised terms shall bear the meaning ascribed thereto in Annex 1 of the Terms and Conditions. For references to such capitalised terms, see "INDEX OF DEFINED TERMS".

Investors should also consult their own professional advisors if they deem that necessary. As more than one risk factor can affect the Notes simultaneously, the effect of a single risk factor cannot be accurately predicted. Additionally, risk factors may have a cumulative effect so that the combined effect on the Notes cannot be accurately predicted. No binding statement can be given on the effect of a combination of risk factors on the Notes.

The Notes are a suitable investment only for investors who are capable of bearing the economic risk of an investment in the Notes (including the risk that the investor shall lose all or a substantial portion of its investment) for an indefinite period of time with no need for liquidity and are capable of independently assessing the tax risks associated with an investment in the Notes. Furthermore, each prospective purchaser of Notes must determine, based on its own independent review and such professional advice as it deems appropriate under the circumstances, that its acquisition of the Notes:

- *is fully consistent with its (or if it is acquiring the Notes in a fiduciary capacity, the beneficiary's) financial needs, objectives and condition;*
- *complies and is fully consistent with all investment policies, guidelines and restrictions applicable to it (whether acquiring the Notes as principal or in a fiduciary capacity); and*
- *is a fit, proper and suitable investment for it (or if it is acquiring the Notes in a fiduciary capacity, for the beneficiary), notwithstanding the substantial risks inherent to investing in or holding the Notes.*

Current Economic Conditions

The current economic downturn is having an impact on lending generally, including commercial lending, and the value of commercial real estate. The downturn could disrupt the market for the Loans and adversely affect the value of outstanding Loans and the ability of the Borrowers to repay principal and pay any interest. Assets comprising and/or securing, directly or indirectly, the Loan Receivables are subject to credit risk and may go into default for a variety of reasons. In relation to Commercial Real Estate Loans, this includes, but is not limited to, a breach of any loan-to-value and financial covenant ratios. Any Loan that goes into default may require substantial workout negotiations or restructuring that may entail, among other things, a substantial reduction in the interest rate and/or a substantial write-down of the principal. In addition, the Issuer may incur additional expenses to the extent it is required to seek recovery upon a default or to participate in the restructuring of any Loan Receivable.

It is not possible to predict how long the current economic downturn will continue and how the transaction contemplated by the Transaction Documents will be affected.

4.1 RISKS RELATING TO THE NOTES

Absence of secondary market; lack of liquidity

There is not, at present, an active and liquid secondary market for any of the Classes of Notes, and there can be no assurance that a secondary market for any of the Classes of Notes will develop. The Notes have not been, and will not be, registered under the Securities Act or any other applicable securities laws and are subject to certain restrictions on the resale and other transfers thereof as set forth under "*Subscription and Sale*". If a secondary market does develop, it may not continue for the life of the Notes or it may not provide holders of the Notes with liquidity of investment with the result that a holder of the Notes may not be able to find a buyer to buy its Notes readily or at prices that will enable the holder of the Notes to realise a desired yield. The price of the Notes and the return on the Notes could be negatively affected by, among other things, the liquidity of the market, the market (if any) for similar securities, prevailing interest rates, changes in regulation and the widely reported global credit market conditions (which continue at the date hereof) which are characterised by a significant lack of liquidity in the secondary market for instruments similar to the Notes of each Class. The Issuer cannot predict when these circumstances will change or, if and when they do, whether conditions of

general market liquidity for the Notes and instruments similar to the Notes will return in the future. Moreover, any Loan Losses, including the delay in the timing of, and uncertainty as to, the quantum of any reduction to be applied to the Outstanding Principal Amount of the Notes if a Loan Loss has occurred, may further affect the liquidity of the market for, and the value of, the Notes. Consequently, any purchaser of the Notes must be prepared to hold such Notes until the Final Maturity Date.

Reliance on third parties

The Issuer is also party to contracts with a number of other third parties who have agreed to perform services in relation to the Notes. In particular, but without limitation, the Corporate Services Provider will agree to provide certain corporate services to the Issuer pursuant to the Corporate Services Agreement, the Liquidity Facility Provider will agree to provide the Liquidity Facilities pursuant to the Liquidity Facility Agreement, the RR Expenses Facility Provider will agree to provide the RR Expenses Facility pursuant to the RR Expenses Facility Agreement, the Issuer Account Bank will agree to provide the Issuer Operating Accounts and the RR Expenses Account pursuant to the Issuer Account Agreement, the Replacement Reserve Account Bank will agree to provide the Replacement Reserve Accounts pursuant to the HSH Account Agreement, the Issuer Reserve Account Bank will agree to provide the Prefunding Account and the Issuer Reserve Accounts pursuant to the Issuer Reserve Account Agreement, the Servicer and the Special Servicer will agree to service the Purchased Loan Receivables pursuant to the Servicing Agreement, the Cash Administrator will agree to provide certain cash management services and reporting services to the Issuer pursuant to the Cash Administration Agreement, the Reporting Agent will agree to provide certain reporting services to the Issuer pursuant to the Cash Administration Agreement, the Interest Rate Swap Counterparty will agree to provide certain swaps pursuant to the Interest Rate Swap Agreement and the Principal Paying Agent and the other Agents will all agree to provide services with respect to the Notes pursuant to the Agency Agreement. In the event that any of the above parties were to fail to perform their obligations under the respective agreements to which they are a party, the Issuer's ability to make payments under the Notes may be adversely affected.

In view of recent finance sector volatility, while certain Transaction Documents provide for rating and other triggers to address a decline in the creditworthiness of the counterparties, such rating and other triggers may be ineffective in certain situations, including, but not limited to, a counterparty having a requisite rating but becoming insolvent before the occurrence of a rating downgrade or withdrawal.

Uncertainty in determining the Fair Value of certain Investments

Under International Financial Reporting Standards, an investor may recognise at fair value: (i) financial instruments classified as "held-for-trading" or "investments at fair value through profit or loss", (ii) financial assets classified as "available-for-sale" and (iii) derivatives.

Generally, to establish the fair value of the Notes, an investor may rely on quoted market prices in active markets or, where the market for a financial instrument is not sufficiently active, valuation techniques that utilise, wherever possible, observable market inputs. Observable inputs for such valuation models may not be available or may become unavailable due to the changes in market conditions or the disappearance of active markets for certain instruments that have taken place over the past several months.

To the extent that valuation is based on models or inputs that are not observable in the market, the determination of fair value can be subjective and dependent on the significance of unobservable inputs to the overall valuation. Unobservable inputs are determined based on the best information available, for example by reference to similar assets, similar maturities, appropriate proxies or other analytical techniques. In such circumstances, the investor's internal valuation models require it to make assumptions, judgments and estimates in order to establish fair value. In common with other financial instruments, these internal valuation models are complex, and the assumptions, judgements and estimates the investor is required to make often relate to matters that are inherently uncertain, such as expected cash flows, the ability of borrowers to service debt, house price appreciation and depreciation, and relative levels of defaults and deficiencies. Such assumptions, judgements and estimates may need to be updated to reflect changing trends and market conditions. The resulting changes in the fair values of the Notes could have a material adverse effect on the investor's earnings and financial condition.

No Recourse to Parties other than the Issuer

The Notes are obligations solely of the Issuer. The Notes do not represent an interest in, or constitute a liability or other obligation of any kind of the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Interest Rate Swap Counterparty, the Trustee, the Lead Manager, any Agent or any of their

respective affiliates or any third person or entity. The Notes are not, and will not be, insured or guaranteed by the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Interest Rate Swap Counterparty, the Trustee, the Lead Manager, any Agent or any of their respective affiliates or any third person or entity and none of the foregoing assumes, or will assume, any liability or obligation to the holders of the Notes if the Issuer fails to make any payment due in respect of the Notes.

Limited Recourse

The Notes are direct, secured and limited recourse obligations of the Issuer. The Issuer's ability to satisfy its payment obligations under the Notes and its operating and administrative expenses will be wholly dependent upon receipt by it in full of (a) collections of the Purchased Loan Receivables from the Servicer or Special Servicer, (b) Deemed Collections (if any) from the Seller, (c) drawings (if any) under the Liquidity Facility Agreement, (d) drawings (if any) under the RR Expenses Facility Agreement, (e) payments (if any) due from the Interest Rate Swap Counterparty under the Interest Rate Swap Transactions, (f) interest income on the Issuer Operating Accounts, the Prefunding Account, the Verity Account and the Replacement Reserve Accounts, (g) payments (if any) under the other Transaction Documents in accordance with the terms thereof and (h) interest on Authorised Investments (if any).

Other than the foregoing, the Issuer will have no other funds available to meet its obligations under the Notes and the Notes will not give rise to any payment obligation in excess of the foregoing. Recourse to the Issuer shall be limited to the proceeds of the realisation of the Security, applied in accordance with the Terms and Conditions. If the aforementioned proceeds ultimately prove insufficient (after payment of all claims ranking *pari passu* with or in priority to amounts due under the Notes) to pay in full all principal and interest on the Notes, then the Issuer shall not be liable for any shortfall arising. The Noteholders will have no further claim against the Issuer in respect of such amounts or have recourse to the Issuer or any other person for the loss sustained. The enforcement of the Security and the distribution of the proceeds thereof by the Trustee is the only remedy available to the Noteholders for the purpose of recovering amounts payable in respect of the Notes. Such assets and proceeds shall be deemed to be "ultimately insufficient" at such time as the Trustee, in accordance with the terms of the Trust Agreement, has certified in writing to the Secured Parties that no further assets are available and no further proceeds can be realised therefrom to satisfy any outstanding claims of the Noteholders or the other Secured Parties or any of them, and neither assets nor proceeds will be available thereafter.

The terms on which the Security is to be held provide that upon enforcement thereof, certain excluded proceeds and certain fees, costs, expenses, and liabilities of the Issuer (including fees payable to the Trustee, the Servicer, the Special Servicer, the Liquidity Facility Provider and the RR Expenses Facility Provider certain payments under the Liquidity Facility and the RR Expenses Facility and, the Issuer Payments under the Interest Rate Swap Agreement and certain swap amounts payable by the Borrowers to the Seller) will rank senior to amounts owed by the Issuer to the Noteholders under the Notes. Accordingly, the Noteholders' claims will be subordinated to the foregoing obligations of the Issuer.

No petition

No recourse under any obligation, covenant or agreement of the Issuer contained in the Transaction Documents shall be had against any shareholder, officer or director of the Issuer as such, by the enforcement of any assessment or by any proceeding, by virtue of any statute or otherwise. Any and all personal liability of every such shareholder, officer or director for breaches by the Issuer of any such obligations, covenants or agreements, either at law or by statute or constitution, has been waived save for liability arising as a result of gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) on the part of such shareholder, officer, and/or director. Until the expiry of two (2) years and one day after the last Note is redeemed in full, neither the Noteholders nor any party to the Transaction Documents nor any party on its behalf is allowed to initiate or join any person in initiating any Insolvency Proceedings in relation to the Issuer.

Subordination of the Class B Notes and the Class C Notes

After enforcement of the Security, payments of principal and interest on the Class A Notes will be made in priority to payments of principal and interest on the Class B Notes and the Class C Notes. Payments of principal and interest on the Class B Notes will be made in priority to payments of principal and interest on the Class C Notes.

Tranching and Decision-Making

The new German Debenture Act (*Schuldverschreibungsgesetz*) which came into force on 5 August 2009 provides statutory rules on bondholders' meetings and decisions, including majority decisions, through which the terms and conditions of the Notes could be changed or amended, as well as on the role of a "common representative" (*Gemeinsamer Vertreter*). As a result, a Noteholder can be outvoted by the other Noteholders. Moreover, the provisions of the German Debenture Act apply to all bonds with identical terms and conditions that derive from the same issuance. Therefore, in the case of tranching issuances with different Classes of Notes that convey different rights, such as in the case of the Class A Notes, the Class B Notes and the Class C Notes, each of these Classes of Notes is treated as a separate bond for the purposes of the German Debenture Act. The German Debenture Act does not contain any provisions on tranching issuances of bonds. Therefore, there is a legislative lack in this respect. If the Noteholders' voting within the Class A Notes, Class B Notes and Class C Notes leads to diverging Resolutions, the Terms and Conditions of the Notes set forth that the Trustee shall only be bound to comply with such Resolutions if such Resolutions have been cast by the Noteholders of all Classes of Notes or the Noteholders of two (2) Classes of Notes. This should fill the above-mentioned legislative lack as it should be in line with the intentions and interests of all Noteholders and of the Issuer and does not deviate from or violate the statutory rules. Nevertheless, due to a lack of any legislative or judicial guidance in respect of the new German Debenture Act there remains a risk that a relevant court comes to a different conclusion. In any event, the risk would be that a Noteholder cannot only be outvoted within its Class of Notes, but also by the diverging majority of tranches.

Prepayment and Yield Considerations

Assuming no defaults, losses or early redemptions, the Issuer expects to have sufficient funds to reduce the Outstanding Principal Amount of the Notes to zero on the Scheduled Maturity Date.

The Notes will be subject to redemption, in part on each Payment Date up to (and including) the Scheduled Maturity Date, to the extent that the Issuer has available to it sufficient funds for the purpose, at their then Outstanding Principal Amount on the relevant Amortisation Date (after allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the relevant Classes of Notes on any such Amortisation Date). On the Payment Date following the Final Prefunding Date the amount standing to the credit of the Prefunding Account will become part of the Available Principal Distribution Amount on such Payment Date. The majority of the Initial Loan Receivables must only be repaid on the maturity date of the relevant Initial Loan Receivable.

To the extent that any Notes are not redeemed in full or the Outstanding Principal Amount of the Notes is not reduced to zero on the Scheduled Maturity Date as a result of the determination of any Loan Loss in respect of Specially Serviced Loan Receivables not having been made as at such date, such Notes will remain outstanding until the Final Maturity Date at the latest.

The Notes will also be subject to early redemption in whole (but not in part) prior to the Scheduled Maturity Date on the Payment Date immediately following (a) subject to the Terms and Conditions, the sale of Purchased Loan Receivables pursuant to a Clean-up Call, (b) the exercise by the Issuer of its option to redeem the Notes following a Tax Event or (c) the occurrence of an Event of Default.

Such early redemption and the yield to maturity of the Notes of each Class will depend on, among other things, the amount and timing of repayment and prepayment of principal on the Purchased Loan Receivables. Such yield may be adversely affected by a higher or lower than anticipated rate of repayment or prepayment on the Purchased Loan Receivables.

To the extent that any early redemption of some or all Notes occurs, the principal repayment of the Notes will be earlier than expected and, therefore, the yield on the Notes will be lower.

See "*Exposure to Credit Risks of Purchased Loan Receivables*", "*Concentration of Loans*" and "*No Market for Purchased Loan Receivables*" below. "TERMS AND CONDITIONS OF THE NOTES - CONDITION 12 - AMORTISATION and CONDITION 13 - EARLY REDEMPTION".

Rating of the Notes

The rating assigned to the Rated Notes is based on, among other things, the projected revenues from the Purchased Loan Receivables and other relevant structural features of the Transaction which reflect only the current views of the Rating Agency. There is no assurance that such rating will continue for any period of time or that they will not be reviewed, revised, suspended or withdrawn entirely by the Rating Agency as a result of, among other things, changes in, or unavailability of, information or if, in the Rating Agency's judgment,

circumstances so warrant. rating agencies other than the Rating Agency could seek to rate the Notes and if such "unsolicited ratings" are lower than the equivalent rating assigned to the Rated Notes by the Rating Agency, such ratings could have an adverse effect on the value of the Notes.

There is no obligation on the part of the Issuer, the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Trustee, the Interest Rate Swap Counterparty, the Lead Manager, any Agent or any affiliate of any of them or any third person or entity to maintain any rating for itself or the Notes. In the event that the rating initially assigned to the Rated Notes is subsequently lowered for any reason, no person or entity will be obliged to provide any credit facilities or credit enhancement to the Issuer for the original rating to be restored. See "RATING".

Authorised Investments

The Cash Administrator may make certain interim investments as instructed by the Issuer, on behalf of the Issuer. Such investments must fulfil certain criteria including, but not limited to, having appropriate ratings depending on the term of the investment and the term of the investment instrument. However, it may be that, irrespective of any such rating, such investments will be irrecoverable due to insolvency of the debtor under the investment or of a financial institution involved or due to the loss of an investment amount during the transfer thereof. Additionally, the return on an investment may not be sufficient to cover fully the interest payment obligations due from the investing entity in respect of its corresponding payment obligations (prepayment risk). In this case, the Issuer may not be able to meet all its payment obligations. None of the Issuer, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Trustee, the Issuer Account Bank, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Lead Manager or any Agent will be responsible for any such loss or shortfall.

Change of Law

The structure of the Trust Agreement, the Loan Receivables Purchase Agreement, the other Transaction Documents, the issue of the Notes and the ratings which are to be assigned to the Notes, are based on applicable laws in effect as at the date of this Prospectus. No assurance can be given as to the impact of any possible change to such laws or administrative practice in any applicable jurisdiction after the date of this Prospectus.

Potential Conflicts of Interest

HSH Nordbank is acting in a number of capacities in connection with the Transaction such as, *inter alia*, Seller, Servicer, Special Servicer, Liquidity Facility Provider, Reporting Agent, RR Expenses Facility Provider, Lead Manager, Interest Rate Swap Counterparty and Issuer Reserve Account Bank. In connection with the Transaction, the Seller will have only the duties and responsibilities expressly agreed to by it in its relevant capacity and will not, by virtue of acting in any other capacity, be deemed to have any other duties or responsibilities or be deemed to be held to a standard of care other than as expressly provided with respect to each such capacity under the relevant Transaction Documents. In its various capacities in connection with the Transaction, the Seller may enter into business dealings from which they may derive revenues and profits without any duty to account therefor in connection with the Transaction. The Seller may hold and/or service receivables other than the Purchased Loan Receivables (including receivables owed by a Borrower which are not Purchased Loan Receivables, but which may be secured by the same collateral as the Purchased Loan Receivables). The Seller and its affiliates may engage in commercial relationships (in particular, be lender and/or provide investment banking and other financial services to the Obligors and other parties). In such relationships, neither the Seller nor any of its affiliates is obliged to take into account the interests of the Noteholders. As a consequence of these relationships, potential conflicts of interest may arise in relation to the Transaction.

Basel Capital Accord

Following the issue of proposals from the Basel Committee on Banking Supervision (the "**Basel Committee**") for the reform of the 1988 Capital Accord, a framework has been developed which places enhanced emphasis on market discipline and sensitivity to risk. A comprehensive version of the text of the framework was published in June 2006 under the title "International Convergence of Capital Measurement and Capital Standards: a Revised Framework (Comprehensive Version)" ("**Basel II Framework**"). The Basel II Framework is being implemented in stages.

However, the Basel II Framework is not self-implementing and, accordingly, implementation in participating countries is in some cases still in development or has not yet been put into effect. In Europe, the Basel II Framework was put into effect for credit institutions in Europe via the recasting of a number of prior directives.

These consolidating directives are referred to as the EU Capital Requirements Directives ("**CRD**") and according to the CRD, the Basel II standard approach and the foundation IRB approach were required to be implemented from 1 January 2007 and the more advanced Basel II IRB approach and advanced measurement approach for operational risks were required to be implemented from 1 January 2008.

The Basel Committee announced in April 2008 its intention to take steps to strengthen certain aspects of the Basel II Framework. Following on from this, in January 2009, the Basel Committee published a consultation paper setting out proposals for significant changes and there have been calls from various regulators for further changes. In July 2009 the Basel Committee approved the amendments to the Basel II Framework which included provisions relating to due diligence requirements and the risk-weighting of re-securitisations.

The European Commission has also proposed changes to the CRD in October 2008 and March 2009. Amendments to the CRD were adopted by the European Parliament in May 2009 and by the Council of Ministers in July 2009, with implementation scheduled for late 2010. The amendments include a number of items which may be relevant to certain ABS investors including investment restrictions in respect of certain ABS and investment due diligence requirements and proposed significant corresponding penalties involving higher capital charges in the case of non-compliance with the latter and capital requirements for securitisation positions in the trading book and in the banking book.

As and when implemented, the Basel II Framework and/or any of the proposed changes referred to above, could affect risk-weighting of the Notes for investors who are subject to capital adequacy requirements. Consequently, investors should consult their own advisers as to the effect of the application of the Basel II Framework and any relevant implementing measures on them.

No predictions can be made as to the precise effects of potential changes on any investor or otherwise as a result of the implementation of the Basel II Framework or any changes to it or to the CRD.

Eligibility of Notes for Eurosystem monetary policy

The Class A Notes are intended to be held in a manner which will allow Eurosystem eligibility. This only means that the Class A Notes were, upon issue, deposited with one of the international central securities depositaries (the "**ICSDs**") as Common Safekeeper and does not necessarily mean that the Class A Notes will be recognised as eligible collateral for Eurosystem monetary policy and intra-day credit operations by the Eurosystem ("**Eurosystem Eligible Collateral**") either upon issue, or at any or all times during their life. Such recognition will depend upon satisfaction of the Eurosystem eligibility criteria as specified by the European Central Bank. If the Class A Notes do not satisfy the criteria specified by the European Central Bank, there is a risk that the Class A Notes will not be Eurosystem Eligible Collateral. The Issuer gives no representation, warranty, confirmation or guarantee to any investor in the Class A Notes that the Class A Notes will, either upon issue, or at any or all times during their life, satisfy all or any requirements for Eurosystem eligibility and be recognised as Eurosystem Eligible Collateral. Any potential investor in the Class A Notes should make their own conclusions and seek their own advice with respect to whether or not the Class A Notes constitute Eurosystem Eligible Collateral, and should be aware that the European Central Bank may change the rules on Eurosystem Eligible Collateral at any time, with or without grand-fathering provisions.

EU Savings Directive

Under EC Council Directive 2003/48/EC on the taxation of savings income (the "**EU Savings Directive**"), each Member State is required to provide to the tax authorities of another Member State details of payments of interest or other similar income paid by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in that other Member State; however, for a transitional period, Austria, Belgium and Luxembourg will, subject to certain exceptions, apply a withholding system in relation to such payments, deducting tax at rates rising over time to thirty-five per cent. (35%) (unless during that transitional period they elect to provide information in accordance with the EU Savings Directive). The transitional period is to terminate at the end of the first full fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments. Belgium has replaced this withholding tax with a regime of exchange of information to the Member State of residence as from 1 January 2010.

A number of non-EU countries Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and certain dependent or associated territories of certain Member States, have adopted similar measures (either provision of information or transitional withholding) in relation to payments made by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in a Member State. In addition, the Member States have entered into provision of information or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a person

in a Member State to, or collected by such a person for, an individual resident or certain limited types of entity established in one of those territories.

On 13 November 2008, the European Commission published a proposal for amendments to the EU Savings Directive, which included a number of suggested changes which, if implemented, would broaden the scope of the requirements described above. The European Parliament approved an amended version of this proposal on 24 April 2009. Investors who are in any doubt as to their position should consult their professional advisers.

No Gross-up for Taxes

Payments of interest and principal on the Notes will be subject to income and any other taxes, including applicable withholding taxes, and the Issuer will not be obliged to pay additional amounts in relation thereto. See "TERMS AND CONDITIONS OF THE NOTES CONDITION 19 - TAXATION"

In the event that a withholding or deduction for or on account of any taxes are imposed by law, or otherwise applicable, in respect of amounts payable under the Notes, neither the Issuer nor the Principal Paying Agent or any other entity is obliged to gross up or otherwise compensate Noteholders for the lesser amounts which the Noteholders will receive as a result of the imposition of such withholding or deduction and no Event of Default will occur as a result of any such withholding or deduction.

If withholding taxes or tax deductions are imposed on payments made by the Issuer in respect of the Notes, this will constitute an Amortisation Event. Although the Issuer has the option to redeem the Notes, it has no obligation to do so and the Noteholders will not have the right to require an early redemption of the Notes in such circumstances.

See "TERMS AND CONDITIONS OF THE NOTES CONDITION 12 – AMORTISATION and CONDITION 19 - TAXATION".

Liquidity Facilities and RR Expenses Facility

Pursuant to the terms of the Liquidity Facility Agreement, the Liquidity Facility Provider will provide committed facilities for drawings to be made in the circumstances described in the section entitled "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS – THE LIQUIDITY FACILITY AGREEMENT". The facilities will, however, be subject to a maximum aggregate principal amount available for drawdown equal to €15,000,000 in respect of the Class A Liquidity Facility, and €5,000,000 in respect of the Class B Liquidity Facility. The amount available under the Liquidity Facilities on any Payment Date may thus be less than the Issuer would have had available, had full and timely payments been made in respect of all amounts owing to the Issuer in respect of the Purchased Loan Receivables.

Pursuant to the terms of the RR Expenses Facility Agreement, the RR Expenses Facility Provider will provide a committed facility of €11,000,000 for drawings to be made in the circumstances described in the section entitled "SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS – THE RR EXPENSES FACILITY AGREEMENT". The amount available under the RR Expenses Facility on any Payment Date may not cover all RR Asset Expenses and the total costs and expenses required for the creation of Future Mortgages. A lack of funds could potentially prevent certain mortgages on Related Properties and certain Future Mortgages from being created even though they should have been available as security for the Notes.

Limited Verity Amount

The Verity Amount will not be increased for any Additional Loan Receivables purchased by the Issuer after the Closing Date.

4.2 RISKS RELATING TO THE ISSUER

Luxembourg Insolvency Law

As a matter of Luxembourg law, a company being in a state of cessation of payments (*cessation de paiements*) and having lost its commercial creditworthiness (*ébranlement de crédit*) may be declared bankrupt (*en faillite*). A petition for the opening of insolvency proceedings may be made by unpaid creditors, by the court, the public prosecutor and also by the directors of the Issuer, who have a legal obligation to request the opening of insolvency proceedings if the above conditions are satisfied. Since the Issuer is a securitisation company within the scope of the Luxembourg Securitisation Law, non-petition covenants whereby certain parties have undertaken not to petition for the opening of insolvency proceedings against the Issuer are valid and any action brought in Luxembourg in violation of such a covenant will be declared inadmissible.

Once Luxembourg law insolvency proceedings have been opened, the courts will appoint a receiver. This receiver will take control of all assets of the Issuer wherever situated, including assets located or deemed to be located outside Luxembourg. The receiver will have a duty to realise the assets of the Issuer and to pay off those creditors which have filed a claim that has been accepted. The repayment of the creditors will be made by taking into consideration the (disclosed or undisclosed) rights of preference of certain creditors.

Other insolvency proceedings that may be opened and that would affect the obligations of the Issuer, are, in particular, controlled management proceedings (*gestion contrôlée*) or composition with creditors proceedings (*concordat judiciaire*).

The law dated 5 August 2005 on financial collateral arrangements provides that Luxembourg or foreign insolvency proceedings (except limited types of insolvency proceedings for individuals) do not apply to set-off arrangements or to financial collateral arrangements (such as pledges of security assignments granted over financial instruments or claims) which will hence, in principle, remain enforceable as a matter of Luxembourg law notwithstanding the opening of insolvency proceedings against the Issuer.

It should be noted that any Luxembourg law insolvency proceedings will be subject to council regulation (EC) n°1346/2000 on insolvency proceedings, as amended (the "EUIR"). In particular, if a court determined that the centre of main interests of the Issuer is located in a country where the EUIR is applicable other than Luxembourg, then the courts of such other country would have jurisdiction to bring insolvency proceedings that would be governed by the laws of such country.

Certain preferred creditors of the Issuer (including the Luxembourg tax authorities) may have a privilege that ranks senior to the rights of the Secured Parties. The Issuer will provide the Trustee with the benefit of covenants prohibiting the creation of further indebtedness and restricting their activities generally to those specified in the Transaction Documents and described generally in this Prospectus.

Taxation of the Issuer in Germany

With respect to the Issuer's liability for corporate income tax (*Körperschaftsteuer*) and trade tax (*Gewerbesteuer*) in Germany, there is no assurance that the Issuer will not be regarded as having its place of effective management and control in Germany, which will be determined by assessing the economic significance of functions performed by the Servicer and the Special Servicer in respect of the Issuer in Germany compared to functions performed by or in respect of the Issuer elsewhere.

If the Issuer were to be regarded as having its place of effective management and control in Germany, it would be subject to German corporate income tax (the rate of which is currently 15.825 per cent., including the solidarity surcharge (*Solidaritätszuschlag*)) and German trade tax (rates of which range between seven (7) per cent. to seventeen (17) per cent. depending on the municipality). Further, in such a case, the Issuer might be obliged to deduct German withholding tax from interest payments under the Class C Notes.

If the Issuer were subject to German corporate income tax, interest payments under the Class C Notes might not be tax-deductible. Further, in such a case, the interest barrier rule (*Zinsschranke*), which, in principle, is applicable to all debt financing and affects the deductibility of interest expenses for German tax purposes, might affect the tax-deductibility of interest payments at the level of the Issuer. Under the interest barrier rule, the effective interest expense deduction available to the Issuer would be limited to an amount which is equal to (a) the interest received by the Issuer in the same fiscal year plus (b) thirty (30) per cent. of the tax EBITDA (business earnings before interest, taxes, depreciation and amortisation). In this context, excess interest expense may be carried forward into the following fiscal years. However, the interest barrier rule does not apply if (1) the amount of interest expenses which exceeds the interest income in the relevant year (the annual negative interest balance – "ANIB") is less than €1,000,000 (or less than €3,000,000 as presumably applies for the fiscal year ending prior to 1 January 2010), (2) the Issuer is not fully consolidated in a group of companies and, *inter alia*, its finance and business policy cannot be managed jointly with one or several other businesses or (3) the Issuer is part of a group of companies, but its equity/asset ratio in its audited financial statements for the previous fiscal year is not lower than that for the entire group and no company in the group pays interest in an amount higher than ten (10) per cent. of its ANIB to (i) a shareholder which holds more than twenty-five (25) per cent. of the share capital in a group company, (ii) a party related to such a shareholder or (iii) a third party with recourse against such a shareholder or related party thereto.

If the Issuer were subject to German trade tax, the assessment base for trade tax purposes might be increased by twenty-five (25) per cent. of the deductible interest expenses (or similar income) incurred by the Issuer (including interest paid on the Notes) to the extent that such twenty-five (25) per cent. exceeded €100,000.

Although the Issuer might benefit from the domestic securitisation privilege set out in Section 19 para 3 no 2 of the Trade Tax Ordinance (*Gewerbesteuerdurchführungsverordnung*), pursuant to which the increase of the assessment base does not apply to a business which exclusively purchases loan receivables from a credit institution within the meaning of Section 1 of the German Banking Act (*Kreditwesengesetz*) and issues specific debt securities (*Schuldtitel*) in order to finance the purchase price for such loan receivables, it is doubtful if such privilege would be available in circumstances where the Seller has a legal or economic interest in any of the Notes.

The German Investment Tax Act (*Investmentsteuergesetz*) would apply to the Notes if the Issuer were regarded as a foreign investment fund and the Notes qualified as an interest therein. In such circumstances, profits and capital gains earned by the Issuer would be subject to tax at the level of the Noteholders, and the Noteholders might become subject to special penalty taxation on the basis of deemed income.

4.3 RISKS RELATING TO THE ASSETS

Refinancing Register – Registerable Assets

To the extent that any RR Asset is registered in the Refinancing Register, such registration will result in the Issuer having the right to have such RR Asset surrendered (*Aussonderung*) to it pursuant to the Transfer Claim in respect of such RR Asset pursuant to Section 47 of the German Insolvency Code (*Insolvenzordnung*) (the "**Insolvency Code**") in the event that insolvency proceedings are instituted against the Seller. In addition, the Replacement Reserve Accounts will be registered in the Refinancing Register for the benefit of the Issuer. Whether the registration of assets that are neither Purchased Loan Receivables nor Related Mortgages will also have this effect is subject to some degree of legal uncertainty. However, with respect to the Initial Portfolio only Related Mortgages and certain loan receivables secured by Belgian assets will be registered in the Refinancing Register.

The legal provisions relating to the refinancing register were introduced in 2005 and there is no practical guidance available regarding its application in an insolvency of the entity using a refinancing register. With respect to Purchased Loan Receivables which are secured by assets located in jurisdictions other than Germany it will be necessary for foreign jurisdictions to acknowledge the legal effects of the refinancing register. However, it was the legislator's intention that a refinancing register may also be used for assets governed by laws other than German law and insolvency proceedings against HSH Nordbank will be governed exclusively by German law. However, Obligors may continue to validly discharge their obligations under the Purchased Loan Receivables and the related Loan Collateral until an effective and enforceable transfer of HSH Nordbank's rights and claims under the respective Loan Receivable and related Loan Collateral is validly effected and notified to such Obligors under the laws of the relevant jurisdictions in an enforceable manner.

Refinancing Register - Pledge of the Transfer Claims

While the Issuer has good reasons to believe that the pledge of the Transfer Claims pursuant to the Trust Agreement would, when duly notified to the Seller, be valid under German law without recording this pledge in the Refinancing Register maintained, and will be recognised under German law in any German insolvency proceedings regarding the Issuer as effective and, accordingly, will entitle the Trustee to separate satisfaction (*Absonderung*), this is subject to some degree of legal uncertainty. The Issuer is of the view that the Refinancing Register would not be rendered incorrect upon the pledge being granted to the Trustee. Section 22d (2) sentence 1 KWG, which sets out the information to be recorded in the refinancing register, only requires the recording of the transfer obligee (*Übertragungsberechtigter*). The latter does not change as a consequence of the pledge as the Issuer remains the obligee under the Transfer Claims.

The Loan Receivables

The Loan Receivables, the Servicer and the Special Servicer

The decision of any prospective holder of Notes whether to invest in the Notes should take into account, among other things, the Loan Receivables that the Issuer may purchase and the obligations of the Servicer and the Special Servicer in relation to the management and, as applicable, servicing of the Loan Receivables.

The value of the Loan Receivables may fluctuate from time to time (as a result of substitution or otherwise) and none of the Issuer, the Trustee, the Lead Manager, the Arranger, the Servicer, the Special Servicer or the Seller or any other person is under any obligation to maintain the value of the Purchased Loan Receivables at any particular level, nor has any liability to the Noteholders as to the amount or value of, or any decrease in the value of, the Purchased Loan Receivables from time to time. In particular, the Issuer will purchase the Initial Loan Receivables on the Closing Date at a purchase price equal to the aggregate Outstanding Loan Principal

Amount of all Initial Loan Receivables on the Closing Date (subject to the Verity Amount being transferred to the Verity Account). The Outstanding Loan Principal Amount of a Loan Receivable may significantly exceed the fair market value of such Loan Receivable. It is therefore likely that the fair market value of the Initial Loan Receivables acquired by the Issuer on the Closing Date together with the Prefunding Reserve will be considerably less than the relevant portion of the Outstanding Principal Amount of the Notes issued on the Closing Date. Additional Loan Receivables may also be purchased by the Issuer for an amount equal to their principal amount outstanding, which may also be significantly more than their fair market value. As a result, in the event that the Security is enforced, it is likely that the proceeds of such enforcement will be less than the Outstanding Principal Amount of the Notes. Any losses on the Notes will be borne first by the Class C Noteholders, then by the Class B Noteholders and then by the Class A Noteholders – in this regard see "*Limited Recourse*" above.

The Servicer's and the Special Servicer's ability to make a determination in relation to certain matters (including, for example, whether a Servicer Transfer Event has occurred in relation to any Loan Receivable) may depend on receipt by the Servicer of information from third parties. Subject to the terms of the Servicing Agreement, the Servicer and the Special Servicer will only be obliged to take action, and to make determinations, based on information actually made available to it, without any obligation on its part to verify such information.

Nature of Loans

The Purchased Loan Receivables may consist of senior property loans and/or loans to KAGs. The Purchased Loan Receivables would be subject to credit, liquidity, interest rate and legal risks. Some of the Purchased Loan Receivables from time to time will consist of investments which have greater credit and liquidity risk than investment grade sovereign or corporate bonds or loans.

There is a risk of significant fluctuations in the market value of the Purchased Loan Receivables at any given time. There can be no assurance that the conditions giving rise to such price fluctuations will not occur, subsist or become more acute following the Closing Date, which can impair the ability of the Issuer to acquire or dispose of Purchased Loan Receivables.

As a result, a decrease in the market value of the Purchased Loan Receivables would adversely affect the sale proceeds that could be obtained upon the sale of such assets and could ultimately affect the ability of the Issuer to pay in full or redeem the Notes including in the event of an optional redemption of the Notes in accordance with Condition 13 (*Early Redemption*) or payment of the principal of the Notes upon a liquidation of the Loan Receivables following the occurrence of a Event of Default. In periods of rising market prices, the Issuer may be unable to participate in price increases fully to the extent that it is either unable to dispose of Purchased Loan Receivables whose prices have risen or to acquire such assets whose prices are on the increase.

This Prospectus contains certain general considerations relating to the types of obligations which may be included in the Initial Loans at any time. Such descriptions are not intended to be complete or exhaustive and investors should assess for themselves the risks inherent in such obligations.

Prospective purchasers of the Notes should consider and assess for themselves the likely level of defaults on loans of the type described herein, as well as the likely level and timing of recoveries of such loans.

Exposure to Considerations relating to Changes to the Composition of the Loans and the Properties

As at the Closing Date, all of the Related Properties securing the Initial Loan Receivables are located in the Initial Property Jurisdictions and the Borrowers are in the Initial Borrower Jurisdictions. This Prospectus only provides disclosure relating to certain risks generally applicable to Related Properties located in Germany (the "**German Properties**"), Spain (the "**Spanish Properties**"), France (the "**French Properties**"), Belgium (the "**Belgian Properties**") and The Netherlands (the "**Dutch Properties**") and to obligors incorporated in Germany or otherwise established under German law (the "**German Obligors**"), Luxembourg (the "**Luxembourg Obligors**"), Spain (the "**Spanish Obligors**"), Belgium (the "**Belgian Obligors**") and The Netherlands (the "**Dutch Obligors**"), although the risks generally described herein apply to all Related Properties and Obligors.

There can be no assurance that changes to the composition of the Loans over time will not expose Noteholders to additional risks associated with the legal systems, lending or leasing practices of countries other than those associated with the Initial Loan Receivables on the Closing Date which are disclosed in this Prospectus and that the legal systems, lending or leasing practices of such countries will not be markedly different from those associated with the such Initial Loan Receivables.

The Borrowers under certain Commercial Real Estate Loans may be permitted to use the financing granted under a Purchased Loan Receivable for the financing of a different property. The use of financing for a different property typically requires that the new property is comparable with the original property and approval from a credit committee.

Non-Quarterly Pay Loans, Fixed Interest Rate and Basis Risk

The Issuer may hold assets that will pay interest less frequently than quarterly, fixed rate interest or interest which is determined on a different basis and/or a different date to the determination of interest payable on the Notes.

In the event that a Purchased Loan Receivable pays fixed rate interest or interest by reference to a base rate other than EURIBOR, or by reference to EURIBOR but of a tenor or determined on a different date to that in respect of the Notes, the Issuer will be exposed to any shortfalls arising out of such difference. In particular, there is a risk that the interest payable to the Issuer under a Purchased Loan Receivable with an interest rate determined on a day other than that of the Notes or a fixed rate of interest may be less than the interest payable by the Issuer in respect of the Notes on the following Payment Date.

On the Closing Date, the Issuer will enter into hedge transactions in respect of the Initial Loan Receivables, which will have the effect of covering potential shortfalls due to differences in respect of payments of fixed rate interest. The failure of the relevant hedge provider to make a payment under such hedging arrangements could result in the Issuer not having sufficient funds to pay interest due on the Notes on a Payment Date, which could give rise to an Event of Default in accordance with the Terms and Conditions.

Due Diligence

In connection with the Issuer's purchase of the Loan Receivables, the amount of due diligence undertaken by or on behalf of the Issuer has been limited. Neither the Issuer nor any other party has undertaken or will undertake or cause to be undertaken any investigations, searches or other actions as to any Obligor's status or the status of any Related Properties or the other Loan Collateral in respect thereof and will rely instead on certain representations and warranties contained in the Loan Receivables Purchase Agreement referred to below, certain due diligence which the Issuer in its opinion deems appropriate for a portfolio with the granularity and characteristics of the Initial Portfolio (which may include a review of documents on a sample basis) and certain assumptions.

No investigations, searches or other actions have been or will be undertaken and no new reports have been or will be prepared specifically for the purpose of this Prospectus or the transactions contemplated herein and none of the Issuer or any other party has made or will make any independent investigation of any of the matters stated in any due diligence reports prepared at the time the Purchased Loan Receivables were disbursed.

The benefit of all representations and warranties given to the Issuer pursuant to the Loan Receivables Purchase Agreement will be assigned as security by the Issuer in favour of the Trustee under the Trust Agreement. The primary remedy of the Issuer and the Trustee for breaches of representations and warranties with respect to a Purchased Loan Receivable will be under an indemnity from the Seller against any liabilities, losses, damages, claims, costs and expenses directly resulting from any such breach or, in certain circumstances, the payment by the Seller to the Issuer of Deemed Collections. However, the Issuer's rights to indemnification and to receive Deemed Collections are unsecured. Consequently, a risk of loss exists in the event that a representation or warranty of the Seller to the Issuer in the Loan Receivables Purchase Agreement proves to be incorrect or is breached. This could potentially cause the Issuer to default under the Notes.

Certain Considerations Related to Commercial Real Estate Loans generally

The risks relating to Commercial Real Estate Loans include (among others): (a) limited liquidity and secondary market support; (b) the possibility that cash-flows generated by the Borrowers may be insufficient to meet their respective debt service obligations; (c) declining creditworthiness, limited additional assets and potential for insolvency of the Borrowers during periods of economic downturn; and (d) spread compression over the reference interest rate available for reinvestment during any period in which prepayments are received.

Commercial and multifamily property lending is generally viewed as exposing a lender (and therefore the relevant Loan) to a greater risk of loss than certain other forms of lending because it typically involves making larger loans to single borrowers or groups of related borrowers. In addition, in the case of certain commercial mortgage loans, repayment of loans secured by commercial and multifamily properties depends upon the ability of the related property to generate income sufficient to pay debt service, operating expenses and leasing commissions and to make necessary repairs, tenant improvements and capital improvements and, in the case of

loans that do not fully amortise over their terms, to retain sufficient value to permit the borrower to pay off the loan at maturity through a sale or refinancing of the mortgaged property.

An economic downturn could disrupt the market for loans and adversely affect the value of outstanding Purchased Loan Receivables and the ability of the related Borrowers to repay principal and pay any interest. The Purchased Loan Receivables are subject to credit risk and may go into default for a variety of reasons. The Purchased Loan Receivables which go into default may require substantial workout negotiations or restructuring that may entail, among other things, a substantial reduction in the interest rate and/or a substantial write-down of the principal of the Purchased Loan Receivable. In addition, because of the unique and customised nature of a typical loan, certain Purchased Loan Receivables may not be purchased or sold as easily as publicly traded securities. Trading in loans is subject to delays due to their unique and customised nature, and transfers may require extensive documentation and due diligence. In addition, the Issuer may incur additional expenses to the extent it is required to seek recovery upon a default or to participate in the restructuring of a Purchased Loan Receivable.

The Commercial Real Estate Loans granted to Borrowers which are not KAGs are and will be secured by, amongst other things, mortgages, assignment of leases and/or share pledges in respect of properties consisting primarily of (i) office properties, (ii) retail properties, (iii) multi-family properties, (iv) industrial properties and (v) mixed use/other properties. Commercial Real Estate Loans granted to KAGs are instead secured by a Mortgage Creation Undertaking in relation to such properties or exclusively on the reimbursement claim against the relevant Fund. Commercial mortgage lending is generally viewed as exposing a lender to a greater risk of loss than residential mortgage lending since the repayment of loans secured by income producing properties is typically dependent upon the successful operation of the relevant property. If the cash flow from a Related Property is reduced (for example, if leases are not obtained or renewed or if tenants default in their obligations under the leases), a Borrower's ability to pay interest and principal may be impaired and this may impair the Issuer's ability to make payments on the Notes.

Real estate property values and net operating income from properties can be affected by various factors, including the volatility of property revenue and the relevant property's operating leverage, which generally refers to (i) the percentage of total property operating expenses in relation to total property revenue, (ii) the breakdown of property operating expenses between those that are fixed and those that vary with revenue, and (iii) the level of capital expenditure required to maintain the property and retain or replace tenants. Even when current net operating income is sufficient to cover debt service, there can be no assurance that this will continue to be the case in the future. The loan-to-value covenants and debt and/or interest service coverage covenants that may be contained in the relevant Finance Documents relating to a Commercial Real Estate Loan will be designed to mitigate the risk of declines in market value and net operating income adversely affecting each relevant Borrower's ability to meet its obligations under its Loan. However, not all of the Finance Documents contain loan-to-value covenants (and some may not contain other types of standard financial covenants), and even where Finance Documents contain both loan-to-value covenants and debt and/or interest service coverage covenants, there can be no assurance that these provisions will, in fact, enable the relevant Obligors to meet their obligations under the Finance Documents at all times.

The net operating income from and the market value of the Related Properties may be adversely affected by a number of factors, including, but not limited to, national, regional and local economic conditions (which may be adversely affected by business closures or slowdowns and other factors), local property market conditions (such as an oversupply in the relevant real estate market segment), perceptions by prospective tenants, retailers and shoppers and other users of the Related Properties of the safety, convenience, condition, services and attractiveness of the Related Properties, the proximity and availability of competing alternatives to the Related Properties, access to public transportation and major roads, the willingness and ability of the Obligors to provide capable management and adequate maintenance of the Related Properties, demographic factors, consumer confidence, unemployment rates, customer tastes and preferences, retroactive changes to building or similar regulations and increases in operating expenses (such as energy costs). In addition, other factors may adversely affect a Related Property's value without affecting its current net operating income, including changes in governmental regulations, fiscal policy and planning or tax laws, potential environmental legislation or liabilities or other legal liabilities, the availability of refinancing and changes in interest rate levels.

The age, location, construction, quality and design of a particular Related Property may affect its occupancy levels as well as the rents that may be charged for individual leases. Over time, there may be a requirement for increased maintenance costs and necessary capital improvements in order to maintain a Related Property and to attract and satisfy major tenants. Also, the effects of poor construction quality will increase over time in the form of increased maintenance and capital improvements needed to maintain the Related Property. Even good

construction will deteriorate over time if adequate maintenance is not scheduled and performed in a timely fashion. If, during the term of a Commercial Real Estate Loan, competing properties of a similar type are built in the area where a Related Property is located or similar properties in the vicinity of a Related Property are substantially updated and refurbished, the value and net operating income of such Related Property could be reduced.

Additionally, some of the Related Properties may not readily be convertible to an alternative use if such Related Properties were to become unprofitable due to competition, age of the improvements, decreased demand, regulatory changes or other factors. The conversion of commercial properties to alternate uses generally requires substantial capital expenditure and may require an amended usage permit by the competent authority. Restrictions imposed by planning and building and other regulatory laws may also adversely affect the ability of an Obligor to convert a Related Property to an alternate use. Therefore, if the operation of any such Related Property becomes unprofitable such that the relevant Obligor becomes unable to meet its obligations under its respective Loan, the liquidation value of any such Related Property may be substantially less, relative to the amount owing on the relevant Purchased Loan Receivable, than would be the case if such Related Property were readily adaptable to other uses.

The Related Properties may not generate sufficient cash-flows to meet the required debt service and other financial obligations. The originators of such Loans may have required the related Obligor to escrow funds at closing in debt service reserve escrows or have required principals of the related Obligor to provide certain guarantees with regard to payment obligations of such Obligor on the related Loan. In addition, such Loans may have limited guarantees for the payment of interest in the event that the related debt service reserve escrows are exhausted. The Borrowers under such Loans would not be able to meet current debt service payments without access to such accounts. There can be no assurance that there would be sufficient amounts to cover all required debt service payments or that the required criteria would be satisfied for the release of such escrows in the periods assumed by the related originators. Similarly, there can be no assurance that an affiliate of an Obligor will be able or willing to fulfil its obligations on any guarantee provided on behalf of such Obligor.

Amortisation and Prepayment of the Loans

The relevant Finance Documents will typically provide that the total Outstanding Loan Principal Amount under any Commercial Real Estate Loan must be repaid in full on the relevant Loan Maturity Date. In addition, the Finance Documents in respect of some but not all of the Commercial Real Estate Loans will provide for covenanted amortisation or targeted amortisation or both on the basis set out in the relevant Finance Documents. Commercial Real Estate Loans are highly likely to be subject to substantial repayments being required upon their respective Loan Maturity Dates. The redemption in full of each Class of the Notes at the Final Maturity Date will therefore be dependent upon the receipt of principal in full by the relevant lender on their respective Loan Maturity Dates.

The ability of the Borrowers to repay the principal outstanding under their respective Commercial Real Estate Loans on the Loan Maturity Dates of the Commercial Real Estate Loans will depend significantly on the ability of the Borrowers to refinance the Commercial Real Estate Loans or sell the Related Properties. The willingness and ability of lenders to make such loans and/or the Obligor's ability to sell the Related Properties at maturity will be significantly dependent upon the economic conditions then prevailing in the relevant jurisdiction. Such lenders typically include banks, insurance companies and finance companies, provided they are authorised to lend to borrowers under applicable law. The availability of funds in the credit markets fluctuates and there can be no assurance that the availability of such funds will remain at or increase above, or will not contract below, current levels. In addition, the availability of assets similar to the Related Properties, and competition for available credit at the relevant time, may have a significant adverse effect on the ability of potential purchasers to obtain financing for the acquisition of the Related Properties.

The Issuer and the Seller are under no obligation to provide any such refinancing of any of the Commercial Real Estate Loans and there can be no assurance that an Obligor would be able to refinance its Commercial Real Estate Loan or an Obligor would be able to sell its Related Property or Related Properties in order to meet its obligations under the relevant Commercial Real Estate Loan. Failure by an Obligor to refinance its Commercial Real Estate Loan or an Obligor to sell the relevant Related Property or Related Properties on or prior to the Loan Maturity Date of its Commercial Real Estate Loan may result in such Borrower defaulting on its Commercial Real Estate Loan. In the event of such a default, it may not be possible to realise the relevant security without delay or for an amount sufficient to discharge all amounts owed by the relevant Borrower. In such event, Noteholders may receive by way of principal repayment an amount less than the face value of their Notes and the Issuer may be unable to pay, in full, interest due on the Notes.

Syndication, Subordination or Intercreditor Agreements

The Loan Portfolio includes Loans which are made by several lenders ("**Syndicated Loans**"). Accordingly, the Issuer will become a member of the relevant syndicate. Syndicated Loans typically rely on agents administering the relevant loans for the members of the syndicate. To the extent that instructions are to be given to such agents by the syndicate, a majority decision is required which often corresponds to two thirds of the outstanding principal amount of the Syndicated Loan. There is a risk that the Issuer holds less than two thirds or less than one third of the outstanding principal amount of the Syndicated Loans. In these cases, the Issuer may not be in a position to pursue its interests in relation to a Syndicated Loan on its own or to prevent decisions by the other lenders which may not comply with the interests of the Issuer.

Parallel Debt Arrangements

In some cases, the Loan Collateral for a Commercial Real Estate Loan may rely on a parallel debt arrangement that gives the relevant Borrower Security Trustee the right to enforce the relevant Loan Collateral. Similarly, the Trust Agreement contains a parallel debt arrangement. While the parallel debt structure has been regularly used in the context of financing transactions in several jurisdictions in Europe, there is no case law in Germany and various other jurisdictions that establishes its efficacy.

Certain Restrictions on Transfer of Loans

There may be a limited trading market for the Loans. The illiquidity of certain Loans may restrict the Issuer's ability to dispose of these investments in a timely fashion and for an attractive price. The foregoing practical limitations are in addition to the selling limitations to which the Issuer is subject. Loans for which there is no liquid secondary market may trade at a discount from comparable, more liquid investments. The illiquidity of Loans, as described above, may affect the amount and timing of receipt of proceeds from the sale of any Loans or in connection with the exercise of remedies following an Event of Default or in connection with an early redemption of the Notes.

Concentration

Loan Concentration

In relation to any portfolio of collateral, there is a risk that losses will be more severe if the pool is comprised of a small number of assets, each with a relatively large principal amount or if losses relate to assets that account for a disproportionately large percentage of the pool's aggregate principal balance. On the Closing Date the Issuer will acquire 17 loans (**provided that** Loan Receivables which are cross collateralised are counted as one Loan) with a principal balance of €956,100,000. Depending on the relative size of the Loan Receivable involved, losses on any one Loan Receivable may have an adverse effect on the ability of the Issuer to make payments under the Notes (with losses in relation to a larger Loan Receivable more likely to have an adverse effect than losses in respect of a smaller Loan Receivable).

Tenant Concentration

In relation to a Commercial Real Estate Loan, deterioration in the financial condition of a tenant can be particularly significant if a Related Property is leased to a small number of tenants or a sole tenant. Related Properties leased to a small number of tenants or a sole tenant are also more susceptible to interruptions of cash flow if a tenant fails to renew its lease. This is so because: (i) the financial effect of the absence of rental income may be severe, (ii) more time may be required to re-lease the space, and (iii) substantial capital costs may need to be incurred to make the space appropriate for replacement tenants.

In addition, risks related to tenants may also be increased if there is a concentration of tenants in particular industries or business sectors at one or more Related Properties. If a Related Property is leased predominantly to tenants in a particular industry or business sector, the lender may not have the benefit of risk diversification that would exist in a case where tenants were not so concentrated. Further, the risk related to tenants is increased with regard to tenants who have leased space in more than one Related Property. Certain tenants or tenant groups may be responsible for a significantly large portion of the cash flow or of the space leased.

Geographic Concentration

The performance of the Related Properties will be dependent upon the strength of the economies of the specific areas in which the Related Properties are located. As of the Closing Date, all of the Related Properties securing the Initial Loan Receivables are located in various localities throughout the Initial Property Jurisdictions. As such, the performance of the Related Properties will be dependent upon the strength of the local economies of such regions. If, over time, the Related Properties become concentrated in particular countries or geographical regions, then these risks will be intensified. The level of economic activity in general will affect net absorption of commercial, residential and retail space and increases in rental rates. A weakening of the retail, residential

and business sectors in the relevant regions or country generally may adversely affect demand for space at the Related Properties and thus affect a Related Property's operation and lessen its market value. Conversely, strong economic conditions could lead to increased building and increased competition for tenants. In either case, the operation of the Related Properties could be adversely affected.

A general decline in the local, regional or national economy will tend to have a more immediate effect on the net operating income of properties with short term revenue sources, such as the Related Properties, and may lead to higher rates of delinquency or defaults under the leases at the Related Properties. This could adversely affect a Borrower's ability to meet its obligations under the relevant Loan.

There can be no assurance that additional or different concentrations in relation to Loans, tenants or jurisdictions will not develop over the life of the Notes, as a result of prepayments or repayments of individual Loans or through dealings by the Issuer in respect of such assets. Should such concentrations develop, the impact on Noteholders of a deterioration in the position of an underlying tenant or economic factors affecting a particular type of Related Property or jurisdiction may be intensified.

The Obligors

Sufficiency of Obligor's Assets

Payments in respect of the Notes are dependent on, and limited to, the receipt of funds under the Purchased Loan Receivables and, where applicable, under the Liquidity Facility Agreement, the RR Expenses Facility Agreement and the Interest Rate Swap Agreement. In turn, recourse under the Purchased Loan Receivables is generally limited to the Obligors and/or their respective assets, which assets, in each case, are the Related Properties and other assets over which security has been created to secure the Purchased Loan Receivables (except in relation to Fund Loan Agreements, in which case the relevant loan will typically be secured by the present and future claims of the KAG for reimbursement of expenses (*Aufwändungsersatzansprüche*) against the relevant Fund and the undertaking of a KAG to grant, upon the request of the Seller, one or more first ranking mortgages on one or more Related Properties). The Obligors, in the case of Commercial Real Estate Loans, will typically have, pursuant to the terms of the Finance Documents, covenanted not to carry on business other than ownership and management of their respective Related Properties. Consequently, the ability of the Borrowers to make payments on the Loans prior to their respective Loan Maturity Dates, and therefore the ability of the Issuer to make payments on the Notes prior to the Final Maturity Date, is dependent primarily on the sufficiency of the net operating income of the relevant Related Properties. This in turn could adversely affect the ability of a Borrower to refinance its Loan or an Obligor to dispose of the relevant Related Property or Related Properties with a sufficient return to meet its obligations under the relevant Loan.

Other Indebtedness, Liabilities and Financing

The existence of indebtedness incurred by an Obligor other than that incurred under the relevant Finance Documents could adversely affect the financial viability of the Obligor. Additional debt increases the risk that the Obligor would lack the resources to perform both its obligations under the relevant Loan and in respect of such additional debt. In addition, the existence of any additional actual or contingent liabilities of an Obligor may result in the insolvency of such Obligor, which may lead to an unanticipated default under the relevant Loan Receivable or in respect of any such other indebtedness.

Limitations on the Activities and Indebtedness of Property Finance Vehicles

It is likely that many of the Borrowers (other than KAGs) are, or were at the time of their acquisition of the Related Properties, newly created entities (the "**Property Finance Vehicles**") whose purpose is to hold and administer the Related Properties being refinanced by the issue of the Notes. Property Finance Vehicles are often used in commercial loan transactions to satisfy the requirements of institutional lenders and rating agencies. The activities of such Property Finance Vehicles will likely be limited by covenants ("**Activity Limiting Covenants**") designed to restrict the purpose of the borrowing entity to owning a particular property or properties, making payments on the relevant Loan, incurring other indebtedness, and taking such other actions as may be necessary or incidental to such activities in order to reduce the risk that circumstances unrelated to the Loan Receivable and relevant Related Property or Related Properties result in a bankruptcy of the Property Finance Vehicle.

Investment Funds

Certain of the Purchased Loan Receivables arise under loans which have been made to German investment management companies (*Kapitalanlagegesellschaften* - each a "**KAG**") acting for the account of an investment funds (*Sondervermögen*). They constitute an obligation of the relevant KAG only and do not constitute an obligation of the related investment funds within the meaning of Section 2 para. 2 of the German Investment Act

(*Investmentgesetz*) investors in the investment funds, notwithstanding that such loans have been taken out by the KAG for the account of such investment funds. In an insolvency of the KAG, the Issuer as lender of such loans will, typically, have direct recourse to the assets of the KAG and will have no direct recourse to any assets of the relevant investment funds or to the investment fund investors.

Each of the Purchased Loan Receivables from loans made to KAGs is secured by certain claims for reimbursement of expenses (*Aufwendungsersatzansprüche*) of the relevant KAG against the related investment fund assigned by way of security (*Sicherungsabtretung*) to the Issuer. Such reimbursement claims entitle to claim reimbursement for costs and liabilities (such as loan obligations) incurred by the relevant KAG for the account of the related investment funds. They constitute limited recourse claims to the assets of the relevant investment fund only and do not provide recourse to the assets of the investors of such funds in excess thereof. Moreover, such reimbursement claims are subject to the condition that the corresponding transactions entered into by the KAGs have been duly made in accordance with the provisions of the German Investment Act and the applicable contractual obligations of the KAGs and the related investment funds. In the event of any violation of such statutory provisions or contractual obligations in respect of any loan, the amount of the related reimbursement claims of the relevant KAG which have been transferred by way of security to the Issuer could be materially less than the amount of such loan or even zero.

Loans granted to KAGs substantially rely on claims for reimbursement as security. Typically, no further security is created in respect of Loans made to KAGs on or about the date of the relevant loan agreement. Instead the relevant KAG typically grants the right to request the creation of further security upon a default (a "**Security Creation Undertaking**"). The security to be granted under a Security Creation Undertaking normally comprises the creation of a mortgage, the assignment of lease receivables and the assignment of insurance claims. In order to mitigate the risk of prior ranking mortgages existing at the time that the creation of a mortgage is requested, the Borrowers have granted a negative pledge.

Following a request to grant a Future Mortgage as collateral for a Purchased Loan Receivable, the creation of such Future Mortgage will require a certain period of time. During that period of time, the relevant KAG may become subject to, *inter alia*, certain measures pursuant to the KWG or insolvency proceedings. Due to legal uncertainty regarding the validity and enforceability of a Security Creation Undertaking of the Issuer in the insolvency of the relevant KAG, there is no guarantee or assurance that, upon the occurrence of such a default or insolvency, additional security will be granted to the Issuer. The investors should therefore not expect that, upon the insolvency of a KAG, the relevant Purchased Loan Receivables will be secured by any security other than reimbursement claims.

Loans granted to a KAG have been granted in respect of specific properties. However, repayment of the Loan does not depend only on the cash flow generated by the relevant properties but on all cash flow generating assets held by the related real estate fund. This means that any investor may benefit from, but is also exposed to risks related to the whole portfolio held by a real estate fund and not only to the risks relating to the property in relation to which financing has been granted.

Loans granted to KAGs are made under standard documentation of the originator and do usually not benefit from certain features often found in other commercial real estate loan agreements. KAGs are, however, subject to regulatory requirements.

Compliance with Applicable Laws and Regulations May Result in Losses

An Obligor may be required to incur costs to comply with various existing and future laws and regulations applicable to the Related Property. The expenditure of such costs or the imposition of injunctive relief, penalties or fines in connection with the related Obligor's non-compliance could negatively impact the Obligor's cashflow and, consequently, its ability to make payments under its Loan.

Insolvency of Obligors

From time to time following the Closing Date, the Issuer may acquire Loans secured by commercial properties located in the Initial Property Jurisdictions and other jurisdictions, pursuant to security interests created and perfected under the laws of the relevant jurisdiction. As such, the laws of the relevant jurisdiction will impact upon the process by which the Loan Collateral is enforced. As of the Closing Date the Obligors include entities in the Initial Borrower Jurisdictions, and it is likely that the law of the relevant jurisdiction will apply to insolvency proceedings in respect of the relevant Obligor.

This Prospectus only describes certain selected risks as they relate to German Obligors, Belgian Obligors, Luxembourg Obligors, Dutch Obligors and Spanish Obligors and enforcement procedures in Germany,

Belgium, France, Luxembourg, The Netherlands and Spain. Some of the risks generally described herein may also apply to all Related Properties. However, potential investors should be aware that other laws of such jurisdictions, including, without limitation, the applicable insolvency laws, and the laws of other jurisdictions might also become relevant. Such laws may require the enforcement of a mortgage over real property to be effected by way of a public auction, which may result in substantial delay. Moreover, such laws may provide for a mandatory reprieve or "cooling-off" period to apply in case of bankruptcy or moratorium of payments of the security provider which, if applicable, would delay the exercise of the security rights and laws for the avoidance of certain types of transactions, including a grant of security. Specific creditors may benefit from privileged rights that take precedence over the rights of other secured or unsecured creditors. The rights of the Issuer with respect to the Purchased Loan Receivables and the rights of the Obligors with respect to any Purchased Loan Receivable may be subject to various insolvency laws in the jurisdictions of incorporation of the Obligors or the Purchased Loan Receivables, as applicable, and, if different, the jurisdictions from which the Obligors conduct their business and in which they hold their assets, which may adversely affect such Obligors' abilities to make payment on a full or timely basis. These insolvency considerations will differ depending on the country in which each such Obligor or its assets is located and may differ depending on the legal status of the Obligor. In particular, it should be noted that a number of continental European jurisdictions operate "debtor-friendly" insolvency regimes which could result in additional delays in the receipt of amounts that become due under the Purchased Loan Receivables where Obligors thereunder are subject to such regimes, in the event of their insolvency. The insolvency regimes of different jurisdictions are likely to vary with respect to, among other things, any statutory moratorium periods during which enforcement of security interests is prevented and the continuing effectiveness after the onset of insolvency of security interests granted prior thereto. There can be no assurance that any insolvency laws of any jurisdiction will not in themselves cause additional costs or delays in the enforcement of security in connection with any Purchased Loan Receivable.

Borrower Hedge Arrangements

It is likely that the Borrowers under the Loans will have entered into interest rate hedge or interest rate cap agreements (collectively, the "**Borrower Hedge Arrangements**") to protect themselves against significant movements in the interest rate which they are required to pay on the applicable Loan as compared to the income stream generated by their relevant Related Properties or other assets. The obligations of the Borrowers under the Loans to pay amounts to the related hedge counterparty under the Borrower Hedge Arrangements (including any obligations to pay termination payments) will likely rank senior to or *pari passu* with the obligations of the related Borrower to make debt service payments under the related Loan (save for certain amounts that may be specifically subordinated).

Depending upon whether the related Borrower Hedge Arrangement amortises in a manner consistent with the amortisation of the related Loan, it is possible that the notional amount of the relevant Borrower Hedge Arrangement will be greater than the principal amount of the related Loan. In such instance, the related Borrower: (a) will be required to pay interest accrued on such excess notional amount at the rate set out in the related Borrower Hedge Arrangement; or (b) may incur costs in terminating that portion of the swap. In addition, in the event the notional amount of such Borrower Hedge Arrangement is less than the principal amount of the related Loan and further hedging arrangements are not entered into with respect to such excess amount, the related Borrower will be exposed to interest rate risk. As a result, amounts available for distribution on the related Loan may be reduced.

There are certain circumstances in which the Borrower Hedge Arrangements may be terminated, including, without limitation, due to non-payment by the related Borrower or a downgrade in the rating of the related hedge counterparty. Certain of the Loans will require the related Borrower to indemnify the related hedge provider for any related swap breakage costs if such swap breakage is the result of a prepayment or an acceleration upon an event of default in relation to the relevant Loan (though such indemnification may not exist with respect to all of the Borrower Hedge Arrangements). There can be no assurance that any Borrower that has agreed to indemnify the related hedge provider for such swap termination payments will have the resources to make such payments along with all other amounts due on the related Loan.

Certain of the Borrower Hedge Arrangements may not provide for a termination in the event of a downgrade in the rating of the related hedge counterparty. In any such case, the Borrower would be exposed to the credit risk of the related hedge counterparty and, in the event such hedge counterparty fails to make any required payment under the Borrower Hedge Arrangements, the Borrower may not receive sufficient funds to make all payments then due on the related Loan. In addition, Loans may experience a loss if a Borrower Hedge Arrangement terminates and the related Borrower, as a result of such termination, does not receive sufficient funds to make all payments then due on the related Loan, or the Borrower in the case of a Loan does not have sufficient cash-flow from the Related Property to pay interest on such Loan or if, as a result of a termination, the Borrower becomes

liable to pay only a fixed rate of interest under such Loan. Further, if a Borrower Hedge Arrangement terminates there can be no assurance that the relevant Borrower will be able to enter into an alternative hedge arrangement.

Litigation May Have Consequences for Obligors

From time to time, there may be legal proceedings pending or threatened against the Obligors and their affiliates relating to, or arising out of the ordinary course of, their respective businesses. It is possible that such litigation may have a material adverse effect on any such Obligor's ability to meet its obligations under the related Purchased Loan Receivable.

The Properties

Limitations of Valuations

Purchased Loan Receivables may be secured, in whole or in part by Related Properties. The Related Properties are likely to have been the subject of valuations conducted at the time the relevant Commercial Real Estate Loan was disbursed. A valuation represents the analysis and opinion of a qualified valuer at the time of the relevant valuation and is not a guarantee of present or future value. One valuer may reach a different conclusion in relation to a property than the conclusion that would be reached if a different valuer were appraising the same property at the same time, and the same valuer may reach a different conclusion when appraising the same property at a later date. Moreover, valuations seek to establish the amount that a normally motivated buyer would pay a normally motivated seller and, in certain cases, may have taken into consideration the purchase price paid by the existing property owner. Such amount could be significantly higher than the amount obtained from the sale of a property under a distressed or liquidation sale. There can be no assurance that the market value of a Related Property has not decreased since the date of the relevant valuation or that the market value of the Related Properties will equal or exceed such valuations on the Closing Date or during the lifetime of the Notes. Furthermore, there has been no revaluation of the Related Properties for the purposes of the preparation of this Prospectus and the issuance of the Notes. However, the Seller often requests updated valuations on a regular basis. As the market value of the Related Properties fluctuates, there can be no assurance that the market value will be equal to or greater than the unpaid principal and accrued interest on the relevant Loan and any other amounts due under the relevant Finance Documents. If any Related Property is sold following an event of default in respect of the relevant Purchased Loan Receivable, there can be no assurance that the net proceeds of such sale will be sufficient to pay in full all amounts due under the relevant Finance Documents. No ready market may exist for the sale of commercial properties such as the Related Properties.

Office Properties

Purchased Loan Receivables may be secured, in whole or in part, by office properties. The income from and market value of an office property, and a borrower's ability to meet its obligations under a mortgage loan secured by an office property, are subject to a number of risks. In particular, a given property's age, location, condition, design, access to transportation and ability to offer certain amenities to tenants, including parking spaces and sophisticated building systems (such as fibre optic cables, satellite communications, air conditioning or other base building technological features) all affect the ability of such a property to compete against other office properties in the area in attracting and retaining tenants. Other important factors that affect the ability of an office property to attract or retain tenants include the quality of a building's existing tenants, the quality of the building's property manager, the attractiveness of the building and the surrounding area to prospective tenants and their customers or clients, access to public transportation and major roads and the public perception of safety in the surrounding neighbourhood. Attracting and retaining tenants often involves refitting, repairing or making improvements to office space to accommodate the type of business conducted by prospective tenants or a change in the type of business conducted by existing major tenants. Such refitting, repairing or improvements are often more costly for office properties than for other property types. Local and regional economic conditions and other related factors also affect the demand for and operation of office properties. For example, decisions by companies to locate an office in a given area will be influenced by factors such as labour cost and quality, and quality of life issues such as those relating to schools and cultural amenities.

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

Each of the foregoing circumstances and events may, individually or in the aggregate, adversely affect the income from and market value of the office properties and thereby increase the possibility that the Borrowers

under the Purchased Loan Receivables secured by such Related Properties will be unable to meet their obligations under such Purchased Loan Receivables.

Retail Properties

Purchased Loan Receivables may be secured, in whole or in part, by retail properties. The value of retail properties is significantly affected by the quality of the tenants as well as by more general commercial property factors, such as location and market demographics. In addition to location, competition from other retail spaces or the construction of new retail spaces, retail properties face competition from other forms of retailing outside a given property market (such as mail order and catalogue selling, discount shopping centres and selling through the Internet), which may reduce retailers' need for space at a given shopping centre. The continued growth of these alternative forms of retailing could adversely affect the demand for space and, therefore, the rents collectable from retail properties.

Other key factors affecting the value of retail properties include the quality of management of the properties, the attractiveness of the properties and the surrounding neighbourhood to tenants and their customers, the public perception of the safety in the neighbourhood, access to public transportation and major roads and the need to make major repairs or improvements to satisfy major tenants.

Each of the foregoing circumstances and events may, individually or in the aggregate, adversely affect the income from and market value of the properties and thereby increase the possibility that the Borrowers under the Purchased Loan Receivables secured by such Related Properties will be unable to meet their obligations under such Purchased Loan Receivables.

Multi-family Properties and Residential Units in Mixed Use/Other Properties

Purchased Loan Receivables may be secured, in whole or in part, by multi-family properties or predominantly residential mixed use properties. A number of factors may adversely affect the value of multi-family properties, including: (i) the physical attributes of the apartment building (such as its age, appearance and construction quality); (ii) the location of the property (including any change in the character of the relevant neighbourhood over time); (iii) the ability of the management company in respect of the property to provide adequate maintenance and insurance; (iv) the types of amenities the property provides; (v) the property's reputation; (vi) the level of mortgage interest rates (which may encourage tenants to purchase rather than rent housing); (vii) the presence or development of competing properties; (viii) adverse local, regional or national economic conditions (which may limit the amount that may be charged and may result in a reduction in timely rent payments or a reduction in occupancy levels); and (ix) local regulations which affect the building owner's ability to increase rent to the market rent for an equivalent apartment. Further, the cost of operating a multi-family property, including the costs of utilities and the costs of required capital expenditures, may increase. All of these conditions and events may increase the possibility that an Obligor owning this kind of Related Property may be unable to meet its obligations under the relevant Purchased Loan Receivable.

Landlords in respect of residential properties may be restricted in their ability to increase rents (and, where increases are permissible, are further restricted in relation to the amount of such increase) and to terminate residential leases. Such restrictions in relation to rent increases and termination rights could cause losses for an Obligor which may, in turn, affect its ability to meet its obligations under the relevant Finance Documents.

The residential units relating to a Related Property may be or have formerly been subsidised social housing apartments, which were subsidised with funds from public sources. Such properties may be subject to restrictions in respect of the amount of rent that can be charged and may be restricted to renting to low income tenants.

Such restrictions in relation to rent, rent increase and permissible tenants could cause losses for the relevant Obligor as the Obligor may not be permitted to let the relevant property to a preferable tenant and in preferable rental conditions. In addition, rents or rent increases that are not in compliance with the relevant requirements could lead to (i) the Obligor having to pay back the excess amount, (ii) a penalty payment, and (iii) in certain cases of eminent violations of the requirements, even to a criminal sentence.

The Obligors in relation to subsidised debt may have creditors ("**Existing Subsidised Lenders**") to whom subsidised debt is owed. Because the subsidised debt generally benefits the relevant Obligors by providing low-interest funding, the subsidised debt may not be discharged, and the Existing Subsidised Lenders will have payment rights and security interests in respect of the subsidised debt ranking in priority to the mortgages granted in respect of the relevant Related Properties that secure the relevant Loan.

Encumbrances over the Properties

Purchased Loan Receivables may be secured, in whole or in part, by Related Properties. The Related Properties may be subject to various types of encumbrances (other than mortgages) under civil and/or public law which may also rank in priority to the mortgages granted or Future Mortgages to be granted in respect of the relevant Related Properties that secure the relevant Purchased Loan Receivable. The encumbrances may include, without limitation, priority notices of conveyance in favour of third parties in relation to the whole or a part of a property, pre-emption rights, easements granting certain rights of use to or restricting the use of the encumbered property for the benefit of the owners of another, typically neighbouring, property and limited personal easements granting certain rights of use to or restricting the use of the encumbered property for the benefit of another person, such as rights of way, tenant easements securing the rights of tenants to use the relevant property for the contemplated use, rights to maintain and operate certain pipes or cables or installations on the encumbered properties and public easements providing for certain obligations of or restrictions on the respective owners of the encumbered property in order to permanently secure the compliance of the affected property and/or the neighbouring properties with the applicable building law restrictions and requirements and requirements relating to urban development and preservation areas, including rights of way, easement to treat legally separate pieces of property as a single property for purposes of public building law, easements to keep certain parts of properties free of constructions, easement to provide parking spaces, or restraints on disposal and protection of the property. All of these circumstances may diminish the value of the affected Related Properties or negatively affect the future operation of the Related Properties by the Obligors or the disposal of the properties by the Obligors and thereby the Obligors' ability to make payment under the relevant Loans.

Environmental and Structural Risks

The Related Properties securing, in whole or in part, the Purchased Loan Receivables may carry environmental and structural risks. Environmental and structural reports have not been prepared in relation to each of the Loans. Where an environmental or structural report has been prepared in connection with the granting of a Loan, such report has not been updated for the purpose of the purchase of the Loan Receivables by the Purchaser.

Any measures and/or costs mentioned in environmental or structural surveys, monitoring, clean up, repair or decontamination measures and/or costs, if imposed on an Obligor in relation to a Related Property, could affect its ability to service its obligations under the relevant Finance Documents. When such measures or their costs are imposed on a tenant this might affect its ability to pay rent to the relevant Obligor, thereby affecting the relevant Borrower's ability to service its obligations under the relevant Loan. The existence of environmental and/or structural defects or suspicions thereof might also adversely affect the value of the relevant Related Property and consequently the security (especially the mortgage) granted by such Obligor. In addition, a tenant may be entitled to reduce the rent and/or to terminate the relevant lease agreement prematurely if environmental and/or structural risks exist that limit the possibility to use the property, especially if there are health risks. This may affect the relevant Borrower's ability to service its obligations under the relevant Loan.

According to German law, a person, including an Obligor, can be held liable for environmental risks if it has either (i) caused such risk or (ii) if it is in possession of the property the risk is located on. The possessing person can be held liable even if an environmental risk is discovered in the future without any indications. Accordingly, an Obligor can be held liable by the competent public authorities for investigation measures, clean up work or clean up costs.

Pursuant to French environment and public health regulations, the Obligors, as owners of the land, have predominantly the following obligations and liabilities, it being however specified that the specific obligations and liabilities of an Obligor in the context of the sale of its property are not described hereby:

- Responsibilities with respect to land remediation and monitoring usually lie with the title operator of the regulated activities and installations located thereon. Since 2003, municipal authorities may also under certain circumstances require not only the operator (usually the tenant of the properties) but also an Obligor as landlord to carry out clean up works of a polluted site. For contractual responsibility reasons, and before any purchase of the property, it is customary for the future purchaser to assess the environmental condition of the land in order to determine whether past activities are likely to have been a source of environmental conditions which may eventually require soil and/or groundwater investigation, monitoring or cleanup.
- The operation of classified facilities (i.e., industrial facilities that are likely to present a risk to, mainly, human health and safety, the protection of the natural environment, as listed under French law) is subject to the granting of an operating permit by the local authority, which may be subject to specific

prescriptions (including compliance works) incumbent on the operator in order to obtain the operating permit and to further operate the classified facilities.

Certain due diligence reports and environmental and structural surveys in relation to certain Related Properties refer to existing or potential environmental and/or structural issues including contaminations or defects which require repair.

Public Construction Measures, Public Planning and Construction Law, Safety and Property Condition

The Related Properties are subject to provisions under public planning and construction law which may restrict the use and the further development of the Related Properties. This includes, among others restriction on the use of Related Properties and the requirement to comply with stringent noise protection, fire protection and air pollution regulations.

Expropriation

A Related Property may be expropriated in connection with the fulfilment of public tasks, such as redevelopment or infrastructure projects. An expropriation must be based on a specific aim and must be indispensable for the general public welfare. In connection with an expropriation, adequate compensation must be paid to the owner of the Related Property in the amount of the market value. Generally, the compensation will be paid in money; however, in some cases the owner can be provided with alternative property or securities as compensation. Therefore, there is a risk that the amount received by way of compensation for the compulsory sale of a Related Property may be insufficient for the relevant Obligor to repay its Loan or any other amounts due with respect to the relevant Finance Documents which may result in the Issuer not being able to redeem the relevant Notes in full. In such event, the Noteholders may receive by way of principal repayment an amount less than the face value of their Notes and the Issuer may be unable to pay in full interest due on the Notes.

In the event of an expropriation of a Related Property, tenants would cease to be obliged to make any further rental payments to the relevant Obligor and/or assignees of the rent receivables under the relevant leases. In addition, there is often a delay between the expropriation of a property and the payment of compensation dependent on the parties' ability to agree upon the open market value of the Related Property. As the tenants' obligations to pay rent would cease on completion of the expropriation, in the event of an expropriation of a Related Property, unless the relevant Obligor had other funds available to it, which is unlikely to be the case, it may be unable to meet its obligations under the relevant Finance Documents. If, following the Closing Date, the Issuer acquires Loans secured by Related Properties, similar or more disadvantageous conditions may apply.

Tenants and Leases

Tenants and Leases generally

The Obligors generally rely on periodic service charge payments from tenants to pay for maintenance and other operating expenses of the Related Properties, and periodic rental payments to service the relevant Purchased Loan Receivable and any other debt or obligations it may have outstanding. Prior to the beginning of or during the term of the Loans, some of the leases that formed the basis of the relevant valuations may have or will come to an end. This may also occur in relation to new leases granted by an Obligor. In addition, other leases may terminate earlier than anticipated if the relevant tenant surrenders its lease or defaults in the performance of its obligations. Further leases may contain contractual or statutory break clauses which, if exercised, will lead to a termination of the relevant lease. There can be no guarantee that tenants will renew leases upon expiration or, in the case of a commercial tenant, that it will remain solvent and able to perform its obligations throughout the term of its lease. The income from, and the market value of, the Related Properties would be adversely affected if space in the Related Properties could not be leased or re-let, if tenants were unable to meet their lease obligations, if a significant tenant (or a number of smaller tenants) were to become insolvent, or if for any other reason rental payments could not be collected.

Certain leases contain restrictions on the landlord to let other premises of the Related Property to tenants with competing or similar businesses. This may limit the ability of the relevant Obligor to find new tenants for vacant areas.

Net operating income from a Related Property may be reduced, and the relevant Obligor's ability to repay the relevant Purchased Loan Receivables impaired, as a result of, among other things, an increase in vacancy rates for the Related Property, a decline in market rental rates as leases are renewed or entered into with new tenants, an increase in operating expenses of the Related Property and/or an increase in capital expenditure needed to maintain the Related Property.

No assurance can be given that tenants in the Related Properties will continue making payments, or more generally perform their obligations, under their leases (including, without limitation, due to poor commercial performance or due to exercising rights of set off, rent reduction or rights to claim damages available (where applicable) under a lease or under applicable law) or that any such tenants will not become insolvent or subject to administration in the future or, if any such tenants become subject to administration, that they will continue to make rental payments in a timely manner. In addition, a commercial tenant may, from time to time, experience a downturn in its business, which may weaken its financial condition and result in a failure to make rental payments when due. If a tenant defaults in its obligations under its occupational lease, the relevant Obligor may experience delays in enforcing its rights as lessor and may incur substantial costs and experience significant delays associated with protecting its investment, including costs incurred in renovating and re letting the Related Property.

In general, the terms of the Finance Documents may provide that no new lease may be entered into, no existing lease may be amended, surrendered, sub leased or assigned and no rent review may be agreed in relation to any lease without the consent of the relevant facility agent or the relevant Borrower Security Trustee, as applicable. Exceptions exist, however, including exceptions for smaller leases below a minimum rental value which varies by Related Property. Certain other such things may also be done in particular circumstances without the consent of the relevant facility agent.

There can be no assurance that leases on terms (including rent payable and the covenants of the tenant and the landlord) equivalent to those applicable to the leases that formed the basis of the valuations obtained at the time of or prior to the disbursements of the Purchased Loan Receivables will be obtainable in the market at such time, that market practice will not have changed or that the circumstances of prospective tenants will not make some or all of such provisions inappropriate. The discretions given to the Obligors as to the matters described above may result in a diminution in the quality of the tenants of the Related Properties or the terms of their occupational leases over the life of the Notes.

Any of these factors may result in a decline in the income produced by the Related Properties or in the Obligors incurring unforeseen liabilities, which may in turn adversely affect the ability of the Obligors to meet their obligations in respect of the Purchased Loan Receivables and hence the ability of the Issuer to make payments on the Notes.

Properties and Obligors in the Initial Borrower Jurisdictions/Initial Property Jurisdictions

As at the Closing Date, all of the Related Properties (and, accordingly, the relevant tenants) securing the Initial Loan Receivables are expected to be located in an Initial Property Jurisdiction and the majority of the Obligors are located in the Initial Borrower Jurisdictions. This section describes certain risks that are specific to Related Properties, Obligors and leases.

Servicing and Property Management, Insurance

Servicing

In the circumstances described under the section entitled "*SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS – THE SERVICING AGREEMENT*", the Servicer and/or the Special Servicer may cease to act as such under the Servicing Agreement. Although each such agreement provides that the termination of the appointment of the Servicer and/or Special Servicer may not take effect until such time as a satisfactory successor has been appointed, there can be no assurance that a successor could be found who would be willing to service the relevant Purchased Loan Receivables at a commercially reasonable fee, or at all.

Furthermore, the ability of any successor servicer and/or special servicer to service and/or specially service effectively the Purchased Loan Receivables would depend on the information and records made available to it. In the case of the termination of the appointment of Servicer and/or Special Servicer, although the relevant agreements provide for the fees payable to a successor to be consistent with those generally payable at that time to providers of commercial mortgage loan servicing services there can be no assurances that the fees payable by the Issuer to the successor would not be higher than those payable to the Servicer and/or Special Servicer, as applicable, on the Closing Date. As with the fees payable to the Servicer and/or Special Servicer, the fees and expenses of a successor Servicer and/or Special Servicer would be payable in priority to payment of interest under the Notes. None of the Borrower Security Trustees or the Trustee will have any responsibility for performing the role of Servicer and/or Special Servicer at any time.

Property Management

The net cash flow realised from and/or the residual value of the Related Properties may be affected by management decisions made by the property managers appointed in respect of the Related Properties (the "**Property Managers**"). Property Managers typically have broad decision making rights under their respective property management agreements. In particular, the Property Managers, subject to certain general restrictions, are typically responsible for (or are acting as agents of the relevant Obligor for the purpose of) finding and selecting new tenants on the expiry of existing tenancies (and their replacements) and for negotiating the terms of the tenancies with such tenants (subject in most cases to the approval of the relevant facility agent under the relevant Finance Documents). No representation or warranty is made as to the skills or financial condition of any present or future property manager. There can be no assurance that a Property Manager's decisions or financial condition or those of a future property manager will not adversely affect the value and/or cash flows in respect of the relevant Related Property. There can be no assurance that, were a Property Manager to resign or if such appointment were to be terminated, a suitable replacement property manager could be found in a timely manner, and engaged on terms acceptable to the relevant facility agent. In addition, the Property Managers may also operate, manage, acquire or sell properties in the same markets as the Related Properties, and in such cases, the interests of the relevant Property Manager or the interests of other parties for whom it performs servicing functions may compete with the interests of the relevant Obligors. Property Managers may be the same entity as or affiliated with an Obligor. The insolvency of an Obligor may, therefore, be correlated with the insolvency of the relevant Property Manager and *vice versa*. Where a Borrower Security Trustee has been appointed, such Borrower Security Trustee may not have a direct claim for performance of servicing tasks by the relevant Property Manager.

Insurance

Although the Loans typically require the Related Properties to be insured at levels deemed appropriate, there can be no assurance that any loss incurred will be of a type covered by such insurance and will not exceed the limits of such insurance. Should an uninsured loss or a loss in excess of insured limits occur at or in relation to a Related Property, a Borrower and therefore potentially the Issuer, could suffer disruption of income from the Related Property, potentially for an extended period of time, while remaining responsible for any financial obligations relating to the Related Property. In addition, the Borrowers and the Issuer are relying on the creditworthiness of the insurers providing insurance with respect to the Related Property and the continuing availability of insurance to cover the required risks, in respect of neither of which assurances can be made. Certain types of losses (such as losses resulting from wars, terrorism, nuclear radiation, radioactive contamination, heaving or settling of structures or severe storm or floods etc.) may be or become either uninsurable or not economically insurable, or are otherwise not covered by the required insurance policies. Other risks might become uninsurable (or not economically insurable) in the future. A Borrower's ability to repay the Loan may be affected adversely if such an uninsured or uninsurable loss were to occur.

4.4 MATTERS RELATING TO CERTAIN JURISDICTIONS

Germany

General Aspects of German Law

In relation to Loan Receivables and Loan Collateral which are governed by German law, properties located in Germany, Obligors which are incorporated under German law and the provisions of the Transaction Documents governed by German law, German law will apply.

German law is governed by the principle of good faith (*Treu und Glauben*). Contractual rights and obligations which are regarded to be in breach of the principle of good faith may be re-interpreted or declared void by a court. This would apply, *inter alia*, to the German law governed Loan Agreements, real estate related agreements, including lease contracts, and agreements under which security is granted. As regards lease contracts, German courts have a tendency to apply the principle of good faith in order to protect the rights of the lessee. General terms and conditions are subject to particular scrutiny by German courts.

In relation to real estate related *in rem* rights (i.e. title to a property and mortgages), registration in the land register (*Grundbuch*) is generally required. Non-registration may restrict enforcement of such real estate related rights. Particular provisions apply to hereditary building rights (*Erbbaurechte*). Under a hereditary building right the relevant beneficiary obtains the right from the relevant property owner to maintain a building on the relevant freehold property against payment of certain amounts.

The enforcement of German law mortgages (*Grundschulden*) is governed by the German Compulsory Enforcement Act (*Zwangsvollstreckungsgesetz*) which provides for a certain enforcement procedure and for an

order of seniority pursuant to which the enforcement procedures are allocated to different classes of creditors. Enforcement proceedings may take a substantial amount of time and there is no assurance that all claims of the creditors will be satisfied.

Other German Loan Collateral will need to be enforced in accordance with the underlying security documents and statutory provisions which may restrict enforcement to a certain extent. An enforcement of claims including security may require the presentation of the original of the relevant document. Excessive security may be void or may have to be released.

German public law governs the legal relationship between the state and the property owners. The relevant provisions and measures under German public law may, *inter alia*, affect the value, use, sale and design of properties located in Germany.

The enforcement of rights, including any security interest, may be restricted under the German insolvency code (*Insolvenzordnung*), if the security provider or any other person is insolvent.

The Obligors may become liable to German taxes including, *inter alia*, trade tax (*Gewerbesteuer*), corporation tax (*Körperschaftsteuer*) and income tax (*Einkommenssteuer*). The business operations of the Obligors may trigger German value added tax (*Umsatzsteuer*) and real estate transfer tax (*Gründerwerbssteuer*). In certain cases a tax liability may be incurred although the Obligor has not expected to incur taxes.

If the Issuer is regarded to be tax resident in Germany by having a German permanent establishment, the Issuer will be subject to German taxation. In addition German corporate income tax may be triggered if the Issuer is deemed to have a permanent representative in Germany. Further, German tax may arise regarding the interest income of the Loans paid from cash flow generated by properties located in Germany in case the Issuer is not entitled to treaty protection under the German-Luxembourg double taxation treaty.

Insolvency in Germany

In German insolvency proceedings in respect of any person (each, an "**Insolvent Person**"), a creditor of such Insolvent Person who is validly secured by an assignment of receivables will have a preferential right to such receivables (*Absonderungsrecht*). Enforcement of such a preferential right is subject to the provisions set forth in the Insolvency Code. In particular, the secured creditor may not enforce its security interest itself, but the insolvency administrator appointed in respect of the estate of the Insolvent Person will be entitled to enforcement. The insolvency administrator is obliged to transfer the proceeds from such enforcement to the creditor. He may, however, deduct fees and costs from the enforcement proceeds which may amount to up to four per cent. (4%) of the enforcement proceeds for the determination of the receivables plus up to five per cent. (5%) for the enforcement process itself (in certain cases, more than five per cent. (5%)) of the enforcement proceeds plus, in each case, if applicable, value added tax. Such deductions would be applicable to (a) any assignment of receivables comprised in the Loan Collateral, (b) the assignment by the Seller to the Issuer of the Purchased Loan Receivables if such assignment were characterised as providing security rather than as a sale and (c) the assignment by the Issuer of the Purchased Loan Receivables to the Trustee.

The assignment of the Purchased Loan Receivables under the Loan Receivables Purchase Agreement is expressed to be made in the context of a sale from the Seller to the Issuer rather than in the context of a security assignment to secure a loan from the Issuer to the Seller. If the classification as a sale were upheld, the Issuer should have a right to separation (*Aussonderungsrecht*) of the Purchased Loan Receivables from the estate of the Seller in the event of the insolvency of the Seller and, consequently, the cost sharing provisions which apply to preferential rights (*Absonderungsrechte*) would not apply to such Purchased Loan Receivables.

However, this analysis could be challenged when the Seller holds a legal or economic interest in a substantial portion of the Notes. The Issuer's ability to fulfil its payment obligations under the Notes depends, *inter alia*, on the creditworthiness of and the timely payments by the Borrowers under the Purchased Loan Receivables. Any payment default by a Borrower under such Purchased Loan Receivables may lead to a shortfall under the Issuer's outstanding payment obligations under the Notes. Accordingly, the Notes carry the credit risk in relation to the Purchased Loan Receivables and the Seller could be seen to retain risks in the Purchased Loan Receivables. Therefore, one could take the view that the credit default risk relating to the Borrowers of such Purchased Loan Receivables (*Delkredererisiko*) remains with the Seller.

In addition, the Liquidity Facilities and the RR Expenses Facility could be regarded as credit enhancement provided by the Seller. In this context, it could be argued by the relevant insolvency administrator that the Seller does not transfer the default risk in relation to the Purchased Loan Receivables to the Purchaser and that the sale

transaction contemplated by the Transaction Documents constitutes a secured loan because the Seller of the relevant Purchased Loan Receivables remains substantially exposed to the collection and credit risk attaching to the Purchased Loan Receivables as any repayment of principal and payment of interest under the Liquidity Facilities and the RR Expenses Facility is dependent on the Purchased Loan Receivables being collectible.

Generally, in certain circumstances, the granting of security or the entering of into a contract or other legal act by a party which subsequently becomes subject to German insolvency proceedings, may be challenged by an insolvency administrator of such party in accordance with Section 129 *et seq.* of the German Insolvency Code (*Insolvenzordnung*) if such security, contract or other legal act was detrimental for creditors of the insolvent entity, e.g. where such legal act was made within three (3) months before the application for the filing of insolvency proceedings **provided that** at the date of such legal act the entity entering into the relevant transaction was unable to pay its debt and the relevant counter party to such insolvent entity knew or should have known of such inability at the time such legal act was made.

Set-off Borrowers; defences

According to Section 404 of the German Civil Code (*Bürgerliches Gesetzbuch*), any Borrower may invoke all defences against the Issuer which were available (*begründet*) against the originator at the time of the assignment of the Loan Receivables to the Issuer. In addition to that, pursuant to Section 406 of the German Civil Code (*Bürgerliches Gesetzbuch*) any Borrower may set off against the Issuer an existing counter-claim which the relevant Borrower has against the originator, unless the relevant Borrower knew of the assignment of the Loan Receivable to the Issuer at the time he acquired the counter-claim, or unless the counter-claim has only become due and payable after (i) the relevant Borrower had obtained knowledge of the assignment and (ii) the relevant Loan Receivable became due and payable. Therefore, even after a Loan Receivable is transferred to the Issuer, the respective Borrower could use a claim which it has against the originator (such as by reason of a deposit or a swap arrangement) to set off against the Loan Receivable if the above mentioned requirements are met. In order to mitigate set-off risks with respect to counter-claims becoming due and payable after the relevant Borrower had obtained knowledge of the assignment, the Issuer will notify the relevant Borrowers regarding the Initial Loan Receivables (other than any RR Assets) within fifteen (15) Business Days after the Closing Date if a set-off-risk exists.

Performance upon Demand

Where an Obligor has undertaken to provide security upon demand (*Leistung auf erstes Anfordern*), it is the intention that the relevant Obligor complies with any request by the Issuer to create security immediately and without ascertaining any defences. To the extent that such undertaking relates to the waiver of defences and the prompt compliance with any request to create security, German courts have adjudicated such undertaking to be enforceable only against banks, credit institutions and major corporations engaging in international transactions on a regular basis. Accordingly, there is a risk that security will not be created as promptly as expected.

Submission to Immediate Enforcement

It is common practice in German real estate lending to request submission to immediate enforcement by an Obligor. The submission to immediate enforcement under a mortgage deed by an Obligor vis-à-vis the mortgage creditor may constitute an inadequate disadvantage (*unangemessene Benachteiligung*) pursuant to Section 307 para. 1 sentence 1 Civil Code (*Bürgerliches Gesetzbuch*). There is a risk that in an enforcement scenario, the Issuer may need to obtain a title in court which requires additional time and costs.

Mortgage Registration

As at the date of this Prospectus, mortgages over German Properties were registered only in respect of Mortgage Loan Agreements in each case first ranking in section III of the land registers. No mortgages have been created with regard to the Fund Loan Agreement granted in respect of Related Properties located in Germany. The Obligor under the relevant Fund Loan Agreement has only granted a contractual right to the Seller to demand a mortgage to be granted over the relevant German Property under certain circumstances. Such contractual right will be assigned to the Issuer in the context of the purchase of the relevant Loan Receivable. If the Issuer exercises its rights (subject to the relevant Loan Agreement and the related documentation) to demand a mortgage to be granted, the relevant Obligor will need to execute a mortgage deed. In addition, it should be noted that the registration of a mortgage in a German land register may require significant time. The contractual right of the Seller to demand a mortgage to be granted is not secured by a priority notice.

Senior Ranking Encumbrances, Redevelopment Notices and Public Building Charges

In various instances encumbrances registered in section II of the land registers (*Abteilung II der Grundbücher*) will rank ahead of and are permitted to rank ahead of any Related Mortgage or Future Mortgage relating to a German Property. Such encumbrances may, if and to the extent they limit the relevant owner's right to make use

of a German Property, affect the value of the German Property. All such senior ranking encumbrances will have to be assumed by a purchaser in a compulsory sale or any other sale.

A number of other rights may also have an impact on the use and/or value of the relevant German Property. A limited number of German Properties may be encumbered by notices relating to special urban areas, e.g. a redevelopment notice (*Sanierungsvermerk*) or an urban refurbishment notice (*Stadtentwicklungsvermerk*) due to the fact that they are located in areas designated as a redevelopment area (*Sanierungsgebiet*) or an urban refurbishment area (*Stadtentwicklungsgebiet*). In relation to a Loan granted to a KAG, the competent public authority will have to consent to the creation of encumbrances over the German Property, including mortgages as such property is located in an urban refurbishment area (*Stadtentwicklungsgebiet*).

If a German Property is located within such an area, the competent public authority may need to consent to any sale, encumbrance and lease agreement with a fixed term of more than one year and compensation payments may have to be made to the public authorities. This may restrict the Obligor's possibility to sell or let the relevant German Property which may affect the relevant Borrower's ability to meet its obligations under the relevant Loan.

A further impact on the use of a limited number of the German Properties may result from public building charges (*Baulasten*) created under public building law regulations.

Early Termination of German Leases due to Defects with Regard to the Requirements of Written Form

Lease agreements with a fixed term exceeding one year (i.e. most commercial leases but only rarely residential leases) are subject to the requirements of written form under Section 550 of the German Civil Code (*Bürgerliches Gesetzbuch*). According to German law, German lease agreements may suffer from a lack of written form requirements, for example, if: (i) all pages of the lease agreements and the relevant addenda and/or amendments are not properly attached (ii) the time-gaps between the signatures of both parties under the lease agreement are too large.

Such lack of written form might be cured by inserting so-called "written-form-curing-clause". Under a properly drafted written-form-curing-clause the parties (i) acknowledge that they are aware of the statutory written form requirements (ii), undertake to carry out all measures necessary to comply with the requirements of written form and (iii) waive their right to terminate the lease agreement due to a lack of written form. Such written-form-curing-clauses have become market-standard in German commercial leases and have already been accepted by various court decisions. However, the German Federal Court of Justice (*Bundesgerichtshof*) has not yet confirmed these clauses.

If the lease agreement does not comply with the statutory requirements of written form, then it is deemed to be entered into for an indefinite period of time and can be terminated by either party with six (6) months prior notice with effect as per the end of a calendar quarter.

The lease agreements have only been reviewed to a limited extent on a sample basis. It is commonly the case that, in a large portfolio with a large number of lease agreements, a certain number of lease agreements will not comply with written form requirements or there will be certain indications of written form defects.

The Netherlands

General Aspects of Dutch Law

In relation to Loan Receivables and Loan Collateral which are governed by Dutch law, properties located in The Netherlands, Obligors which are incorporated under Dutch law and the provisions of the Transaction Documents governed by Dutch law, Dutch law will apply. The application of Dutch law may adversely affect payments by any party, including tenants, Obligors and the Issuer, thereby reducing payments to Noteholders.

Implications of Insolvency

Dutch law recognises two types of insolvency proceedings:

- (a) suspension of payments (*surseance van betaling*). This is an insolvency regime focussed on the rehabilitation of the debtor. If a suspension of payments is granted, the relevant debtor is given temporary relief from its creditors' claims in order that it may reorganise and rehabilitate its business; and

- (b) bankruptcy (*faillissement*). If a debtor is declared bankrupt by the court, its assets are liquidated in order to pay its creditors. Bankruptcy is an insolvency regime focussed on satisfying the claims of creditors rather than the rehabilitation of the debtor.

Under Dutch law, secured creditors should not in principal be prejudiced by the commencement of either form of insolvency proceeding. However, a secured creditor may be prejudiced by a bankruptcy or a suspension of payments in certain respects, the most important of which are:

- (i) in respect of rights of pledge over rights and receivables, payments received by the security provider prior to notification of the relevant debtor of such rights of pledge or termination of the authorisation given by the security holder to the security provider to collect payment of these rights and receivables after the bankruptcy or suspension of payments of the security provider will be part of the bankrupt estate of the security provider, albeit that the security holder will be entitled to such amounts by preference after deduction of general bankruptcy costs (*algemene faillissementskosten*);
- (ii) a mandatory statutory stay of execution ("*cooling-off period*") of two (2) months, with a possible extension by at the most two (2) more months, (and if bankruptcy immediately follows a suspension of payments, the total period may in theory be a maximum of eight (8) months) may apply in the event of the bankruptcy or suspension of payments of the security provider, which may delay the exercise of the security rights (the authority to collect any rights and receivables by the security holder would not be delayed or affected by the cooling off period); and
- (iii) the security holder may be obliged to enforce its security rights within a reasonable period as determined by the judge-commissioner (*rechter-commissaris*) appointed by the court in the event of the bankruptcy of the security provider. If the security holder, however, fails to do so within a reasonable period of time, the receiver may sell the assets himself in the manner provided for in the Dutch Bankruptcy Code. The security holder will still be entitled to the proceeds of such foreclosure by preference but only after deduction of general bankruptcy costs and subject to the satisfaction of higher-ranking claims of creditors.

Dutch law recognises the principle that, under certain circumstances, transactions entered into by a debtor prior to the onset of insolvency can be set aside or invalidated. Such avoidance may occur as a result of an *actio pauliana* under Dutch law.

For there to be an *actio pauliana* in respect of voluntary legal acts by a debtor, the following conditions must be satisfied: (i) there must be a legal act by the debtor, (ii) such legal act must have been conducted by the debtor voluntarily, (iii) as a consequence of the relevant legal act, the other creditors of the debtor must suffer a prejudice, (iv) the debtor must have knowledge of the prejudice to which other creditors are exposed, and (v) in the event that the debtor receives any consideration for performing the legal act, the debtor's counterparty in respect of that act must also have knowledge of the prejudice caused to other creditors.

For there to be an *actio pauliana* in respect of obligatory (as opposed to voluntary) legal acts by a debtor, the following conditions must be satisfied: (i) there must be a legal act by the debtor, (ii) the performance of such legal act by the debtor must be obligatory, (iii) as a consequence of the relevant legal act, the other creditors of the debtor must suffer a prejudice, and (iv) the person receiving the payment must know that the insolvency of the debtor had been requested or the payment resulted from the conspiracy between the debtor and the person receiving the payment aimed at preferring the interest of that person over the interests of other creditors of the debtor.

Enforcement of Dutch Security

Certain Loans are secured by, *inter alia*, mortgages granted over commercial properties located in The Netherlands and pledges granted over receivables in relation to such commercial properties. Such security interests were created and perfected under Dutch law. As such, Dutch law will have an impact upon the process by which such security is enforced.

In addition, certain security rights created in relation to certain Loans will become part of a joint estate (*gemeenschap*) of the Issuer and the Seller (as original mortgagee or pledgee, as the case may be) governed by articles 3:166 et seq. of the Dutch Civil Code (*Burgerlijk Wetboek*), as these security rights do not only secure such Loans, but also certain Borrower Hedge Collateral Amounts. This means, among other things, that in case of foreclosure of these security rights, the Seller (as original mortgagee or pledgee, as the case may be) and the

Issuer in principle need to act jointly and share the proceeds *pro rata* on the basis of their respective shares in the joint estate.

Limitations on security over future receivables

Under certain Dutch pledge agreements, the relevant obligors have granted a right of pledge over their lease receivables under the lease agreements in relation to certain properties located in the Netherlands. However, under Dutch law, there are certain restrictions on the ability to pledge future assets. In particular, if a company is declared bankrupt (*failliet verklaard*) or is granted a suspension of payments (*surseance van betaling*), certain future assets of that company, including lease receivables, will not form part of the security package but will form part of the bankrupt estate which is available to all creditors. This means that if a secured party has any remaining claims after the proceeds of its other secured assets have been fully used, such claims will rank *pari passu* with all unsecured claims but behind the costs of bankruptcy and certain preferred claims e.g. tax claims. This is the case even if the lease amounts are paid into a bank account which is also pledged.

Right of leasehold (erfpacht) in The Netherlands

Title to certain of the properties located in The Netherlands is held under a right of leasehold (*erfpacht*). A right of leasehold will terminate, *inter alia*, as a result of the expiration of the right of leasehold term (in the case of a lease for a fixed period), or the termination of the right of leasehold by the leaseholder or the landowner. The landowner can terminate the right of leasehold if the leaseholder has not paid the ground rent (*canon*) agreed under the long lease for a period exceeding two (2) consecutive years or seriously breaches other obligations under the right of leasehold. In the event that the right of leasehold ends, the landowner will have the obligation to compensate the leaseholder, such compensation to be calculated in accordance with the applicable rules of Dutch law. In such event a mortgage right vested in a right of leasehold will, by operation of law, be replaced by a right of pledge on the claim of the (former) leaseholder against the landowner for such compensation. The amount of the compensation will be determined by, amongst other things, the conditions of the right of leasehold and may be less than the market value of the right of leasehold. Furthermore, the alienation or encumbrance of a right of leasehold may be subject to approval by the owner. However, such approval would not be required in the event of a foreclosure of any security in respect of the relevant property located in The Netherlands.

Association of property owners (vereniging van eigenaren)

Under Dutch law, a right of ownership, right of leasehold or a right of superficies can be divided into a number of apartment rights (*appartementenrechten*). An apartment right gives the holder of that right a share in the divided estate with the exclusive right to use certain parts of the property and a right to use the communal parts of the property. A holder of an apartment right is entitled to grant security (e.g. a mortgage) in respect of that apartment right located in The Netherlands.

The holders of apartment rights in any property located in the Netherlands will, by operation of law, form an association of owners (*vereniging van eigenaren*). The holders of apartment rights usually pay a periodic amount to the association of owners as a contribution to, *inter alia*, the costs of insurance for the entire building. A potential disadvantage of an association of owners is that decisions with respect to the entire property e.g. with respect to insurance or structural maintenance and improvements must be taken based on a vote by the members of the association of owners. Consequently, it is possible that decisions taken by the board of such association of owners may not be the same as if the Borrower had direct control of the relevant property located in the Netherlands.

Insolvency of Agent

In relation to certain Loans which have been syndicated, the original Dutch facility agent and/or Dutch security agent (each a "**Relevant Agent**") will continue to act on behalf of the relevant secured creditors under such Loan following the transfer of the relevant Loan to the Issuer. As such, the Issuer bears an insolvency risk on the Relevant Agents. In the event of the insolvency of a Relevant Agent, the Issuer will only have contractual rights against such Relevant Agent and its claims will rank *pari passu* with all of the Relevant Agent's other unsecured creditors. Any payments that have been made to (a) a Relevant Agent acting as facility agent in connection with the relevant Loans or (ii) a Relevant Agent acting as security agent in the event of the foreclosure of the security it holds on behalf of, amongst others, the Issuer, will fall into the Relevant Agent's bankrupt estate following the insolvency of the Relevant Agent.

Spain

General Aspects of Spanish Law

In relation to the properties located in Spain, any security interest over assets located in Spain, the Borrower is incorporated under Spanish law and the provisions of any Finance Document or Transaction Document governed by Spanish law, Spanish law will apply. The application of Spanish law may adversely affect payments by any party, including tenants, any Obligor and the Issuer, thereby reducing payments to Noteholders.

In the case of properties located in Spain the security would take the form of the mortgage. In principle, the essential formalities required for the creation and perfection of any mortgage over properties are its documentation in a Spanish public deed, payment of stamp duty taxes and its registration with the Land Registry. In Spain, the registration of the mortgage at the Land Registry is constitutive. Thus, if the mortgage is not registered, it is not validly created.

The enforcement of Spanish law mortgages (*hipotecas*) is governed by the underlying security document and Law 1/2000, the Spanish Civil Procedure Law, which provides for certain enforcement procedures. Any beneficiary of a mortgage would have to comply with the formal requirements set forth in the Spanish Civil Procedure Law in order to foreclose a mortgage.

Other Spanish law Loan Collateral will need to be enforced in accordance with the underlying security documents and statutory provisions which may restrict enforcement to a certain extent.

The Spanish Obligor is subject to certain Spanish taxes. The business operations of the Obligor may trigger Spanish value added tax. In certain cases a tax liability may be incurred although the Obligor has not expected to incur taxes. If the Issuer is regarded to be tax resident in Spain by having a Spanish permanent establishment, the Issuer will be subject to Spanish taxation. Further, Spanish tax may arise in relation to the interest income of the loans against Spanish borrowers if the Issuer does not benefit from the exceptions set forth by Spanish law.

Absence of notarisation and recording at the Land Registry of the transfer of the Related Mortgage

The recording at the Land Registry of the transfer of the benefit of a duly recorded mortgage vests the transferee with legal title over the mortgage. A recorded transferee benefits from the publicity of the registry in order to defend its title vis-à-vis third parties and is entitled to initiate enforcement proceedings.

However, the transfer in favour of the Issuer of the Related Mortgage over the properties located in Spain will not be recorded with the relevant land register unless a Transfer Event has occurred.

As far as Spanish law is concerned, prior to the notarisation and registration in the relevant land register, the transfer of the Related Mortgage is not enforceable vis-à-vis certain third parties who have relied on the accuracy of the information available in the relevant land registry (such as a *bona fide* third party who has purchased (or taken security on) the relevant mortgage and has registered his title in the relevant Land Registry).

Spanish insolvency law

The enforcement of rights, including any security interest, may be restricted under the Spanish Insolvency Law, 22/2003, dated 9 July ("**Spanish Insolvency Law**"), if the counterparty or the security provider is insolvent.

The Spanish Insolvency Law imposes a moratorium on the enforcement of any security interest over assets which are "attached to the business" (*afectos a su actividad empresarial*) of the insolvent company. After the adjudication of the bankruptcy, any security interest cannot be enforced until the earlier of: (i) the date on which a rescheduling agreement ("*convenio*") which does not prevent the enforcement of the relevant security interest is reached between the insolvent company and their creditors; (ii) the date on which one year has elapsed since the adjudication of the bankruptcy; or (iii) the date on which the liquidation phase of the insolvency proceeding has commenced.

The Spanish Insolvency Law provides for a hardening period starting on the date falling two (2) years prior to the date of adjudication of the insolvency. Pursuant to Article 71.1 of the Spanish Insolvency Law, any agreements entered into by an insolvent company within the two (2) year period preceding the adjudication of the bankruptcy can be set aside by the relevant insolvency court if the insolvency officials can prove that they were prejudicial to the insolvency estate ("*perjudiciales para la masa activa*").

As a general rule, agreements with reciprocal obligations pending to be performed such as lease contracts shall remain in force (in a scenario of insolvency of the tenant or the landlord) and any provisions establishing that

the declaration of insolvency triggers the early termination of the agreement will be considered unenforceable. However, the insolvency trustees could terminate the agreement if they consider this convenient for the interests of the insolvent debtor, although no breach of contract has occurred.

In the event of the insolvency of the tenant, under certain circumstances (including payment (to be made against the insolvency state) of the rents and other amounts due as well as the legal costs related to the eviction proceedings already initiated) the insolvency court could avoid the eviction of the tenant (even if the legal requirements have been complied with) and reinstate the lease agreement.

Lease Agreement

The lease agreement related to the property located in Spain provides for a right of preferential acquisition in favour of the tenant if the landlord sells the property. If the property is sold to a third party without complying with this preferential acquisition right, then the tenant will be entitled to exercise a right of reversion (*retracto*) to the extent legally possible and shall be entitled to receive compensation equal to twenty per cent. (20%) of the acquisition price.

In the event of enforcement of the mortgage of the property located in Spain, the lease agreement will not be terminated and any transferee of the property will be subrogated to the position of the landlord.

France

Commercial Leases

Commercial leases, which are governed by specific provisions of the French Commercial Code (the "**Commercial Lease Regime**"), are entered into for a statutory minimum period of nine (9) years. If the term provided for in the lease exceeds twelve (12) years, the lease must (i) be published at the land registry office (*Bureau des Hypothèques*) and (ii) be in the form of a notarial deed. Such registration is subject to registration duties (*Taxe de publicité foncière*) equal to approximately 0.715% of the rent charges over the entire duration of the relevant lease (capped at the first twenty (20) years if the duration exceeds twenty (20) years).

Unless the parties provide otherwise, the tenant has a break option every three (3) years provided he gives the owner at least six (6) months prior notice by means of a process server.

The aim of the Commercial Lease Regime is to grant tenants security of tenure (*propriété commerciale*), subject to certain conditions, so that they may ensure the continuation of their businesses and the retention of clientele. At the end of the term of a commercial lease, the tenant is entitled either to have his lease renewed for a term of at least nine (9) years or to receive compensation (mainly based on the value of the business undertaking or of the lease – usually not important for office leases) if the landlord refuses to renew the lease.

Provisions regarding the rent review during the course of a commercial lease are of public interest and cannot be contracted out. Pursuant to these provisions, either party may apply to the court for a rent review three (3) years after entry into the rented premises or the last fixing of the rent. The increase/decrease of the rent cannot exceed the variation of the National Cost of Construction Index (*Indice du Coût de la Construction*) or, if applicable, variation of the Commercial Rent Index (*Indice des Loyers Commerciaux*) since the date of the last fixing of rent, except if the party to the lease can produce evidence of a substantial change in local commercial factors giving rise to a change of more than ten per cent. (10%) of the rental value of the premises (in such a case, the rent being increased/decreased up to the rental value). Most of the leases provide for a contractual annual indexation of rent which is usually based on the variation in the Cost of Construction Index (*Indice du Coût de la Construction*) or the Commercial Rent Index (*Indice des Loyers Commerciaux*).

The maximum rent which the landlord may apply for upon renewal of a lease is based on the variation in the Cost of Construction Index (*Indice du Coût de la Construction*) or, as the case may be, or the Commercial Rent Index (*Indice des Loyers Commerciaux*) over the same period as the period of the lease except if, among other things, (i) a party to the lease can produce evidence of a substantial change in local commercial factors, (ii) the premises are used exclusively for office use, (iii) the premises can only be used for a specific activity (*locaux monovalents*) such as premises used for hotels or cinemas, (iv) the lease has a term of more than nine (9) years or (v) the parties have agreed otherwise. In these latter cases, the rent for the renewed lease shall correspond to the rental value of the premises upon the date of the renewal of the lease.

A number of rights beneficial to a tenant under a commercial lease may affect the net cash flow realised from a property or cause delay in the payment of the rental income and then affect the ability of the borrower to meet

its obligations under the mortgage loan. Such rights may include in particular (but without limitation) the following:

- (a) where a landlord is in default of its obligations under a lease, the tenant may have the right under general principles of French law (*principe d'exception d'inexécution*) to retain its rental payments due to the landlord until the default is cured or refrain from performing its other obligations thereunder, if the breach results in the impossibility for the tenant to use the premises;
- (b) a legal right of set-off (*droit de compensation légale*) could be exercised by a tenant in respect of its rental obligations under the lease if a reciprocal debt is owed to this tenant by the landlord or otherwise;
- (c) French Courts may, in some circumstances and despite the provisions of the lease, grant time to a tenant in respect of its payment obligations under the lease, taking into account its financial standing and the needs of the relevant borrower as landlord or may reschedule the debt of the tenant (in both cases not in excess of two (2) years), treating the extension of time as a matter of procedural law;
- (d) the doctrine of force majeure, permitting a party to a contractual obligation to be freed from it upon the occurrence of an event which renders impossible the performance of such contractual obligation; and
- (e) where a court decides to terminate the lease before its termination date in the event of a material breach of the lease by one of the parties.

Some specific issues regarding the commercial leases

Should the application of the clause of the lease agreements relating to the indexation of the rent pursuant to the indexation provisions result in an increase of the rent of more than twenty-five per cent. (25%), the tenant will be entitled to require the revision of its rent so that it be fixed at the rental value of the rented premises (if the current rent is above such a rental value).

For the lease entered into after the 1st June 2006, if the landlord has not effectively provided the tenant, when required, with a natural and technological statement dated less than six (6) months from when the lease has been executed, the tenant would be able to terminate the lease or to claim for a reduction of rent.

French real estate security interests (mortgages)

Should real estate security interests be registered in the context of this Transaction, the following rules would apply:

A mortgage (*hypothèque*) is a right over real property granted to a creditor, known as a mortgagee (*créancier hypothécaire*), by a debtor, known as the mortgagor (*constituant*), relating to real property which the latter owns or in which it has a right *in rem*, in order to secure payment of a debt owed by the mortgagor to the mortgagee.

Registration of Mortgages: In order to be enforceable against third parties, mortgages must be registered at the French land registry office (*Bureau des Hypothèques*) situated in the geographical district where the relevant real property is located. The ranking of the mortgage is based on its registration date.

Effect of mortgages: The beneficiary of a mortgage will rank ahead of all unsecured creditors (*créanciers chirographaires*) of the grantor of the security but will rank after the prior ranking creditors in the context of a bankruptcy. Secured amounts comprise the principal amount of the loan in question as well as its accessories. It should be noted that under a mortgage only three (3) years of interest at the contractual rate can be secured on an equal ranking basis to the principal. The secured creditor can continue to benefit from the mortgage, even if the property is transferred by the debtor to a third party. This right is known as *droit de suite*. In the event of the sale of the property by the debtor, the secured creditor may have the debts owing to him satisfied from the proceeds of the sale of the property in the order of priority of mortgages encumbering such property (*droit de préférence*). The mortgage granted in favour of the lender whose loan is being refinanced can be transferred to the new lender by way of subrogation. The benefit of certain insurance proceeds in relation to the property may be transferred automatically to the lender under a loan agreement as beneficiary of the mortgage.

Enforcement of Mortgages prior to the opening of insolvency proceedings: Rules applicable to the attachment procedure by secured creditors (*saisie immobilière*) modified in 2006 (*ordonnance n° 2006-461 réformant la saisie immobilière* dated 21 April 2006 and its enacting decree no. 2006-936 of 26 July 2006 as amended) have entered into force on 1 January 2007 and apply automatically to all foreclosures by secured creditors executed after that date on properties situated in France. These rules provide that mortgages can be enforced through a

court-supervised public auction (*vente aux enchères*) and may also be enforced pursuant to a request for a judicial attribution.

Where a mortgage is documented by a deed of execution (*copie exécutoire à ordre*), the endorsement before a notary of the deed of execution in favour of the assignee of the secured loan is required to transfer to such assignee the right to enforce the mortgage.

In addition to the endorsement or assignment of the secured loan, the relevant land registry requires that, upon enforcement, the assignee of the secured loan must be registered with the land registry as the beneficiary of the mortgage.

Enforcement of Mortgages after the opening of insolvency proceedings: Rules applicable to international and European insolvency would apply (including Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings) and determine which law will apply to the enforcement of such security (including ranking rules).

Tax considerations

The Obligors may be liable to French taxes, including *inter alia* corporate income tax (*impôt sur les sociétés*) by virtue of holding French properties and their business operations may trigger French value added tax (*taxe sur la valeur ajoutée*) and real estate transfer tax (*droits d'enregistrement*).

Belgium

German Refinancing Register

Until the occurrence of a Transfer Event, the Seller will not transfer any of the Belgian Security Loan Receivables and the relevant Loan Collateral to the Purchaser but rather a Transfer Claim with respect to these Loan Receivables will be registered in the Refinancing Register of the Seller. After the occurrence of a Transfer Event the relevant Loan Receivables will be transferred to the Purchaser and all perfection formalities for such transfer will be performed. Prior to the occurrence of a Transfer Event title to the Belgian Security Loan Receivables remains with the Seller.

Similarly, prior to the occurrence of a Transfer Event, the Purchaser will not create security with respect to these Loan Receivables directly or indirectly in favour of the Noteholders. The Purchaser will create security over these Loan Receivables immediately after acquiring such Loan Receivables from the Seller (and after all perfection formalities for such transfer having been complied with). The pledge will become enforceable when the perfection formalities for such pledge have been performed. In addition, prior to the occurrence of a Transfer Event the Seller will also create security over the Transfer Claim for the benefit of the Trustee.

Mortgage

Under Belgian law, a security interest over real estate is created by means of a mortgage (*hypotheek / hypothèque*). The creation and registration (*inschrijving / inscription*) of mortgages is governed by the Law of 16 December 1851 on privileges and mortgages (the "**Belgian Mortgage Law**"). Mortgages can be created over property rights (*eigendomsrechten / droits de propriété*) but also over certain other (limited) rights *in rem*, such as the right of usufruct (*vruchtgebruik / usufruit*), the right of superficies (*opstalrecht / droit de superficie*), emphyteotic lease rights (*erfpachtrecht / droit d'emphytéose*) and bare ownership rights (*naakte eigendom / nue propriété*). The Belgian Obligors have, prior to the date hereof and as part of the Initial Loan Portfolio, granted (i) a mortgage over certain property rights subject to certain *usufructs* or (ii) a mortgage over emphyteotic lease rights and bare ownership rights (together the "**Belgian Mortgages**"). Certain Belgian Mortgages are therefore created over limited rights *in rem*, and this may affect the enforcement value of the Belgian Properties.

Mortgage mandate

The granting of a mortgage over a property located in Belgium gives rise to significant registration duties and related costs. In order to avoid the payment of these registration duties and related costs or, as the case may, delay the payment of these duties and related costs, the parties often agree that a mortgage will be granted, but only for a limited amount, with a mortgage mandate being granted in addition. This is the case for such Belgian Security Loan Receivables which are only partly secured by a mortgage (*hypotheek / hypothèque*) and in relation to which a mortgage mandate was entered into.

A mortgage mandate is a power of attorney to create a security interest and, as any power of attorney, lapses on insolvency. Any mortgage taken pursuant to a mortgage mandate ranks from the date of its registration rather than the date of the mandate and may therefore be vulnerable to challenge as a "new security for a pre-existing

debt" if it is taken in the pre-bankruptcy "suspect period". This period commences on the date of cessation of payments, which is determined by the bankruptcy court; by default it is the date of the declaration of bankruptcy itself, but the court may set it back at an earlier date up to six (6) months before the bankruptcy (or more if the bankrupt entity was already in liquidation, whether formally or as a matter of fact, or in judicial reorganisation before its bankruptcy). If third-party creditors seize the property, the mortgage mandate will not result in any preference over the sale proceeds. Finally, when the mandate is converted into a mortgage the above mentioned registration duties and other related costs will be due in full.

Enforcement of mortgages

The beneficiary of the Belgian Mortgages may be required to obtain a judgment or other enforceable act before being able to enforce the mortgages. Once the beneficiary of a mortgage has obtained an enforceable act, it should serve an order for payment (*bevel / commandement*) on the relevant Obligor, with a seizure to follow within a period of between fifteen (15) days and six (6) months after the order for payment.

The judge of seizures will appoint a notary to organise the sale of the property. The sale of the relevant property as part of the enforcement of the mortgages will give rise to registration duties or VAT being due, and these are usually paid by the purchaser of the property. In addition, mortgage office fees and notarial fees will be due as part of the enforcement process.

Enforcement of a pledge over receivables

To the extent that Belgian law is applicable a Belgian law governed pledge over receivables is enforceable against third parties as soon as the pledge agreement is entered into. The pledge becomes enforceable against the underlying debtor of a pledged receivable when such pledge is notified to it. Upon the occurrence of a default, an enforcement event or such contractually agreed event, the Seller will be entitled to notify the debtors of the pledged receivables of the existence of the pledge (unless these debtors will have been notified of the pledge at the time the relevant pledge agreement was entered into), and the debtors will then be required to pay the amounts due by them under the pledged receivables directly to the Seller.

Prior to being notified of the pledge a debtor may still validly pay the receivables to the pledgor (or to a third-party creditor of the relevant pledgor having, for instance, made an attachment on the receivables) and may raise defences of set-off. In the absence of a notification a subsequent assignment or pledge of the receivables to a bona fide third party in respect of which notice is given first would take priority over the security created by the receivables pledge agreements.

In addition, the pledges of rentals may cease to be effective upon the insolvency of a pledgor or a seizure of a leased property. In these cases, the rentals would be regarded as "realty" forming an integral part of the property. They are consequently distributed between the creditors of the owner subject to the seizure, and in priority to any registered mortgagee (up to the amount secured by the mortgage). Earlier pledges of those rentals are disregarded, and the rights of the pledgee collapse upon the seizure of the property.

Enforcement of a pledge over shares

Enforcement of the pledges over shares may require authorisation from the courts, and may be restricted to a sale of the shares (and this notwithstanding any provision in the share pledge agreements allowing the pledgee to appropriate the shares). In addition, transfers of shares in a private limited liability company are subject to the prior consent of at least one half of the shareholders holding at least seventy five per cent. (75%) of the share capital (excluding the shares owned by the proposed transferor). It is uncertain whether this consent requirement (which may have been waived) will apply on enforcement of the share pledges.

Other Belgian law governed collateral

Other Belgian law governed collateral will be enforced in accordance with the terms of the underlying security documents and statutory provisions which may restrict enforcement to a certain extent. During the enforcement process the beneficiary of the security may be required to present original documents.

England

English law governed security over accounts and hedging arrangements

The Loan Collateral in relation to certain Loans includes English law governed security over rent accounts and Borrower Hedge Arrangements. Under English law, certain procedural requirements must be satisfied for such security over accounts and hedging arrangements to be valid and have the intended priority over other competing interests. If these procedural requirements have not been satisfied, the account charge or hedge assignment may be void against the liquidator or administrator or any creditor of the relevant Borrower which

could potentially lead to non-availability of funds to the Issuer regarding (a) monies standing to the credit of the rent accounts or (b) monies pursuant to the Borrower Hedge Arrangements not being available to the Issuer.

English law recharacterisation of fixed charges

The Loan Collateral in relation to one Purchased Loan Receivable includes a fixed charge over Borrower Hedge Arrangements. Whether an English law fixed security interest expressed to be created by the English law governed account charge will be upheld as a fixed security interest rather than floating security will depend, among other things, on whether the security trustee has the requisite degree of control over the chargors' or assignors' ability to deal in the relevant assets and the proceeds thereof and, if so, whether such control is exercised by the security trustee in practice. For example, it is probable that the security trustee does not exert sufficient control over the accounts of the charger or assignor for the charges or assignments over those accounts to take effect as fixed charges. In addition, any assignment, charge or security granted over an asset which is expressed to be a fixed charge may be characterised as a floating charge if the proceeds thereof are paid into a bank account over which the security trustee is not deemed to have sufficient control. There can be no assurance that a court will not recharacterise a charge or assignment expressed to be a fixed charge in favour of the security trustee as a floating charge. With a floating charge, the security trustee and ultimately the Noteholder would be subordinated to certain other creditors of the relevant Borrower.

Tax considerations

There are certain tax considerations that are relevant for the Loans governed by English law.

First, UK withholding tax will apply to "UK source" payments. This is a broad concept with some subtle points, but in practice, the key circumstances in which payments will have a UK source are where either there is a UK tax resident borrower or (even if there is no UK tax resident borrower) the loan is secured on UK real estate. The Loans governed by English law do not have these characteristics and, as a result, withholding tax is unlikely to be applicable.

Second, UK stamp duty and stamp duty reserve tax will be applicable depending upon the methods of the transfer of the Loan to the Issuer. One, if the Loan is transferred by novation as such term is understood for English law purposes (broadly, the cancellation of the existing loan and the creation of a new loan), neither tax will apply. Two, if the transfer of the Loan is by way of assignment and the loan is "plain vanilla", the UK loan capital exemption should be available and therefore again, neither tax will apply. Three, if the transfer of the Loan is by way of assignment and it contains unusual features, then the taxes may be relevant. Where the Loan is to a UK incorporated borrower, stamp duty reserve tax will apply and where the loan is to a non-UK borrower, there is a theoretical risk that stamp duty could apply if the loan has any connection with the UK and stamp duty reserve tax would apply if the borrower is a non-UK corporate entity.

Certain Loans governed by English law will be transferred to the Issuer by way of assignment and two (2) of such Loans contain unusual features (the "**Loans with Unusual Features**"), which (as mentioned above) may give rise to a liability to pay stamp duty and stamp duty reserve tax in respect of such Loans. The unusual features include (a) provisions in one of the English law governed Loan portfolios that may be considered to impose an obligation to pay a premium on redemption and (b) limited recourse provisions in one English law governed Loan.

Regarding the applicability of stamp duty reserve tax for the Loans with Unusual Features, this is unlikely to be relevant since it would only apply if a borrower was a non-corporate entity and this is not the case in respect of any such Loans. Regarding the applicability of stamp duty for the Loans with Unusual Features, this is unlikely to be relevant in relation to one of the Loans given that the borrower under such Loan is a non-UK entity and the Loan is being transferred between non-UK entities. In relation to the other Loan portfolio, however, stamp duty may be relevant given that such Loans are expressed to be governed by English law and English courts are stated to have exclusive jurisdiction to settle relevant disputes (i.e. the Loans have a connection to the UK). To mitigate the risk of stamp duty being applicable, the documents evidencing the transfer of the relevant Loans should be (a) executed and retained outside the UK, (b) only brought into the UK if necessary (e.g. for proceedings), and (c) if brought into the UK, stamped within thirty (30) days.

Note that stamp duty (applied at a rate of 0.5%) is a voluntary tax. If a document on which stamp duty is payable (which here would be the instrument by which the Loans are transferred to the Issuer) is not stamped, it cannot be adduced as evidence in proceedings in the UK (other than criminal proceedings) and it may not be possible to rely on the document in the UK for any other purpose (unless and until the stamp duty and any applicable interest and penalties are paid and the document has been duly stamped). Note that if the document is

brought into the UK, interest will be chargeable and is calculated from the date falling thirty (30) days after the date of execution until the date on which the stamp duty is paid.

The Issuer believes that the risks described above are the principal risks inherent in the Transaction for the Noteholders, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Notes may occur for other reasons and the Issuer does not represent that the above statements regarding the risk of holding the Notes are exhaustive. Although the Issuer believes that the various structural elements described in this Prospectus mitigate some of these risks for the Noteholders, there can be no assurance that these measures will be sufficient to ensure payment to Noteholders of interest, principal or any other amounts on or in connection with the Notes on a timely basis or at all. The Notes are therefore a suitable investment only for investors who are capable of bearing the economic risk of an investment in the Notes (including the risk that the investor shall lose all or a substantial portion of its investment) for an indefinite period of time with no need for liquidity and are capable of independently assessing the tax risks associated with an investment in the Notes. Further, each prospective purchaser of Notes must determine, based on its own independent review and such professional advice as it deems appropriate under the circumstances, that its acquisitions of the Notes:

- *is fully consistent with its (or if it is acquiring the Notes in a fiduciary capacity, the beneficiary's) financial needs, objectives and conditions;*
- *complies and is fully consistent with all investment policies, guidelines and restrictions applicable to it (whether acquiring the Notes as principal or in a fiduciary capacity); and*
- *is a fit, proper and suitable investment for it (or if it is acquiring the Notes in a fiduciary capacity, for the beneficiary), notwithstanding the substantial risks inherent in investing in or holding the Notes.*

5. TERMS AND CONDITIONS OF THE NOTES

The following is the text of the Terms and Conditions applicable to each Class of Notes which will be attached to each Global Note. In case of any inconsistency in the definition of a term or expression in the Terms and Conditions and elsewhere in this Prospectus, the definition in the Terms and Conditions will prevail.

THE PAYMENT OF PRINCIPAL OF, AND INTEREST ON, THE NOTES IS CONDITIONAL UPON THE PERFORMANCE OF THE PURCHASED LOAN RECEIVABLES, AS DESCRIBED HEREIN. HOLDERS OF THE NOTES WILL BE EXPOSED TO CREDIT RISKS OF THE PURCHASED LOAN RECEIVABLES AND THE RESPECTIVE OBLIGORS THEREUNDER TO THE FULL EXTENT OF THEIR INVESTMENT IN THE NOTES. THERE IS NO CERTAINTY THAT THE HOLDER OF ANY NOTE WILL RECEIVE THE FULL PRINCIPAL AMOUNT OF THE NOTE OR INTEREST THEREON. THE OBLIGATIONS OF THE ISSUER TO PAY PRINCIPAL OF, AND INTEREST ON, THE NOTES COULD BE REDUCED TO ZERO AS A RESULT OF THE ALLOCATION OF LOAN LOSSES ON THE PURCHASED LOAN RECEIVABLES TO SUCH NOTES.

THE NOTES ARE DIRECT, SECURED AND LIMITED RECOURSE OBLIGATIONS OF THE ISSUER. THE ISSUER'S ABILITY TO SATISFY ITS PAYMENT OBLIGATIONS UNDER THE NOTES AND ITS OPERATING AND ADMINISTRATIVE EXPENSES WILL BE WHOLLY DEPENDENT UPON RECEIPT BY IT IN FULL OF (A) COLLECTIONS OF THE PURCHASED LOAN RECEIVABLES FROM THE SERVICER AND THE SPECIAL SERVICER, (B) DEEMED COLLECTIONS (IF ANY) FROM THE SELLER, (C) DRAWINGS (IF ANY) UNDER THE LIQUIDITY FACILITY AGREEMENT, (D) DRAWINGS (IF ANY) UNDER THE RR EXPENSES FACILITY AGREEMENT, (E) PAYMENTS (IF ANY) DUE FROM THE INTEREST RATE SWAP COUNTERPARTY UNDER THE INTEREST RATE SWAP TRANSACTIONS, (F) INTEREST INCOME ON THE ISSUER OPERATING ACCOUNTS, THE PREFUNDING ACCOUNT, THE VERITY ACCOUNT AND THE REPLACEMENT RESERVE ACCOUNTS, (G) PAYMENTS (IF ANY) UNDER THE OTHER TRANSACTION DOCUMENTS IN ACCORDANCE WITH THE TERMS THEREOF AND (H) INTEREST ON AUTHORISED INVESTMENTS (IF ANY). OTHER THAN THE FOREGOING, THE ISSUER WILL HAVE NO OTHER FUNDS AVAILABLE TO MEET ITS OBLIGATIONS UNDER THE NOTES AND THE NOTES WILL NOT GIVE RISE TO ANY PAYMENT OBLIGATION IN EXCESS OF THE FOREGOING. RECOURSE TO THE ISSUER SHALL BE LIMITED TO THE PROCEEDS OF THE REALISATION OF THE SECURITY, APPLIED IN ACCORDANCE WITH THESE CONDITIONS. IF THE AFOREMENTIONED PROCEEDS ULTIMATELY PROVE INSUFFICIENT (AFTER PAYMENT OF ALL CLAIMS RANKING *PARI PASSU* WITH OR IN PRIORITY TO AMOUNTS DUE UNDER THE NOTES) TO PAY IN FULL ALL PRINCIPAL AND INTEREST ON THE NOTES, THEN THE ISSUER SHALL NOT BE LIABLE FOR ANY SHORTFALL ARISING. THE TERMS ON WHICH THE SECURITY IS TO BE HELD PROVIDE THAT UPON ENFORCEMENT THEREOF, CERTAIN EXCLUDED PROCEEDS AND CERTAIN FEES, COSTS, EXPENSES, AND LIABILITIES OF THE ISSUER (INCLUDING FEES PAYABLE TO THE TRUSTEE, THE SERVICER AND THE SPECIAL SERVICER, CERTAIN PAYMENTS UNDER THE LIQUIDITY FACILITIES AND THE RR EXPENSES FACILITY AND THE ISSUER PAYMENTS UNDER THE INTEREST RATE SWAP AGREEMENT AND CERTAIN SWAP AMOUNTS PAYABLE BY BORROWERS TO THE SELLER) WILL RANK SENIOR TO AMOUNTS OWED BY THE ISSUER TO THE NOTEHOLDERS UNDER THE NOTES.

THE NOTES ARE OBLIGATIONS SOLELY OF THE ISSUER. THE NOTES DO NOT REPRESENT AN INTEREST IN, OR CONSTITUTE A LIABILITY OR OTHER OBLIGATION OF ANY KIND OF THE SELLER, THE SERVICER, THE SPECIAL SERVICER, THE LIQUIDITY FACILITY PROVIDER, THE RR EXPENSES FACILITY PROVIDER, THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE ISSUER RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR, THE REPORTING AGENT, THE CORPORATE SERVICES PROVIDER, THE INTEREST RATE SWAP COUNTERPARTY, THE TRUSTEE, THE LEAD MANAGER, ANY AGENT OR ANY OF THEIR RESPECTIVE AFFILIATES OR ANY THIRD PERSON OR ENTITY. THE NOTES ARE NOT, AND WILL NOT BE, INSURED OR GUARANTEED BY THE SELLER, THE SERVICER, THE SPECIAL SERVICER, THE LIQUIDITY FACILITY PROVIDER, THE RR EXPENSES FACILITY PROVIDER, THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE ISSUER RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR, THE REPORTING AGENT, THE CORPORATE SERVICES PROVIDER, THE INTEREST RATE SWAP COUNTERPARTY, THE TRUSTEE, THE LEAD MANAGER, ANY AGENT OR ANY OF THEIR RESPECTIVE AFFILIATES OR ANY THIRD PERSON OR ENTITY AND

NONE OF THE FOREGOING ASSUMES, OR WILL ASSUME, ANY LIABILITY OR OBLIGATION TO THE HOLDERS OF THE NOTES IF THE ISSUER FAILS TO MAKE ANY PAYMENT DUE IN RESPECT OF THE NOTES.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE.

1. THE NOTES

1.1 Classes and Initial Principal Amounts

Plato No. 1 S.A., a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg as a securitisation company (*société de titrisation*) within the meaning of, and governed by, the law of 22 March 2004 on securitisation, as amended (the "**Luxembourg Securitisation Law**") having its registered office at 7, Val Ste Croix, L-1371 Luxembourg and registered with the Register of Trade and Companies of Luxembourg under number B147322 (the "**Issuer**") issues the following classes of notes (each, a "**Class**" or "**Class of Notes**") pursuant to these terms and conditions (the "**Terms and Conditions**"):

- (a) Class A Asset Backed Floating Rate Notes which are issued in an initial aggregate principal amount of €700,000,000 and divided into 14,000 Class A Notes (the "**Class A Notes**");
- (b) Class B Asset Backed Floating Rate Notes which are issued in an initial aggregate principal amount of €30,000,000 and divided into 600 Class B Notes (the "**Class B Notes**"); and
- (c) Class C Asset Backed Notes which are issued in an initial aggregate principal amount of €461,100,000 and divided into 9,222 Class C Notes (and the "**Class C Notes**").

The Class A Notes, the Class B Notes and the Class C Notes are together referred to herein as the "**Notes**".

1.2 Interpretation

Capitalised terms used in these Terms and Conditions but not defined in the text shall bear the meaning ascribed thereto in Annex 1 hereto which constitutes an integral part of these Terms and Conditions. In addition, any reference in these Terms and Conditions to:

- (a) "*affiliate*" means with respect to a person:
 - (i) any other person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such person; or
 - (ii) any other person who is a director, officer or employee:
 - (A) of such person;
 - (B) of any subsidiary or parent company of such person; or
 - (C) of any person described in paragraph (a) above.

For the purposes of this definition, "**control**" of a person shall mean the power, direct or indirect, (A) to vote in respect of more than 50% of the securities having ordinary voting power for the election of directors of such person, or (B) to direct or cause the direction of the management and policies of such person whether by contract or otherwise;

- (b) any document defined as a "*Transaction Document*" or any other agreement or document shall be construed as a reference to such Transaction Document or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated, supplemented or replaced except to the extent prohibited by the terms of these Terms and Conditions, such other Transaction Document or other agreement or document;

- (c) "*continuing*", in respect of an Amortisation Event or an Event of Default, shall be construed as a reference to an Amortisation Event or an Event of Default, as the case may be, which has not been waived in accordance with the terms of these Terms and Conditions or, as the case may be, the relevant Transaction Document;
- (d) an "*encumbrance*" means any mortgage, pledge, charge, encumbrance, proprietary or security interest, lien (including, without limitation, any lien by attachment (*Pfändungspfandrecht*)), ownership interest, priority, or other right or claim in, over or on any person's assets or properties in favour of any other person;
- (e) "*indebtedness*" shall be construed as any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (f) a "*law*" shall be construed as any law, statute, constitution, decree, judgment, treaty, regulation, directive, by law, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court and includes a modification or re-enactment thereof, a legislative provision substituted for it and a regulation, statutory instrument or order under it;
- (g) "*liquidation*" of a person shall be construed so as to include any equivalent or analogous proceedings under the laws of the jurisdiction in which such person is incorporated (or, if not a company or corporation, domiciled) or any jurisdiction in which such person has its principal place of business;
- (h) a "*month*" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month save that, where any such period would otherwise end on a day which is not a Business Day or Reporting Business Day (as applicable), it shall end on the next Business Day or Reporting Business Day (as applicable), unless that day falls in the calendar month succeeding that in which it would otherwise have ended, in which case it shall end on the preceding Business Day or Reporting Business Day (as applicable) **provided that**, if a period starts on the last Business Day or Reporting Business Day (as applicable) in a calendar month or if there is no numerically corresponding day in the month in which that period ends, that period shall end on the last Business Day or Reporting Business Day (as applicable) in that later month (and references to "months" shall be construed accordingly);
- (i) a "*person*" shall be construed as a reference to a person, company, corporation, state, state entity, organisation, trust, joint venture, partnership, agency, association or other entity (whether or not having separate legal personality);
- (j) "*subsidiary*" shall be construed as a reference to any company or corporation:
 - (i) which is controlled, directly or indirectly, by another company or corporation;
 - (ii) more than half the issued share capital of which is beneficially owned, directly or indirectly, by another company or corporation; or
 - (iii) which is a subsidiary of a subsidiary of another company or corporation,
 and, for these purposes, a company or corporation shall be treated as being "*controlled*" by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body;
- (k) a "*successor*" of any party shall be construed so as to include an assignee or successor in title of such party and any person who has assumed the rights and obligations of such party under these Terms and Conditions or any Transaction Document or to which such rights and obligations have been transferred; and
- (l) "*tax*" shall be construed so as to include any tax, levy, impost, duty, withholding or other charge of a similar nature (including, without limitation, any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) arising under applicable law.

Save where the contrary is indicated, any reference in these Terms and Conditions or in any Transaction Document to:

- (i) an action, remedy or method of judicial proceedings for the enforcement of rights of creditors shall include, in respect of any jurisdiction other than Germany, references to such action, remedy or method of judicial proceedings for the enforcement of rights of creditors available or appropriate in such jurisdictions as is most approximate thereto;
- (ii) a law shall be construed as a reference to such law as the same may have been, or may from time to time be, amended or re-enacted; and
- (iii) any person named in these Terms and Conditions or expressed to be a party to any Transaction Document shall be construed so as to include its, and any subsequent, successors, permitted transferees, permitted replacements and substitutes in accordance with their respective interests and, for the avoidance of doubt and without prejudice to the generality of the foregoing, any reference in these Terms and Condition to HSH Nordbank AG (but not any other entity) as the "Seller", the "Servicer", the "Special Servicer", the "Issuer Reserve Account Bank", the "Liquidity Facility Provider", the "RR Expenses Facility Provider", the "Reporting Agent" or the "Interest Rate Swap Counterparty" shall be construed so as to include any legal entity into which HSH Nordbank AG is merged or converted and any legal entity resulting from any merger, amalgamation or conversion of the whole business or of a relevant business line of HSH Nordbank AG shall, to the extent permitted by applicable law, be the successor to HSH Nordbank AG without any further formality.

1.3 Trust Agreement

The Notes are subject to, and have the benefit of, a trust agreement to be dated 3 February 2010 (the "**Closing Date**") (the "**Trust Agreement**") between:

- (a) the Issuer;
- (b) Bank of America Trustees Limited (the "**Trustee**");
- (c) Structured Finance Management (Luxembourg) S.A. as corporate services provider of the Issuer (the "**Corporate Services Provider**") under the corporate services agreement dated 16 July 2009 between the Issuer, the Corporate Services Provider and the shareholder of the Issuer (the "**Corporate Services Agreement**");
- (d) HSH Nordbank AG in its capacity as servicer (the "**Servicer**") and special servicer (the "**Special Servicer**") under the servicing agreement dated the Closing Date between the Issuer, the Servicer, the Special Servicer, the Cash Administrator, the Reporting Agent and the Trustee (the "**Servicing Agreement**");
- (e) HSH Nordbank AG in its capacity as issuer reserve account bank (the "**Issuer Reserve Account Bank**") under the account agreement dated the Closing Date between the Issuer, the Issuer Reserve Account Bank, the Cash Administrator, the Trustee, the Seller and the Replacement Reserve Account Bank (the "**Issuer Reserve Account Agreement**");
- (f) Bank of America, National Association in its capacity as account bank (the "**Issuer Account Bank**"), under the account agreement dated the Closing Date between the Issuer, the Issuer Account Bank, the Cash Administrator and the Trustee (the "**Issuer Account Agreement**");
- (g) Bank of America, National Association in its capacity as (i) cash administrator (the "**Cash Administrator**") under the cash administration agreement dated the Closing Date between the Issuer, the Servicer, the Special Servicer, the Issuer Reserve Account Bank, the RR Expenses Facility Provider, the Liquidity Facility Provider, the Reporting Agent, the Interest Rate Swap Counterparty, the Cash Administrator, the Issuer Account Bank, the Replacement Reserve Account Bank, the Principal Paying Agent, the Interest Determination Agent, the Corporate Services Provider and the Trustee (the "**Cash Administration Agreement**"), (ii) principal paying agent (the "**Principal Paying Agent**" under the agency agreement dated the Closing Date between the Issuer, the Principal Paying Agent, the Interest Determination Agent and the Trustee (the "**Agency Agreement**") and (iii) as interest determination agent (the "**Interest**

Determination Agent" under the Agency Agreement and, together with the Principal Paying Agent and any Required Paying Agent, the "**Agents**" and, each an "**Agent**";

- (h) HSH Nordbank AG in its capacity as reporting agent (the "**Reporting Agent**") under the Cash Administration Agreement;
- (i) HSH Nordbank AG in its capacity as liquidity facility provider (the "**Liquidity Facility Provider**") under the liquidity facility agreement dated the Closing Date between the Liquidity Facility Provider, the Issuer, the Cash Administrator, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank and the Trustee (the "**Liquidity Facility Agreement**");
- (j) HSH Nordbank AG in its capacity as expenses facility provider (the "**RR Expenses Facility Provider**") under the expenses facility agreement dated the Closing Date between the RR Expenses Facility Provider, the Issuer, the Cash Administrator, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank and the Trustee (the "**RR Expenses Facility Agreement**"); and
- (k) HSH Nordbank AG in its capacity as interest rate swap counterparty (the "**Interest Rate Swap Counterparty**") under the interest rate swap agreement dated the Closing Date between the Issuer, the Trustee and the Interest Rate Swap Counterparty governed by a 1992 ISDA Master Agreement, rating compliant schedule and credit support annex and confirmations (the "**Interest Rate Swap Agreement**").

The holders of any Class of Notes (the "**Class A Noteholders**", the "**Class B Noteholders**" and the "**Class C Noteholders**" and, together, the "**Noteholders**"), the Trustee, the Corporate Services Provider, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Interest Rate Determination Agent, the Principal Paying Agent, the Servicer, the Special Servicer and the Interest Rate Swap Counterparty are referred to herein as the "**Secured Parties**" and, each, a "**Secured Party**". The Trust Agreement is attached as Annex 2 hereto and constitutes an integral part of these Terms and Conditions.

1.4 Obligation to Maintain a Trustee

As long as any Notes are outstanding, the Issuer shall ensure that an experienced and reputable corporate trustee is appointed at all times who has undertaken substantially the same functions and obligations as the Trustee pursuant to the Notes, including these Terms and Conditions and the Trust Agreement.

1.5 Transaction Documents

The Notes (including these Terms and Conditions), the Loan Receivables Purchase Agreement, the Servicing Agreement, the Trust Agreement, the Agency Agreement, the Cash Administration Agreement, the Issuer Account Agreement, the Issuer Reserve Account Agreement, the Corporate Services Agreement, the Issuer Deed of Charge, the Liquidity Facility Agreement, the RR Expenses Facility Agreement, the Interest Rate Swap Agreement, the Subscription Agreement, the Dutch Deed of Pledge, the Issuer Pledge Agreement, the HSH Account Agreement, the HSH Deed of Charge and any other agreement made pursuant thereto or otherwise in connection with the Notes or the rights and benefits comprised in the Security are referred to herein as the "**Transaction Documents**".

1.6 Form, Denomination and Title

The Class A Notes, the Class B Notes and the Class C Notes are issued in bearer form in denominations of €50,000. The holder of any Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes, including the making of payments and no person shall be liable for so treating such holder as such.

"**holder**" means each person (other than Euroclear or Clearstream Luxembourg) who is for the time being shown in the records of Euroclear or of Clearstream Luxembourg as the holder of a particular nominal amount of the Notes and shall be deemed to be the holder of that nominal amount of Notes (and the bearer of the Global Note shall be deemed not to be the holder) for all purposes other than

with respect to the payment of principal or interest on the Notes, for which purposes the bearer of the Global Note shall be treated by the Issuer and any of the Agents as the holder of the Notes in accordance with and subject to the terms of the Global Note.

1.7 Global Notes

Each Class of Notes will be represented by a permanent global bearer note (a "**Permanent Global Note**") without interest coupons. Definitive Notes or interest coupons shall not be issued. Each Permanent Global Note is referred to herein as a "**Global Note**".

1.8 Execution of Global Notes

Each Global Note shall only be valid if it (i) bears the handwritten manual or facsimile signatures of two (2) directors of the Issuer (ii) is authenticated by an authorised officer of Bank of America, National Association as initial Principal Paying Agent and, (iii) if applicable, is effectuated by the Common Safekeeper.

1.9 Custody of Global Notes

Each Global Note shall be kept in custody by a common safekeeper (each, a "**Common Safekeeper**") for Euroclear Bank S.A./N.V. ("**Euroclear**") and Clearstream Banking, *société anonyme* ("**Clearstream Luxembourg**", and together with Euroclear, the "**Clearing Systems**" and each, a "**Clearing System**") until all obligations of the Issuer under the Class represented by it have been satisfied.

The nominal amount of the Notes represented by the Global Note shall be the aggregate amount from time to time entered in the records of the Clearing Systems. Absent errors, the records of the Clearing Systems (which expression means the records that each relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes) (but excluding the interest in the Notes of one of the Clearing Systems shown in the records of the other Clearing System) shall be conclusive evidence of the nominal amount of Notes represented by the Global Note and, for these purposes, a statement issued by a relevant Clearing System stating the nominal amount of Notes so represented at any time shall be conclusive evidence of the records of the relevant Clearing System at that time.

On any redemption or payment of an instalment or interest being made in respect of, or purchase and cancellation of, any of the Notes represented by the Global Note the Issuer shall procure that details of any redemption, payment or purchase and cancellation (as the case may be) in respect of the Global Note shall be entered in the records of the relevant Clearing System and, upon any such entry being made, the nominal amount of the Notes recorded in the records of the relevant Clearing System and represented by the Global Note shall be reduced by the aggregate nominal amount of the Notes so redeemed or purchased and cancelled or by the aggregate amount of such instalment so paid.

1.10 Cancellation

All Notes redeemed shall be cancelled.

2. **RIGHTS AND OBLIGATIONS UNDER THE NOTES**

2.1 Status of the Notes

Upon enforcement of the Security, the Class A Notes will rank equally amongst themselves but in priority to the Class B Notes and the Class C Notes, the Class B Notes will rank equally amongst themselves but in priority to the Class C Notes and the Class C Notes will rank equally amongst themselves (the "**Order of Seniority**"), subject to the limitation on the amount of principal and/or interest payable to the Noteholders of any Class of Notes in the circumstances described in Conditions 6.4 (*Class A Rate of Interest, Class B Rate of Interest and Class C Interest*), 11.1 (*Redemption*), 12 (*Amortisation*) and 13 (*Early Redemption*).

2.2 Obligations under the Notes

The Notes are obligations solely of the Issuer. The Notes do not represent an interest in, or constitute a liability or other obligation of any kind of the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Replacement Reserve Account Bank, the Issuer Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Interest Rate Swap Counterparty, the Trustee, the Lead Manager, any Agent or any of their respective affiliates or any third person or entity. The Notes are not, and will not, be insured or guaranteed by the Seller, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Replacement Reserve Account Bank, the Issuer Reserve Account Bank, the Cash Administrator, the Reporting Agent, the Corporate Services Provider, the Interest Rate Swap Counterparty, the Trustee, the Lead Manager, any Agent or any of their respective affiliates or any third person or entity and none of the foregoing assumes, or will assume, any liability or obligation to the holders of the Notes if the Issuer fails to make any payment due in respect of the Notes.

2.3 Limited Recourse

The Notes are direct, secured and limited recourse obligations of the Issuer. The Issuer's ability to satisfy its payment obligations under the Notes and its operating and administrative expenses will be wholly dependent upon receipt by it in full of (a) collections of the Purchased Loan Receivables from the Servicer or Special Servicer, (b) Deemed Collections (if any) from the Seller, (c) drawings (if any) under the Liquidity Facility Agreement, (d) drawings (if any) under the RR Expenses Facility Agreement, (e) payments (if any) due from the Interest Rate Swap Counterparty under the Interest Rate Swap Transactions, (f) interest income on the Issuer Operating Accounts, the Prefunding Account, the Verity Account and the Replacement Reserve Accounts, (g) payments (if any) under the other Transaction Documents in accordance with the terms thereof and (h) interest on Authorised Investments (if any).

Other than the foregoing, the Issuer will have no funds available to meet its obligations under the Notes and the Notes will not give rise to any payment obligation in excess of the foregoing. Recourse to the Issuer shall be limited to the proceeds of the realisation of the Security, applied in accordance with these Terms and Conditions. If the aforementioned proceeds ultimately prove insufficient (after payment of all claims ranking in priority to amounts due under the Notes) to pay in full all principal and interest on the Notes, then the Issuer shall not be liable for any shortfall arising. The Noteholders will have no further claim against the Issuer in respect of such amounts or have recourse to the Issuer or any other person for the loss sustained. The enforcement of the Security and the distribution of the proceeds thereof by the Trustee is the only remedy available to the Noteholders for the purpose of recovering amounts payable in respect of the Notes. Such assets and proceeds shall be deemed to be "ultimately insufficient" at such time as the Trustee, in accordance with the terms of the Trust Agreement, has certified to the Secured Parties that no further assets are available and no further proceeds can be realised therefrom to satisfy any outstanding claims of the Noteholders or the other Secured Parties or any of them, and neither assets nor proceeds will be so available thereafter.

The terms on which the Security is to be held provide that upon enforcement thereof, certain excluded proceeds and certain fees, costs, expenses and liabilities of the Issuer will rank senior to amounts owed by the Issuer to the Noteholders under the Notes.

2.4 No Rights after Final Maturity Date

No Noteholders of any Class of Notes will have any rights under the Notes after the Final Maturity Date.

3. GENERAL COVENANTS OF THE ISSUER

As long as any Notes are outstanding, the Issuer has undertaken not to, without the prior written consent of the Trustee (to be granted or denied as further specified in the Trust Agreement), engage in or undertake any of the activities or transactions specified in Clause 21.5 of the Trust Agreement.

4. THE SECURITY

4.1 As security for the Secured Obligations the Issuer shall:

- (a) pursuant to the Trust Agreement, assign and transfer to the Trustee in its capacity as trustee (*Treuhänder*) for the benefit of the Secured Parties and for itself with respect to the Trustee Claim, all present, future, actual and contingent rights (including, without limitation, non-ancillary (*selbständige*) and ancillary (*unselbständige*) rights to determine the legal relationship (*Gestaltungsrechte*) such as termination rights (*Kündigungsrechte*)), title, claims, interests and benefits of the Issuer:
 - (i) in, to and under all Purchased Loan Receivables that are German Loan Receivables and the Loan Collateral in respect thereof (other than German Loan Receivables which have been granted in respect of the financing of French Properties and other than German Loan Receivables or Loan Collateral which are RR Assets) and all German law governed claims against any Borrower Security Trustee under any Purchased Loan Receivable;
 - (ii) against the Seller under the Loan Receivables Purchase Agreement and any transaction or operation contemplated thereby (other than its Transfer Claims in respect of the RR Assets);
 - (iii) against the Lead Manager and the Arranger under the Subscription Agreement and any transaction or operation contemplated thereby;
 - (iv) against the Liquidity Facility Provider under the Liquidity Facility Agreement and any transaction or operation contemplated thereby;
 - (v) against the RR Expenses Facility Provider under the RR Expenses Facility Agreement and any transaction or operation contemplated thereby;
 - (vi) against each of the Servicer and the Special Servicer under the Servicing Agreement and any transaction or operation contemplated thereby;
 - (vii) against each Agent under the Agency Agreement and any transaction or operation contemplated thereby;
 - (viii) against the Cash Administrator under the Cash Administration Agreement and any transaction or operation contemplated thereby; and
 - (ix) against the Reporting Agent under the Cash Administration Agreement and any transaction or operation contemplated thereby;
- (b) pursuant to the Trust Agreement, assign to the Trustee for the benefit of the Secured Parties, and for itself with respect to the Trustee Claim, any and all future assets, rights (including, without limitation, non-ancillary (*selbständige*) and ancillary (*unselbständige*) rights to determine the legal relationship (*Gestaltungsrechte*) such as termination rights (*Kündigungsrechte*)), title, claims, interests and benefits acquired by, or granted to, it from time to time (the "**Additional German Security Assets**") including, without limitation, all such assets which it receives from any party to any Transaction Document (other than its rights and claims under the Issuer English Security Assets and the Dutch Security Assets) as collateral for the obligations of such party owed from time to time to the Issuer;
- (c) pursuant to the Trust Agreement, pledge (*verpfänden*) pursuant to Sections 1204, 1273 and 1279 of the German Civil Code (*Bürgerliches Gesetzbuch*) to the Trustee in its capacity as trustee (*Treuhänder*) for the benefit of the Secured Parties as security for the Trustee Claim all of its present and future, conditional and unconditional claims and rights (i) in and to the Verity Account and all monies standing to the credit thereof, which pledge will rank junior to the pledge over the Verity Account granted by the Issuer in favour of the Seller under the Issuer Pledge Agreement, (ii) the Issuer Reserve Accounts (other than the Verity Account), the Prefunding Account and the Issuer Reserve Account Bank under the Issuer Reserve Account Agreement and any transaction or operation contemplated therein and any future

accounts and all monies standing to the credit thereof, including interest thereon (if any) to the extent capable of being secured under German law, (iii) in, to and under all Purchased Loan Receivables that are German Loan Receivables which have been granted in respect of the financing of French Properties and (iv) in and to all Transfer Claims in respect of the RR Assets (each a "**Pledge**" and together the "**Pledges**");

- (d) pursuant to the Issuer Deed of Charge, as continuing security for the payment or discharge of the Secured Obligations, with full title guarantee in favour of the Trustee for the benefit of the Secured Parties and for itself:
- (i) assign absolutely the Benefit of each English Loan Receivable which is from time to time a Purchased Loan Receivable (other than any English Loan Receivable that is an RR Asset) save that the Issuer shall not assign or transfer and shall instead hold on trust for Seller as the beneficial owner thereof any amount of interest or other sum (other than the principal) due to be paid or accrued in respect of any period ending before the 29 January 2010 and the amount of any principal due to be paid prior to (but excluding) the Closing Date pursuant to or in respect of the English Loan Receivables sold by the Seller to the Issuer pursuant to the terms of the Loan Receivables Purchase Agreement;
 - (ii) assign absolutely the Benefit of the English Loan Collateral and the property, rights and assets constituting and comprised in the English Loan Collateral relating to Loan Receivables which are from time to time Purchased Loan Receivables (other than English Loan Collateral which is comprised in the RR Assets);
 - (iii) charge absolutely by way of first fixed charge the Benefit of each of the Issuer Operating Accounts and the RR Expenses Account and all sums of money which may now be or hereafter are from time to time standing to the credit of each of the Issuer Operating Accounts and the RR Expenses Account;
 - (iv) assign absolutely the Benefit in, under and to the Issuer Account Agreement;
 - (v) assign absolutely the Benefit in, under and to the Interest Rate Swap Agreement (subject to the netting mechanism expressly contained in the Interest Rate Swap Agreement);
 - (vi) assign absolutely the Benefit in, under and to the HSH Deed of Charge; and
 - (vii) charge by way of first floating charge, the whole of its undertaking and all its property, assets and rights whatsoever and wheresoever, present and future, including the Benefit of each Authorised Investment (but excluding the Issuer Profit and Capital Account); and
- (e) pursuant to the Dutch deed of pledge to be entered into by the Issuer and the Trustee (the "**Dutch Deed of Pledge**"), as continuing security for the payment or discharge of the Secured Obligations (as defined in the Dutch Deed of Pledge) grant a Dutch disclosed right of pledge (*openbaar pandrecht*) in favour of the Trustee for the benefit of the Secured Parties over all present and future rights of the Issuer under or pursuant to the Dutch Loan Receivables which are at that time Purchased Loan Receivables,

together, the "**Security**" and the assets of the Issuer comprised in the Security, the "**Security Assets**".

- 4.2 The Issuer shall notify the Trustee in writing immediately upon each occasion after the Closing Date that it acquires any Loan Receivables, the related Loan Collateral and any other Security Assets and shall from time to time execute and do all such assurances, acts and things as the Trustee may require for perfecting or protecting the Security created or intended to be created by or pursuant to the Security Documents and from time to time. In the event that (i) the Issuer acquires any Additional Loan Receivables and/or any Additional Loan Collateral which do not fall within the scope of the Security pursuant to the existing Security Documents, (ii) the Issuer exercises its rights to require the transfer of any RR Assets which do not fall within the scope of the Security pursuant to the existing Security Documents or (iii) any Issuer Account Bank, Issuer Reserve Account Bank or Replacement Reserve Bank is required to be replaced, including upon a downgrade of such Issuer Account Bank, Issuer

Reserve Account Bank or the Replacement Reserve Account Bank in accordance with the provisions of the Transaction Documents and the Issuer is required to open new accounts with the relevant replacement account bank, which, in each of (i), (ii) and (iii) above do not fall within the scope of the Security pursuant to the existing Security Documents (the "**Additional Assets**"), the Issuer shall do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, registrations in the Refinancing Register, notices and instructions) as the Trustee may specify (and in such form as the Trustee may require) in favour of the Trustee for the purpose of exercising the rights under, or perfecting the security created or intended to be created, in respect of the Additional Assets.

- 4.3 If, at any time prior to the occurrence of a Transfer Event, (i) a Future Mortgage is to be created for the purpose of enforcing any Mortgage Undertaking in respect of any Loan Receivable which has been granted for the financing of German Properties or (ii) the Seller or the relevant Borrower Security Trustee (if any) is required to enforce a German land charge held by it in relation to which the relevant Loan Receivable has been transferred to the Trustee, the Trustee shall re-transfer such Loan Receivable and the related Loan Collateral to the Issuer for the purposes of onward transfer thereof to the Seller or the relevant Borrower Security Trustee (if any) and the Seller or the relevant Borrower Security Trustee (if any) has agreed under the Loan Receivables Purchase Agreement to register such re-transferred Loan Receivables and the related Loan Collateral in the Refinancing Register.

Notwithstanding the Security, the amount of principal and interest on the Notes may be reduced as a result of allocation of Loan Losses on the Purchased Loan Receivables which have become Specially Serviced Loan Receivables to the Notes and only the obligations of the Issuer to pay any amount of principal and interest determined to be due to the Noteholders in accordance with these Terms and Conditions, which may be reduced by such Loan Losses, shall have the benefit of the Security.

5. PAYMENTS

5.1 General

Payments in respect of the Notes shall be made by wire transfer of same day funds to, or to the order of, Euroclear and Clearstream Luxembourg, as relevant, for credit to the accounts held by the relevant participants for subsequent transfer to the Noteholders.

5.2 Discharge

All payments in respect of any Note made by or on behalf of the Issuer to Euroclear or Clearstream Luxembourg, as relevant, shall discharge the liability of the Issuer under such Note to the extent of the sums so paid. Upon any such payment, the Issuer shall procure that the amount so paid shall be entered in the records of the relevant Clearing System, but any failure to make such entries shall not affect the discharge referred to in the previous sentence.

The Issuer, the Trustee and the Principal Paying Agent may call and, except in the case of manifest error, shall be at liberty to accept as sufficient evidence thereof and place full reliance on, and shall have no liability to any person for any loss or liability arising as a result thereof, a certificate or letter of confirmation issued on behalf of any Note Custodian or any form of record made by any of them to the effect that at any particular time or throughout any particular period any particular person is, was, or will be shown in the records as a Noteholder of a particular Note.

"**Note Custodian**" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the relevant Noteholder maintains a security account in respect of the Notes and which maintains an account with Euroclear and/or Clearstream Luxembourg, either directly or indirectly through another custodian.

5.3 Business Days

If the date for any payment in respect of any Note is not a Business Day, such payment shall not be made until the next succeeding day which is a Business Day unless it would thereby fall into the next calendar month, in which case the payment shall be made on the immediately preceding Business Day.

"**Business Day**" means any TARGET Settlement Day or, if such TARGET Settlement Day is not a day on which banks are open for general business and foreign exchange markets settle payments in

Hamburg, Kiel, Luxembourg and London, the following TARGET Settlement Day on which banks are open for general business and foreign exchange markets settle payments in Hamburg, Kiel, Luxembourg and London unless that day falls in the next month, in which case the date will be the preceding TARGET Settlement Day on which banks are open for general business and foreign exchange markets settle payments in Hamburg, Kiel, Luxembourg and London.

6. INTEREST

6.1 Accrual of Interest and Interest Periods

Interest will accrue on the Outstanding Principal Amount of each Note in respect of the first Payment Date, from (and including) the Closing Date to (but excluding) the first Payment Date and, in respect of any subsequent Payment Date, from (and including) the immediately preceding Payment Date to (but excluding) such Payment Date (each, an "**Interest Period**").

6.2 Outstanding Principal Amount

The "**Outstanding Principal Amount**" of the Notes (or any Class of Notes) as at any Payment Date will be an amount equal to the Initial Principal Amount of the Notes (or such Class of Notes) as reduced by the aggregate amount of payments of principal made in respect thereof in accordance with Condition 14 (*Payments of Principal*) and/or allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) thereto pursuant to Condition 10 (*Principal Reductions*), in each case, on or before such Payment Date.

6.3 Payment Dates

Interest on the Outstanding Principal Amount of each Note will be payable quarterly in arrear on the 28th day in February, May, August and November of each year commencing in May 2010, subject, in each case, to adjustment for non-Business Days, as further described in Condition 5.3 (*Business Days*) (each such date, a "**Payment Date**").

6.4 Class A Rate of Interest, Class B Rate of Interest and Class C Interest

(a) The rate of interest applicable to the Outstanding Principal Amount of each Class A Note (the "**Class A Rate of Interest**") for each Interest Period shall be the aggregate of the Class A Margin and each Class B Note (the "**Class B Rate of Interest**") for each Interest Period shall be the aggregate of the Class B Margin, plus, in each case, the Euro Interbank Offered Rate ("**EURIBOR**") for three (3) - month euro deposits (save that the Class A Rate of Interest and the Class B Rate of Interest for the first Interest Period shall be determined through the use of straight line interpolation by reference to the rates available for three (3) month and four (4) month euro deposits) up to (and including) the Payment Date falling on the earlier of (i) the Final Regular Amortisation Date or (ii) the Payment Date falling in February 2017 (the "**Scheduled Maturity Date**"), which appears on the Reuters Page designated "EURIBOR01" (or such other page as may replace that page on that service, or such other service as may be nominated by the Interest Determination Agent as the information vendor, for the purpose of displaying comparable rates) as of 11:00 a.m. (Brussels time) determined by the Interest Determination Agent two (2) TARGET Settlement Days before the first day of the relevant Interest Period (each, an "**Interest Determination Date**"), **provided that** if Reuters Page "EURIBOR01" is not available or no such quotation appears thereon, the Interest Determination Agent will:

(i) request the principal Euro-zone office of each of four (4) major banks in the Euro-zone interbank market to provide a quotation of the rate at which deposits in euro are offered by it at approximately 11:00 a.m. (Brussels time) on the Interest Determination Date to prime banks in the Euro-zone interbank market for a period equal to the relevant Interest Period and in an amount equal to the then aggregate Outstanding Principal Amount of the Class A Notes and the Class B Notes and, if such an amount cannot be obtained, in an amount that is representative for a single transaction in that market at that time; and

- (ii) determine the arithmetic mean (rounded, if necessary, to the nearest one hundred thousandth of a percentage point, 0.000005 being rounded upwards) of such quotations; and
- (iii) if fewer than two (2) such quotations are provided as requested, the Interest Determination Agent will determine the arithmetic mean (rounded, if necessary, as aforesaid) of the rates quoted by two (2) or more major banks in the Euro-zone, selected by the Interest Determination Agent, at approximately 11:00 a.m. (Brussels time) on the first day of the relevant Interest Period for loans in euro to leading European banks for a period equal to the relevant Interest Period and in an amount equal to the then aggregate Outstanding Principal Amount of the Class A Notes and the Class B Notes and, if such an amount cannot be obtained, in an amount that is representative for a single transaction in that market at that time;
- (iv) the Class A Rate of Interest for such Interest Period shall be the sum of the Class A Margin, and the rate or (as the case may be) the arithmetic mean so determined **provided that** if the Interest Determination Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Class A Rate of Interest applicable to the Class A Notes during such Interest Period will be the Class A Rate of Interest applicable to the Class A Notes in respect of the immediately preceding Interest Period;
- (v) the Class B Rate of Interest for such Interest Period shall be the sum of the Class B Margin, and the rate or (as the case may be) the arithmetic mean so determined **provided that** if the Interest Determination Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Class B Rate of Interest applicable to the Class B Notes during such Interest Period will be the Class B Rate of Interest applicable to the Class B Notes in respect of the immediately preceding Interest Period,

provided that to the extent that any Class A Notes or Class B Notes are outstanding after the earlier of (1) the Final Regular Amortisation Date or (2) the Scheduled Maturity Date, interest will be payable on the aggregate Outstanding Principal Amount of such Class A Notes and Class B Notes on each subsequent Payment Date until the Final Maturity Date at the latest, in each case, in an amount equal to the Available Interest Recoveries in accordance with the Interest Priority of Payments, but not exceeding, on any Payment Date, the Interest Amount applicable to any such Note as at the Final Regular Amortisation Date or the Scheduled Maturity Date, as applicable.

"**Class A Margin**" means 0.90 per cent. per annum.

"**Class B Margin**" means 1.25 per cent. per annum.

- (b) The Class C Notes do not have a stated rate of interest. On each Payment Date, the Issuer shall pay the amount available for application under item (s) of the Interest Priority of Payments in respect of interest on the Class C Notes (the "**Class C Interest Amount**"), **provided that** to the extent that any Class C Notes are outstanding after the earlier of (a) the Final Regular Amortisation Date or (b) the Scheduled Maturity Date, interest on such Class C Notes shall be deferred until the earlier of (1) the Payment Date on which all Class A Notes and Class B Notes have been redeemed in full or (2) the Final Maturity Date, and will be payable on the aggregate Outstanding Principal Amount of such Class C Notes up to an amount equal to the Available Interest Recoveries in accordance with the Interest Priority of Payments on the earlier of (i) such Payment Date on which all Class A Notes and Class B Notes are redeemed in full (and each Payment Date thereafter) or (ii) the Final Maturity Date.

6.5 Calculation of Interest Amounts

- (a) The Interest Determination Agent will, as soon as practicable after the Interest Determination Date in relation to each Interest Period, calculate the amount of interest payable in respect of each Class A Note (the "**Class A Interest Amount**") and each Class B Note (the "**Class B Interest Amount**") for such Interest Period.

- (i) The Class A Interest Amount will be calculated:
 - (A) up to (but excluding) the earlier of (1) the Final Regular Amortisation Date, (2) the Optional Early Redemption Date, (3) the Early Redemption Date or (4) the Scheduled Maturity Date by applying the Class A Rate of Interest for such Interest Period to the Outstanding Principal Amount of the Class A Notes on the respective Payment Date (after allocation of the respective Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the Outstanding Principal Amount of the Class A Notes and by multiplying the product of such calculation by the actual number of days in the Interest Period and dividing by three hundred and sixty (360)); and
 - (B) after the earlier of (1) the Final Regular Amortisation Date or (2) the Scheduled Maturity Date, for each subsequent Payment Date in respect of each Class A Note then outstanding, to the extent of the Available Interest Recoveries in accordance with Condition 6.4 (*Class A Rate of Interest, Class B Rate of Interest and Class C Interest*),
- (ii) The Class B Interest Amount will be calculated:
 - (A) up to (but excluding) the earlier of (1) the Final Regular Amortisation Date, (2) the Optional Early Redemption Date, (3) the Early Redemption Date or (4) the Scheduled Maturity Date by applying the Class B Rate of Interest for such Interest Period to the Outstanding Principal Amount of the Class B Notes on the respective Payment Date (after allocation of the respective Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the Outstanding Principal Amount of the Class B Notes and by multiplying the product of such calculation by the actual number of days in the Interest Period and dividing by three hundred and sixty (360)); and
 - (B) after the earlier of (1) the Final Regular Amortisation Date or (2) the Scheduled Maturity Date, for each subsequent Payment Date in respect of each Class B Note then outstanding, to the extent of the Available Interest Recoveries in accordance with Condition 6.4 (*Class A Rate of Interest, Class B Rate of Interest and Class C Interest*),

and, in each case, rounding the resulting figure to the nearest €0.01 (half a cent being rounded upwards).

- (b) The Issuer (or the Cash Administrator on its behalf) will, on each Calculation and Reporting Date, calculate the Class C Interest Amount in respect of the Class C Notes for the Interest Period ending on the immediately following Payment Date and the Class C Interest Amount shall be included in the Investor Report in respect of such Payment Date to be delivered to the Noteholders pursuant to Condition 23 (*Forms of Notices*) **provided that**, after the earlier of (a) the Final Regular Amortisation Date or (b) the Scheduled Maturity Date, the Class C Interest Amount for the Class C Notes shall be zero until all Class A Notes have been redeemed in full and thereafter, on any Payment Date or the Final Maturity Date, the Class C Interest Amount applicable to such Class C Notes shall not exceed the Available Interest Recoveries for application in accordance with the Interest Priority of Payments.

6.6 Notice of Rates of Interest and Interest Amounts on the Class A Notes and the Class B Notes

As soon as practicable after receiving notification thereof, but no later than on the date of commencement of the relevant Interest Period, the Issuer will cause the Class A Rate of Interest and the Class A Interest Amount applicable to the Class A Notes and the Class B Rate of Interest and the Class B Interest Amount applicable to the Class B Notes, in each case, for each Interest Period and the Payment Date falling at the end of such Interest Period to be notified to the Noteholders (in accordance with Condition 23 (*Forms of Notices*)), the Principal Paying Agent, the Trustee and the Corporate

Services Provider on or as soon as possible after the date of commencement of the relevant Interest Period.

6.7 Notification to be Final

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of this Condition 6 (*Interest*) by the Interest Determination Agent shall (in the absence of negligence, wilful default or fraud) be binding on the Issuer, the Trustee and the Noteholders and (in the absence as aforesaid) no liability to the Noteholders shall attach to the Issuer or the Interest Determination Agent in connection with the exercise or non-exercise by them or either of them of their powers, duties and discretions hereunder.

6.8 Interest Shortfalls

Accrued interest not paid on any Payment Date related to the Interest Period in which it accrued will constitute an interest shortfall ("**Interest Shortfall**") with respect to the relevant Class A Note and/or Class B Note. An Interest Shortfall shall become due and payable on the next Payment Date and on any following Payment Date (subject to Condition 2.4 (*No rights after Final Maturity Date*)) until it is reduced to zero.

Interest shall not accrue on Interest Shortfalls at any time.

6.9 Payment of Interest

No later than 10:30 a.m. (London time) on each Payment Date prior to the service of an Enforcement Notice, **provided that** the Interest Rate Swap Agreement has not been terminated, the Cash Administrator shall apply amounts standing to the credit of the Issuer Interest Account in or towards payment of the Issuer Payments due, but not yet paid, to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement (other than any Issuer Subordinated Amount), and on each Payment Date prior to the service of an Enforcement Notice, the Available Interest Distribution Amount shall be applied by the Cash Administrator (on behalf of the Issuer) in making the following payments or provisions in respect of such payments in the following order of priority (the "**Interest Priority of Payments**") but, in each case, only to the extent that there are funds available for the purpose and all payments or provisions of a higher priority that fall due to be paid or provided for on such Payment Date have been made in full:

- (a) **first**, in or towards payment of the fees, costs, expenses and indemnification amounts then due and payable by the Issuer to the Trustee under the Trust Agreement and any Common Representative appointed in respect of a Class of Notes;
- (b) **second**, in or towards payment *pari passu* with each other on a *pro rata* basis of amounts then due and payable by the Issuer:
 - (i) in connection with the establishment of the Issuer and any annual return, filing, registration and registered office fees;
 - (ii) the Profit Margin to the Issuer Profit and Capital Account; and
 - (iii) the Issuer's liability (if any) to tax to the extent that there are not sufficient funds on the Issuer Profit and Capital Account in respect of such tax liability;
- (c) **third**, to the extent transferred to the Issuer Operating Accounts, in or towards payment to the Servicer of any sums comprised in the Collections which have been returned to Borrowers because of a direct debit (*Rücklastschrift*), an over-payment (*Überzahlung*) by the Borrower, an erroneous payment (*Fehlzahlung*) made by the Borrower or a similar reason;

- (d) **fourth**, in or towards payment *pari passu* with each other on a *pro rata* basis then due and payable by the Issuer of the fees, costs and expenses then due and payable by the Issuer to the Corporate Services Provider under the Corporate Services Agreement;
- (e) **fifth**, in or towards payment *pari passu* with each other on a *pro rata* basis of fees, costs, expenses and indemnification amounts then due and payable by the Issuer to:
 - (i) the Cash Administrator under the Cash Administration Agreement;
 - (ii) the Reporting Agent under the Cash Administration Agreement;
 - (iii) the Issuer Account Bank under the Issuer Account Agreement;
 - (iv) the Issuer Reserve Account Bank under the Issuer Reserve Account Agreement;
 - (v) the Agents under the Agency Agreement;
 - (vi) the Listing Agent;
 - (vii) the Luxembourg Stock Exchange;
 - (viii) the Rating Agency; and
 - (ix) the auditors and legal counsel of the Issuer;
- (f) **sixth**, in or towards payment of the Servicing Fee to the Servicer then due and payable by the Issuer, jointly for the account of the Servicer and the Special Servicer, under the Servicing Agreement and Servicing Expense Amounts then due and payable to the Servicer and/or the Special Servicer pursuant to the Servicing Agreement;
- (g) **seventh**, in or towards payment of the termination payments then due and payable by the Issuer to the Interest Rate Swap Counterparty (other than any Issuer Subordinated Amount);
- (h) **eighth**, *pari passu* with each other on a *pro rata* basis, in or towards payment of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class A Liquidity Facility (other than any Liquidity Subordinated Amount);
- (i) **ninth**, in or towards payment *pari passu* of accrued interest on the Class A Notes on a *pro rata* basis within the Class A Notes;
- (j) **tenth**, *pari passu* with each other on a *pro rata* basis, in or towards payment of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class B Liquidity Facility (other than any Liquidity Subordinated Amount);
- (k) **eleventh**, in or towards payment of all amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement (other than any principal amounts repayable in respect of an outstanding advance made thereunder and any RR Asset Expenses Subordinated Amount);
- (l) **twelfth**, in or towards payment of any principal amount of outstanding RR Expenses Drawings then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (m) **thirteenth**, in or towards payment *pari passu* of accrued interest on the Class B Notes on a *pro rata* basis within the Class B Notes;
- (n) **fourteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis to the Seller of (i) any tax credit, relief, remission or repayment received by the Issuer on account of any tax or additional amount previously paid by the Seller to the Issuer in satisfaction of the indemnification, reimbursement or gross up obligations on the part of the Seller under the Loan Receivables Purchase Agreement, or (ii) any Deemed Collection paid by the Seller in

respect of a Disputed Loan Receivable which has subsequently been proven with *res judicata* (*rechtskräftig festgestellt*) to be an enforceable Purchased Loan Receivable;

- (o) **fifteenth**, in or towards payment of any Issuer Subordinated Amount then due and payable to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement;
- (p) **sixteenth**, in or towards payment of RR Expenses Subordinated Amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (q) **seventeenth**, any Liquidity Subordinated Amounts then due and payable by the Issuer to the Liquidity Facility Provider under the Liquidity Facility Agreement;
- (r) **eighteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of fees, costs and expenses then due and payable by the Issuer to any third party creditors of the Issuer not already paid under items (a) to (q) above; and
- (s) **nineteenth**, in or towards payment *pari passu* of any remaining amount as interest on the Class C Notes on a *pro rata* basis within the Class C Notes.

6.10 Other Revenue Payments

To the extent that the Issuer receives or recovers any amounts in respect of Other Payments, prior to the service of an Enforcement Notice, it shall procure that, as soon as practicable upon such receipt or recovery, the Cash Administrator determines the amount of such Other Payments in respect of:

- (a) any Interest Rate Swap Collateral and the Issuer (or the Cash Administrator on its behalf) shall pay such amount or return such collateral to the Interest Rate Swap Counterparty or its credit support provider (as applicable) pursuant to the Interest Rate Swap Agreement; and
- (b) any Borrower Hedge Collateral Amount and the Issuer (or the Cash Administrator on its behalf) shall pay such amount to the relevant Borrower Hedge Counterparty,

and, for the avoidance of doubt, the amounts referred to in this Condition 6.10 (*Other Revenue Payments*) shall not form part of the Available Interest Distribution Amount or be available for application by the Issuer (or the Cash Administrator on its behalf) under Condition 6.9 (*Payment of Interest*).

7. THE PREFUNDING RESERVE

7.1 On the Closing Date, the Issuer shall apply €235,000,000 of the net proceeds of the Notes towards the establishment of the Prefunding Reserve which shall be held in the Prefunding Account until the Final Prefunding Date. The Prefunding may be utilised by the Issuer for the purchase of Additional Loan Receivables under Condition 8 (*Purchase of Additional Loan Receivables*).

7.2 On the Payment Date after the Prefunding Step-Down Date any amount of principal standing to the credit of the Prefunding Account above €117,500,000 and, on the Payment Date after the Final Prefunding Date, all amounts of principal standing to the credit of the Prefunding Account, shall be transferred to the Issuer Principal Account and all amounts of interest standing to the credit of the Prefunding Account shall be transferred to the Issuer Interest Account, in each case, in immediately available funds for application on the immediately following Payment Date towards redemption of the Notes and payment of accrued interest thereon under Condition 12 (*Amortisation*).

8. PURCHASE OF ADDITIONAL LOAN RECEIVABLES

8.1 The Issuer may, from time to time on a Payment Date after the Closing Date, purchase further Loan Receivables together with related Loan Collateral offered to it by the Seller pursuant to the Loan Receivables Purchase Agreement upon the advice of a representative of all of the Class C Noteholders (which, for the avoidance of doubt, the Issuer may accept at its own discretion) if:

- (a) such purchase is made prior to the Substitution Period End Date and the Aggregate Outstanding Loan Principal Amount of the Offered Loan Receivables does not exceed the Available Principal Distribution Amount on such Payment Date; and/or
- (b) such purchase is made prior to the Final Prefunding Date and the Aggregate Outstanding Loan Principal Amount of the Offered Loan Receivables does not exceed the Available Prefunded Amount on such Payment Date,

and, in each case, if the following conditions are satisfied:

- (i) in the case of a purchase under paragraph (a) above, the Substitution Criteria have been satisfied or, in the case of a purchase under paragraph (b) above, the Prefunding Criteria have been satisfied;
- (ii) the respective offer satisfies the requirements under the Loan Receivables Purchase Agreement;
- (iii) no Event of Default or Amortisation Event is continuing or would occur as a result of such purchase;
- (iv) the Issuer has received the prior written confirmation from the Rating Agency that the then ratings of the Rated Notes will not be downgraded as a result of the purchase;
- (v) the Issuer has entered into, or will enter into, an Interest Rate Swap Transaction in respect of each Offered Loan Receivable; and
- (vi) the Issuer has received all documents and notices, information and/or opinions required to be delivered to it or requested by it in respect of each such Offered Loan Receivable and the related Loan Collateral and the Seller has complied with all its obligations to transfer such Offered Loan Receivable and related Loan Collateral to the Issuer, in each case, pursuant to the Loan Receivables Purchase Agreement.

8.2 Each Loan Receivable purchased by the Issuer under this Condition 8 (*Purchase of Additional Loan Receivables*) shall, upon the payment of the Purchase Price therefor, be referred to herein as an "**Additional Loan Receivable**" and the related Loan Collateral will be referred to as the "**Additional Loan Collateral**". The term "Purchased Loan Receivables" shall include all Additional Loan Receivables.

"**Substitution Period End Date**" means the earlier of (a) the Payment Date falling in February 2013 or (b) the occurrence of an Amortisation Event.

9. SALE OF PURCHASED LOAN RECEIVABLES

9.1 The Issuer may, from time to time on any Collection Period End Date falling on or prior to the Scheduled Maturity Date, sell Purchased Loan Receivables:

- (a) that are not Specially Serviced Loan Receivables, upon the advice of a representative of all of the Class C Noteholders (which, for the avoidance of doubt, the Issuer may accept at its own discretion); and
- (b) that are Specially Serviced Loan Receivables, upon the recommendation of the Special Servicer pursuant to the Servicing Agreement (which, for the avoidance of doubt, the Issuer may accept at its own discretion),

in each case, if the following conditions are satisfied:

- (i) in the case of paragraph (a) above, the advice of the Class C Noteholders or, in the case of paragraph (b) above, the advice of the Special Servicer, contains a confirmation that the sale price of each such Purchased Loan Receivable represents a fair market value and has been verified by the Trustee as part of the verification of the Loan Receivable Disposal Agreement in accordance with the Trust Agreement;

- (ii) no Event of Default or Amortisation Event is continuing;
- (iii) the Issuer has received the prior written consent of the Trustee pursuant to the Trust Agreement;
- (iv) the Issuer has entered into a sale agreement (a "**Loan Receivable Disposal Agreement**") containing such terms as are reasonably standard in the opinion of the parties for such transaction, including the proposed purchaser undertaking to pay all costs and expenses of such sale incurred by the Issuer and no representations or warranties will be made by the Issuer in respect of such Purchased Loan Receivable,

and the Security over such Purchased Loan Receivables and the related Loan Collateral shall be released by the Trustee.

9.2 The Purchased Loan Receivables sold under this Condition 9 (*Sale of Purchased Loan Receivables*) shall cease to be Purchased Loan Receivables.

9.3 This Condition 9 (*Sale of Purchased Loan Receivables*) does not limit any rights of the Issuer, the Trustee, the Servicer and the Special Servicer in relation to the sale of Purchased Loan Receivables pursuant to clause 18 (*Determination and Verification of Final Loan Losses and Available Collateral Recoveries*) and clause 20 (*Optional Early Redemption and Clean-up Call*) of the Trust Agreement.

10. **PRINCIPAL REDUCTIONS**

On each Payment Date, an amount equal to the Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) (if any) on Specially Serviced Loan Receivables not previously allocated in this Condition 10 (*Principal Reductions*) shall be allocated to reduce the Outstanding Principal Amount of each Class of Notes and any such reduction will be allocated to reduce the Outstanding Principal Amount of *first*, the Class C Notes, *second*, the Class B Notes and *third*, the Class A Notes, in each case, *pari passu* on a *pro rata* basis within any Class of Notes until the Outstanding Principal Amount of each such Class of Notes is reduced to zero (the "**Reverse Order of Seniority**"), subject to the allocation of each such Loan Loss having been verified by the Trustee in accordance with the Trust Agreement prior to such allocation.

"**Loan Loss**" means, in respect of a Specially Serviced Loan Receivable, following the termination of the workout upon determination by the Special Servicer that all amounts expected to be recovered by it from the Obligors have been received, an amount equal to the outstanding principal amount of such Loan Receivable on the Purchase Date thereof less the sum of all Principal Collections (including, for the avoidance of doubt, all Available Principal Recoveries allocated to such Specially Serviced Loan Receivable).

11. **REDEMPTION**

11.1 Unless redeemed earlier under Condition 12 (*Amortisation*) or Condition 13 (*Early Redemption*) or reduced to zero under Condition 10 (*Principal Reductions*), the Notes will be redeemed at their then Outstanding Principal Amount on the Payment Date falling in February 2017 (the "**Scheduled Maturity Date**", **provided that** if any Purchased Loan Receivable has become a Specially Serviced Loan Receivable and the respective Loan Loss has not been finally determined as at the Scheduled Maturity Date, such Notes (including all or part of any such Class of Notes) that are affected by such Specially Serviced Loan Receivables and are therefore not redeemed on the Scheduled Maturity Date will remain outstanding until the Payment Date falling in February 2020 (the "**Final Maturity Date**") at the latest and payments of principal will be made on such Notes to the extent of the Principal Recoveries of the relevant Collection Period in accordance with the Order of Seniority on each Payment Date until the Final Maturity Date (after allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to such Notes on each such date) at the latest.

11.2 Should the Notes be redeemed in whole or in part, the Trustee will procure that, as long as the Notes are listed, the Luxembourg Stock Exchange is informed of the remaining Outstanding Principal Amount of the remaining Notes.

12. AMORTISATION

Unless redeemed earlier pursuant to Condition 13 (*Early Redemption*) or reduced to zero under Condition 10 (*Principal Reductions*), the Notes will be subject to redemption, in part on each Payment Date up to (and including) the Scheduled Maturity Date, at their then Outstanding Principal Amount on such Payment Date (after allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the relevant Classes of Notes on any such Amortisation Date) to the extent of the Available Principal Distribution Amount available for application towards the redemption of the Notes on each such Payment Date in accordance with the Principal Priority of Payments together with interest accrued on the Notes (other than the Class C Notes) to (but excluding) such Payment Date in accordance with the Interest Priority of Payments (each such date is referred to herein as an "**Amortisation Date**") and **provided that** to the extent that any Notes remain outstanding only as a result of Loan Losses in respect of Specially Serviced Loan Receivables not having been verified by the Trustee after redemption of all other Notes on an Amortisation Date (the "**Final Regular Amortisation Date**"), the Notes which remain outstanding will be redeemed on each Payment Date after the Final Regular Amortisation Date to the extent of the Principal Recoveries of the relevant Collection Period (after allocation of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to such Notes on such date) in accordance with the Principal Priority of Payments and interest thereon will be payable in an amount equal to the Interest Recoveries of the relevant Collection Period in accordance with the Interest Priority of Payments.

13. EARLY REDEMPTION

13.1 Optional Early Redemption following a Tax Event

The Issuer may, but is not obliged to, redeem the Notes in whole, but not in part, if (i) a Tax Event has occurred which has a Material Adverse Effect on the Issuer and (ii) the Issuer has given neither more than sixty (60) nor less than thirty (30) days' written notice to the Trustee and to the Noteholders in accordance with Condition 22 (*Notices*) (the "**Tax Event Notice**"), on the Payment Date following the delivery of a Tax Event Notice (the "**Optional Early Redemption Date**"), together with accrued interest thereon (if any) to (but excluding) the Optional Early Redemption Date, **provided that** on the Payment Date on which such Tax Event Notice expires, no Enforcement Notice has been served and **provided further that** the Issuer has, prior to giving such Tax Event Notice, certified to the Trustee that the Issuer will have the necessary funds which will be at least equal to the then aggregate Outstanding Principal Amount of the Notes (after deduction from such aggregate Outstanding Principal Amount of the Notes of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them on the proposed date of redemption thereof) together with all interest accrued thereon (except in the case of the Class C Notes) and all obligations of the Issuer ranking in priority thereto in the Interest Priority of Payments.

13.2 Early Redemption upon exercise of Clean-up Call

The Notes will be subject to early redemption in whole, but not in part, prior to their respective Scheduled Maturity Date on the Payment Date together with accrued interest thereon (if any) to (but excluding) the Early Redemption Date immediately following notice of the Seller's exercise of its right (the "**Clean-up Call**") to purchase all Purchased Loan Receivables at their then current value in the event that the then Aggregate Outstanding Loan Principal Amount of all Purchased Loan Receivables represents less than ten per cent. (10%) of the Aggregate Outstanding Loan Principal Amount of all Purchased Loan Receivables as at the Closing Date in accordance with the provisions of the Loan Receivables Purchase Agreement and the Trust Agreement and, in particular, the fulfilment of the following conditions precedent to the exercise of the Clean-up Call:

- (a) the proceeds distributable as a result of the contemplated purchase determined by the Cash Administrator will be at least equal to the then aggregate Outstanding Principal Amount of the Notes (after deduction from such aggregate Outstanding Principal Amount of the Notes of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them on the proposed date of redemption thereof) together with all interest accrued thereon (except in the case of the Class C Notes), from (and including) the Payment Date immediately preceding the Seller's notice of its intention to purchase to (but excluding) the Payment Date immediately following such notice (the "**Clean-**

up Call Date"), and all obligations of the Purchaser ranking in priority thereto in the Interest Priority of Payments;

- (b) an agreement is reached between the Seller, the Issuer and the Trustee on the repurchase price (the "**Repurchase Price**") payable by the Seller for the Repurchase Loan Receivables, which does not exceed the then current value of such Purchased Loan Receivables;
- (c) the prior written consent to such repurchase by the Trustee; and
- (d) reimbursement by the Seller of the Issuer's costs and expenses in connection with such repurchase.

13.3 Early Redemption following a Delivery of Enforcement Notice

The Notes will be subject to early redemption in whole, but not in part, prior to their respective Scheduled Maturity Date together with accrued interest thereon (if any) to (but excluding) the Early Redemption Date on the Payment Date immediately following the delivery by the Trustee of an Enforcement Notice to the Issuer upon the occurrence of an Event of Default (for the avoidance of doubt, no entity in the HSH Group shall purchase any Purchased Loan Receivables upon the occurrence of such Event of Default).

13.4 Notice of Redemption

Any notice referred to in this Condition 13 (*Early Redemption*) shall be irrevocable and, upon the expiration of such notice, the Issuer shall be bound to redeem the Notes of the relevant Class subject to the Terms and Conditions in the amounts specified in these Terms and Conditions.

13.5 Early Redemption Date

Each Payment Date on which the Notes are redeemed in accordance with Condition 13.2 (*Early Redemption upon exercise of Clean-up Call*) or 13.3 (*Early Redemption following a Delivery of Enforcement Notice*) will be referred to as an "**Early Redemption Date**".

14. PAYMENTS OF PRINCIPAL

Prior to the service of an Enforcement Notice, (A) the Issuer (or the Cash Administrator on its behalf) shall, on each Payment Date which is also a Purchase Date falling prior to (1) the Substitution Period End Date, apply an amount not exceeding the Net Disposal Proceeds and/or (2) the Final Prefunding Date, apply an amount not exceeding the Available Prefunded Amount, in each case, towards payment of the Purchase Price which is then due and payable by the Issuer in respect of its purchase of Additional Loan Receivables pursuant to the Loan Receivables Purchase Agreement and related costs and expenses incurred by the Issuer in respect of each such purchase, (B) the Issuer (or the Cash Administrator on its behalf) shall, on the Payment Date immediately upon the occurrence of a Verity Issuer Payment Event in respect of a Verity Loan Receivable pay the relevant Verity Issuer Payment Amount to the Seller and (C) the Available Principal Distribution Amount shall be applied by the Cash Administrator (on behalf of the Issuer) on each Payment Date in making the following payments in the following order of priority (the "**Principal Priority of Payments**") but, in each case, only to the extent that these are funds available for the purpose and all payments of a higher priority that fall due to be paid on such Payment Date have been made in full:

- (a) **first**, in or towards payment *pari passu* with each other on a *pro rata* basis of the then Outstanding Principal Amount of the Class A Notes (after the allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) on such Payment Date) until the Outstanding Principal Amount of all the Class A Notes is reduced to zero;
- (b) **second**, in or towards payment *pari passu* with each other on a *pro rata* basis of the then Outstanding Principal Amount of the Class B Notes (after the allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) on such Payment Date) until the Outstanding Principal Amount of all the Class B Notes is reduced to zero; and

- (c) **third**, in or towards payment *pari passu* with each other on a *pro rata* basis of the then Outstanding Principal Amount of the Class C Notes (after the allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) on such Payment Date) until the Outstanding Principal Amount of all the Class C Notes is reduced to zero.

However, if on the Calculation and Reporting Date falling in February 2011 the following conditions are satisfied:

- (1) a Borrower Security Trustee Rescission Event has occurred; and
(2) no Liquidity Drawing is then outstanding under the Liquidity Facility Agreement,

the Available Principal Distribution Amount shall be applied on the immediately following Payment Date, as follows:

- (a) €48,000,000 *pari passu* and *pro rata* between the Class A Notes; and
(b) the amount repaid by the Seller to the Issuer due to the occurrence of a Borrower Security Trustee Rescission Event less €48,000,000 *pari passu* and *pro rata* (in accordance with the Outstanding Principal Amount of each), between the Class B Notes and the Class C Notes.

15. **PAYMENT OF BORROWER HEDGE COLLATERAL AMOUNTS**

If, prior to the service of an Enforcement Notice, the Issuer (or the Special Servicer on its behalf) receives or recovers any Loan Collateral Recoveries in respect of a Specially Serviced Loan Receivable, the Issuer shall procure that, as soon as practicable upon such receipt or recovery, the Special Servicer determines any Borrower Hedge Collateral Amount and shall pay such amount to the respective Borrower Hedge Counterparty after verification of such amount by the Trustee pursuant to the Trust Agreement.

16. **EVENTS OF DEFAULT**

The occurrence of any of the following events will constitute an "**Event of Default**":

- (a) the Issuer fails to make any payment in respect of interest or principal within twenty (20) Business Days of the due date therefor on Class A Notes or, if no Class A Notes are outstanding, the Class B Notes or, if no Class B Notes are outstanding, the Class C Notes; or
(b) any other default which is made by the Issuer in the performance or observance of any other material obligation under the Notes or any Transaction Document to which it is a party and, except where in the opinion of the Trustee such default is not capable of remedy, such default continues unremedied for a period of forty five (45) Business Days following the delivery by the Trustee of written notice to the Issuer requiring the same to be remedied; or
(c) one or more judgment(s) or order(s) from which no further appeal or judicial review is permissible under applicable law for the payment of any amount (or its equivalent in any other currency or currencies) is rendered against the Issuer and continues unsatisfied and unstayed for a period of forty five (45) Business Days after the date(s) thereof or, if later, the date therein specified for payment; or
(d) other than pursuant to the Security Documents, a secured party takes possession of, or a receiver, manager or other similar officer is appointed in relation to, the whole or a substantial part of the undertaking, assets and revenues of the Issuer; or
(e) any of the security interests constituted over the Security Assets under the relevant Security Documents is or becomes invalid, void, voidable or unenforceable; or
(f) the Issuer becomes Insolvent.

17. ENFORCEMENT OF SECURITY

17.1 The Trustee shall deliver an Enforcement Notice to the Issuer (with copies to the Noteholders, the Rating Agency and the Principal Paying Agent) as soon as it becomes aware of the occurrence of an Event of Default and, following service by the Trustee of the Enforcement Notice, the Trustee may in its sole discretion and without further notice, but subject to the provisions of the Trust Agreement and the other Transaction Documents, institute such proceedings against the Issuer as it may think fit in order to enforce the Security, including, without limitation, undertaking any of the following (either in its own name or in the name of the Issuer or otherwise and in such manner and upon such terms and conditions as it thinks fit):

- (a) take possession of the whole or any part of the Security Assets and sell, call in, collect and convert into money and enforce any rights it may have in respect of, the whole or any part of the relevant Security Assets in such manner and upon such terms as the Trustee shall think fit;
- (b) collect and receive any and all interest, distributions, fees, proceeds of repayment or redemption (whether in whole or in part) and other payments and receipts of, on or in respect of the Security Assets or any of them;
- (c) do all such other acts and things as the Trustee may consider necessary or expedient for the realisation of the Security Assets or incidental to the exercise of any of the rights conferred by it under or by virtue of the Trust Agreement and the other Security Documents and to concur in the doing of anything which it has the right to do and to do any such thing jointly with any other person;
- (d) exercise any other rights and remedies that may be available at law; and
- (e) if the requirements set forth in Sections 1273 *et seq.* and 1204 *et seq.* German Civil Code (*Bürgerliches Gesetzbuch*) with regard to the enforcement of the Pledges over the Prefunding Account, the Issuer Reserve Accounts (other than the Verity Account) and the second ranking Pledge over the Verity Account are met (*Pfandreife*), (i) avail itself of all rights and remedies that a pledgee has upon default of a pledge under the laws of Germany and (ii) exercise its rights in accordance with the Trust Agreement without obtaining an enforceable judgment or other instrument (*vollstreckbarer Titel*), notwithstanding Section 1277 German Civil Code (*Bürgerliches Gesetzbuch*), and the Trustee shall be entitled to revoke the power of withdrawal granted to the Issuer,

provided that, with regard to the Issuer English Security and the Issuer English Security Assets, the rights of the Trustee shall be determined in accordance with the Issuer Deed of Charge and English law and with regard to the Dutch Security and the Dutch Security Assets, the rights of the Trustee shall be determined in accordance with Dutch Deed of Pledge and Dutch law.

17.2 If the Trustee makes any claim of default in payment by the Issuer of any amount due in respect of any Note of any Class, certification by the Trustee that the Issuer defaulted in paying any principal, and/or interest due in respect of such Note shall (unless the contrary be proved) be sufficient evidence that the Issuer has made a similar default as regards all other Notes of such Class and all Notes of any other Class of Notes ranking after such Class of Notes.

17.3 The Trustee shall have no liability whatsoever to the Issuer or any of the Secured Parties with regard to any deficiency which might arise because the Trustee is subject to any tax in respect of the Security Assets, the income from such property or the proceeds of such property or is required to make any deduction or withholding from any payment to any Secured Party.

17.4 The Trustee will not be liable for any decline in the value nor any loss realised upon any sale or other disposition of any of the Security Assets made pursuant to the Trust Agreement.

17.5 The Issuer hereby expressly waives all defences of voidability (*Einrede der Anfechtbarkeit*) and set-off (*Einrede der Aufrechenbarkeit*) pursuant to Sections 770 and 1211 German Civil Code (*Bürgerliches Gesetzbuch*) unless any counterclaim invoked by the Issuer as set-off is either undisputed between the parties or has been adjudicated by a court with *res judicata* (*rechtskräftig festgestellt*).

17.6 The Trustee shall be under no obligation to do anything to ascertain whether any Event of Default has occurred and will not be responsible to Noteholders or any other person for any loss arising from any failure by it to do so and, until it has actual knowledge or express notice to the contrary, the Trustee may assume that no such event has occurred and that the Issuer is performing all its obligations under the Trust Agreement and these Terms and Conditions.

18. APPLICATION OF MONIES ON ENFORCEMENT

18.1 Following delivery of an Enforcement Notice by the Trustee any Proceeds standing to the credit of the Security Proceeds Account (other than any amounts in respect of Other Payments) shall be applied by the Trustee on any Business Day in making the following payments in the following order of priority (the "**Enforcement Priority of Payments**") but, in each case, only to the extent that there are funds available for that purpose and all payments of a higher priority have been made in full:

- (a) **first**, in or towards payment of the fees, costs, expenses and indemnification amounts then due and payable by the Issuer to the Trustee under the Trust Agreement and any Common Representative appointed in respect of a Class of Notes;
- (b) **second**, in or towards payment of the Issuer's liability (if any) to tax;
- (c) **third**, in or towards payment *pari passu* with each other on a *pro rata* basis then due and payable by the Issuer of all the Issuer's Expenses;
- (d) **fourth**, in or towards payment of the Servicing Fee to the Servicer then due and payable by the Issuer, jointly for the account of the Servicer and the Special Servicer under the Servicing Agreement and Servicing Expense Amounts then due and payable to the Servicer and/or the Special Servicer pursuant to the Servicing Agreement;
- (e) **fifth**, in or towards payment *pari passu* with each other on a *pro rata* basis (a) of all termination payments then due and payable by the Issuer to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement and/or (b) in or towards payment of the Issuer Payments due, but not yet paid, to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement, in each case, other than any Issuer Subordinated Amount;
- (f) **sixth**, in or towards payment on a *pari passu* and *pro rata* basis of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class A Liquidity Facility (other than any Liquidity Subordinated Amount);
- (g) **seventh**, in or towards payment *pari passu* with each other on a *pro rata* basis of all amounts then due and payable by the Issuer in respect of accrued interest on the Class A Notes;
- (h) **eighth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class A Notes until the Outstanding Principal Amount of all Class A Notes is reduced to zero;
- (i) **ninth**, in or towards payment on a *pari passu* and *pro rata* basis of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class B Liquidity Facility (other than any Liquidity Subordinated Amount);
- (j) **tenth**, in or towards all amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement (other than any principal amounts repayable in respect of an outstanding advance made thereunder and the RR Asset Expenses Subordinated Amount);
- (k) **eleventh**, in or towards payment of any principal amount of outstanding RR Expenses Drawings then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (l) **twelfth**, in or towards payment *pari passu* with each other on a *pro rata* basis of all amounts then due and payable by the Issuer in respect of accrued interest on the Class B Notes;

- (m) **thirteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class B Notes until the Outstanding Principal Amount of all Class B Notes is reduced to zero;
- (n) **fourteenth**, in or towards payment of any Issuer Subordinated Amount then due and payable to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement;
- (o) **fifteenth**, any Liquidity Subordinated Amounts then due and payable by the Issuer to the Liquidity Facility Provider under the Liquidity Facility Agreement;
- (p) **sixteenth**, in or towards payment of the RR Asset Expenses Subordinated Amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (q) **seventeenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class C Notes until the Outstanding Principal Amount of all Class C Notes is reduced to zero;
- (r) **eighteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of any remaining amount less the Profit Margin as interest on the Class C Notes on a *pro rata* basis within the Class C Notes; and
- (s) **nineteenth**, the Profit Margin, if any, to the Issuer.

18.2 To the extent that the Trustee receives or recovers any amounts in respect of the Other Payments, whether in the Security Proceeds Account or otherwise it shall, as soon as practicable upon such receipt or recovery, determine the amount of such Other Payments in respect of:

- (a) any Interest Rate Swap Collateral and pay such amount or return such collateral to the Interest Rate Swap Counterparty or its Credit Support Provider (as applicable); and
- (b) any Borrower Hedge Collateral Amount and pay such amount to the respective Borrower Hedge Counterparty,

and, for the avoidance of doubt, the amounts referred to in paragraphs (a) and (b) shall not be available for application by the Trustee under Condition 18.1.

19. TAXATION

19.1 Taxation

All payments in respect of the Notes shall be made free and clear of, and without withholding or deduction for, any Taxes unless the Issuer, the Trustee or the Principal Paying Agent (as the case may be) is required by law to make any such payment subject to any such withholding or deduction. In that event, the Issuer, the Trustee or the Principal Paying Agent (as the case may be) shall be entitled to withhold or deduct the required amount for or on account of taxes from such payment and shall account to the relevant Tax Authorities for the amount so withheld or deducted. The Issuer shall account for the deducted or withheld taxes with the competent government agencies and shall, upon request of a Noteholder, provide evidence thereof.

19.2 No Gross-Up

The Notes do not provide for gross-up payments in the case that any amount payable under the Notes, any Issuer Operating Account, the Prefunding Account, the Issuer Reserve Accounts or the Replacement Reserve Accounts is or becomes subject to income taxes (including withholding taxes) or taxes on capital. If any withholding or deduction on account of taxes is imposed with respect to payments by the Issuer under the Notes, the amounts payable by the Issuer under the Notes will be reduced by the amount of such withholding or deduction.

19.3 Taxing Jurisdiction

If the Issuer becomes subject at any time to any taxing jurisdiction other than the Issuer's jurisdiction, references in these Terms and Conditions to the Issuer's jurisdiction shall be construed as references to the Issuer's jurisdiction and/or such other jurisdiction.

19.4 Tax Deduction no Event of Default

Notwithstanding that the Trustee, the Issuer or the Principal Paying Agent (as the case may be) is required to make a Tax Deduction in accordance with Condition 19.1 (*Taxation*) above, this shall not constitute an Event of Default.

20. CLASS C NOTEHOLDERS' LETTERS OF ADVICE

The Class C Noteholders, acting unanimously and through a duly authorised representative, may advise the Issuer in writing from time to time to purchase Loan Receivables offered by the Seller or to sell Purchased Loan Receivables **provided that** the Issuer may determine whether or not to accept such advice in its sole discretion and any purchase or sale may only be made in accordance with Conditions 8 (*Purchase of Additional Loan Receivables*) and 9 (*Sale of Purchased Loan Receivables*) (as applicable) and Condition 25 (*Noteholders Consents and Instructions*) shall not apply to this Condition 20 (*Class C Noteholders' Letter of Advice*).

21. INVESTOR REPORTS

In relation to each Payment Date, the Issuer shall notify the Trustee, the Principal Paying Agent, the Interest Rate Swap Counterparty and the Rating Agency of the information prepared by the Reporting Agent under paragraphs (a) to (d) below (or such other information as the Reporting Agent may agree with the Trustee from time to time), and verified by the Trustee in accordance with the Trust Agreement (an "**Investor Report**"), and such Investor Report shall also be made available to Noteholders at the Specified Office of the Principal Paying Agent (and on the website www.etrustee.net), no later than 4:00 p.m. (Luxembourg time) on the relevant Payment Date:

- (a) on such Payment Date:
 - (i) in respect of the Notes:
 - (A) the Outstanding Principal Amount of any Notes and each Class of Notes to be redeemed on such Payment Date;
 - (B) the aggregate Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) (if any) to be allocated to each Note and each Class of Notes;
 - (C) the Outstanding Principal Amount of each Note and each Class of Notes after the allocations, applications and/or redemptions referred to in paragraph (A) and paragraph (B) above;
 - (D) any Interest Shortfall to be suffered in respect of each Note and each Class of Notes;
 - (E) the Available Principal Distribution Amount;
 - (F) the Available Interest Distribution Amount;
 - (G) in the case of a final payment on any Class of Notes, a statement to that effect;
 - (H) the Servicing Fee, Servicing Expense Amount, Trustee Fees, Corporate Services Provider Fees, Issuer's Expenses and Profit Margin to be paid on such Payment Date;
 - (I) costs, expenses and any indemnification amounts due and payable by the Issuer under the Agency Agreement, the Trust Agreement, the Cash

Administration Agreement and the Corporate Services Agreement on such Payment Date pursuant to the Transaction Documents and not already included in item (H);

- (J) the interest accrued to the Issuer Operating Accounts and interest on the relevant Authorised Investments (if any) for the Relevant Collection Period and details regarding the Authorised Investments (if any);
 - (K) any drawings from the Prefunding Account during the Relevant Collection Period;
 - (L) the interest accrued to the Prefunding Account for the Relevant Collection Period;
 - (M) the credit balance of the Prefunding Account as at the immediately preceding Collection Period End Date;
 - (N) the Class C Interest Amount;
 - (O) any drawings from the Verity Account or the Replacement Verity Account;
 - (P) the interest accrued to the Verity Account and/or the Replacement Verity Account in respect of the Relevant Collection Period; and
 - (Q) the credit balance of the Verity Account and the Replacement Verity Account as at the immediately preceding Collection Period End Date;
- (ii) in respect of the Liquidity Facility Agreement:
- (A) any payments by the Issuer under the Liquidity Facility Agreement on such Payment Date;
 - (B) any Liquidity Drawings outstanding (including those made on such Payment Date), interest thereon and other amounts outstanding under the Liquidity Facility Agreement;
 - (C) any Liquidity Drawings to be repaid on such Payment Date, interest thereon and any other amounts to be repaid on such Payment Date;
 - (D) any Liquidity Subordinated Amounts to be paid on such Payment Date;
 - (E) the interest accrued and credited to the Liquidity Accounts (if any); and
 - (F) the credit balance and Authorised Investments (if any) of the Liquidity Accounts as at the immediately preceding Collection Period End Date;
- (iii) in respect of the RR Expenses Facility Agreement:
- (A) any payments by the Issuer under the RR Expenses Facility Agreement on such Payment Date;
 - (B) any RR Expenses Drawings to be repaid on such Payment Date, interest thereon and any other amounts to be repaid on such Payment Date;
 - (C) any principal amount of outstanding RR Expenses Drawings and the RR Asset Expenses Subordinated Amounts to be paid on such Payment Date;
 - (D) the interest accrued and credited to the RR Expenses Account (if any) and interest on the relevant Authorised Investments (if any) for the Relevant Collection Period and details regarding the Authorised Investments (if any);
 - (E) the interest accrued and credited to the RR Expenses Stand-By I Account and the RR Expenses Stand-By II Account (if any); and

- (F) the credit balance and Authorised Investments (if any) of the RR Expenses Account, the RR Expenses Stand-By I Account and the RR Expenses Stand-By II Account as at the immediately preceding Collection Period End Date;
- (iv) in respect of the Interest Rate Swap Agreement:
- (A) the Issuer Payments under the Interest Rate Swap Agreement to be paid on such Payment Date;
 - (B) the Floating Payments under the Interest Rate Swap Agreement to be paid on such Payment Date;
 - (C) any termination payments due and payable to the Interest Rate Swap Counterparty upon termination of the Interest Rate Swap Agreement on such Payment Date;
 - (D) any Issuer Subordinated Amounts to be paid on such Payment Date;
 - (E) any Interest Rate Swap Collateral under the Interest Rate Swap Agreement;
 - (F) the interest accrued and credited to the Interest Rate Swap Collateral Reserve Account and Interest Rate Swap Collateral Replacement Reserve Account (if any) in respect of the Relevant Collection Period; and
 - (G) the credit balance and Authorised Investments (if any) of the Interest Rate Swap Collateral Reserve Account and Interest Rate Swap Collateral Replacement Reserve Account as at the immediately preceding Collection Period End Date;
- (b) on such Payment Date, confirmation that:
- (i) no Event of Default has occurred;
 - (ii) no Tax Event has occurred;
 - (iii) no Amortisation Event has occurred (to the extent that such confirmation can be given by the Cash Administrator);
 - (iv) no HSH Event of Default has occurred (to the extent that such confirmation can be given by the Cash Administrator); and
 - (v) it is not aware that any IRAB Transfer Event has occurred or, if an IRAB Transfer Event has occurred, the Issuer Reserve Accounts and credit balances thereon have been transferred to the respective Replacement Reserve Accounts.
- (c) as at the Collection Period End Date immediately preceding such Payment Date:
- (i) in respect of all Purchased Loan Receivables:
 - (A) the Outstanding Loan Principal Amount (on an aggregate basis and for each Purchased Loan Receivable) and number of all Purchased Loan Receivables on the immediately preceding Collection Period End Date;
 - (B) the Interest Collections to be received in the Issuer Interest Account before the relevant Payment Date;
 - (C) the Principal Collections to be received in the Issuer Principal Account before the relevant Payment Date;
 - (D) the Interest Recoveries, Principal Recoveries and Loan Collateral Recoveries in respect of all Specially Serviced Loan Receivables in respect of the Relevant Collection Period;

- (E) the aggregate Outstanding Loan Principal Amount of Specially Serviced Loan Receivables in respect of which a Loan Loss has been determined;
 - (F) the aggregate of any amounts relating to Collections which have been returned to the respective Obligor because of any direct debits (*Rücklastschriften*), over-payment (*Überzahlung*) by the Obligor, an erroneous payment (*Fehlzahlung*) made by the Obligor or a similar reason;
 - (G) the asset type, regional distributions, maturity and rate of interest of the Purchased Loan Receivables;
 - (H) the Offer and Offered Loan Receivables List delivered to the Purchaser immediately preceding the relevant Payment Date;
 - (I) the amount of any Principal Collections comprised of early repayment by the Borrowers;
 - (J) the amount standing to the credit of the Verity Account and the Replacement Verity Account on the relevant Payment Date;
 - (K) the Verity Issuer Payment Amount paid to the Seller;
 - (L) the Verity Seller Amount received in the Issuer Principal Account;
- (ii) in respect of all Purchased Loan Receivables which are not Specially Serviced Loan Receivables:
- (A) the aggregate Outstanding Loan Principal Amount and number of such Purchased Loan Receivables on the immediately preceding Collection Period End Date;
 - (B) the Interest Collections to be received in the Issuer Interest Account before the relevant Payment Date; and
 - (C) the Principal Collections to be received in the Issuer Principal Accounts before the relevant Payment Date;
- (iii) in respect of Specially Serviced Loan Receivables which are not Delinquent Loan Receivables:
- (A) the aggregate Outstanding Loan Principal Amount and number of such Specially Serviced Loan Receivables on the immediately preceding Collection Period End Date;
 - (B) the Interest Collections to be received in the Issuer Interest Account before the relevant Payment Date;
 - (C) the Principal Collections to be received in the Issuer Principal Accounts before the relevant Payment Date;
 - (D) the aggregate Outstanding Loan Principal Amount of such Specially Serviced Loan Receivables in respect of which any Liquidity Drawing is outstanding;
 - (E) the Interest Recoveries, Principal Recoveries and Loan Collateral Recoveries in respect of each such Specially Serviced Loan Receivable in respect of the Relevant Collection Period; and
 - (F) the aggregate Outstanding Loan Principal Amount of such Specially Serviced Loan Receivables in respect of which a Loan Loss has been determined;

- (iv) in respect of Specially Serviced Loan Receivables which are Delinquent Loan Receivables:
 - (A) the aggregate Outstanding Loan Principal Amount and number of all Delinquent Loan Receivables on the immediately preceding Collection Period End Date;
 - (B) the Interest Collections to be received in the Issuer Interest Account before the relevant Payment Date;
 - (C) the Principal Collections to be received in the Issuer Principal Accounts before the relevant Payment Date;
 - (D) the aggregate Outstanding Loan Principal Amount of the Delinquent Loan Receivables in respect of which any Liquidity Drawing is outstanding;
 - (E) the Interest Recoveries, Principal Recoveries and Loan Collateral Recoveries in respect of each Delinquent Loan Receivable in respect of the Relevant Collection Period; and
 - (F) the aggregate Outstanding Loan Principal Amount of the Delinquent Loan Receivables in respect of which a Loan Loss has been determined;
- (d) on such Payment Date, confirmation that:
 - (i) no Transfer Event has occurred;
 - (ii) no Moratorium Event has occurred;
 - (iii) no Amortisation Event has occurred (to the extent that such confirmation can be given by the Servicer); and
 - (iv) the requirements set forth in Sections 1273 et seq. and 1204 et seq. German Civil Code (*Bürgerliches Gesetzbuch*) with regard to the enforcement of the Pledges over the Prefunding Account, the Issuer Reserve Accounts (other than the Verity Account) and the second ranking Pledge over the Verity Account have not been met (*keine Pfandreife*).

22. NOTICES

- 22.1 The Issuer shall notify the Noteholders, the Principal Paying Agent and the Rating Agency in accordance with Condition 23 (*Forms of Notices*):
- (a) of any Amortisation Date, not later than two (2) Business Day prior thereto;
 - (b) of the Optional Early Redemption Date, not later than ten (10) Business Days prior thereto; or
 - (c) of the Early Redemption Date, not later than ten (10) Business Days prior thereto,
- and, in each case, amounts to be paid on each Note to be redeemed and other matters specified in Condition 21 (*Investor Reports*) to the extent applicable.
- 22.2 The Issuer shall notify the Noteholders, the Principal Paying Agent and the Rating Agency in accordance with Condition 23 (*Forms of Notices*) of the termination of the appointment, or resignation, of the Cash Administrator or the Trustee and the appointment of a substitute Cash Administrator or Trustee within ten (10) Business Days of the occurrence of any such event.
- 22.3 The Issuer may, or upon the Trustee's written demand, shall notify the Noteholders in accordance with Condition 23 (*Forms of Notices*), the Principal Paying Agent and the Rating Agency upon becoming aware of (i) the potential termination and replacement of any Transaction Document or (ii) any extraordinary action of any Transaction Party.

- 22.4 The Issuer shall provide a copy of each notice given to the Noteholders in accordance with this Condition to the Trustee within two (2) Business Days of deemed receipt of such notice by the Noteholders in accordance with Condition 23 (*Forms of Notices*).

23. **FORMS OF NOTICES**

All notices to the Noteholders shall be either (i) delivered to Euroclear and Clearstream Luxembourg for communication by them to the Noteholders or (ii) made available in accordance with all applicable Luxembourg laws and regulations by means of electronic publication on the website of the Luxembourg Stock Exchange (www.bourse.lu) or (iii) made available for a period of not less than thirty (30) calendar days on an internet web site or on Bloomberg's electronic financial information system, **provided that** such availability has been notified to the Noteholders pursuant to (i) above. Any notice to the Noteholders referred to under (i) above shall be deemed to have been given to all Noteholders on the seventh calendar day after the day on which the said notice was delivered to Euroclear and Clearstream Luxembourg. Any notice referred to under (ii) to the Noteholders shall be deemed to have been validly given on the third calendar day following such publication on the website of the Luxembourg Stock Exchange. Any notice referred to under (iii) above shall be deemed to have been given to all Noteholders on the day on which it is made available on the internet web site or Bloomberg's electronic financial information system, as the case may be, **provided that** if so made available after 4:00 p.m. (Luxembourg time) it shall be deemed to have been given on the immediately following calendar day.

24. **COMMON REPRESENTATIVE (*GEMEINSAMER VERTRETER*)**

- 24.1 In accordance with Section 8 of the Debenture Act and the CR Appointment Letter, Bank of America Trustees Limited is hereby appointed as common representative (*Gemeinsamer Vertreter*) of each of the Class A Noteholders, the Class B Noteholders and the Class C Noteholders (each a "**Common Representative**" of such Class of Notes). The appointment of Bank of America Trustees Limited as Common Representative of a Class of Notes may be revoked by the respective Noteholders of such Class of Notes in accordance with Section 7 of the Debenture Act.
- 24.2 Each Common Representative shall exercise the rights and have the obligations of a common representative (*Gemeinsamer Vertreter*) as specified in the Debenture Act, in particular, each Common Representative shall be entitled, on behalf of the Noteholders of the relevant Class of Notes, to consent to any amendment of the Terms and Conditions or the Trust Agreement, **provided that** (i) such amendment is, in the sole opinion of the relevant Common Representative, not materially prejudicial to the interest of the Noteholders of the relevant Class and, in particular, does not constitute a waiver of any rights conferred to the Noteholders of such Class as listed in Section 5 Paragraph 3 Nos. 1 to 9 of the Debenture Act (the "**Restricted Matters**"). In respect of the Restricted Matters, the relevant Common Representative shall only act upon express authorisation of the Noteholders of the relevant Class of Notes obtained in a Resolution of such Class of Notes.
- 24.3 Any such amendment of the Terms and Conditions or the Trust Agreement shall be effective only if each Common Representative of each Class of Notes has consented to such amendment or Resolutions of all outstanding Classes of Notes have been cast in favour of such amendment, as applicable, in each case, in accordance with these Terms and Conditions and the Debenture Act.
- 24.4 The Common Representative hereby declares that it may, from time to time, be a financial creditor of the Issuer with a claim of at least twenty (20) per cent of the Outstanding Principal Amount of the Notes or may be subject to the control of the persons of a financial creditor of the Issuer with a claim of at least twenty (20) per cent of the Outstanding Principal Amount of the Note as a result of a special personal relationship.

25. NOTEHOLDERS CONSENTS AND INSTRUCTIONS

25.1 The Issuer or a Common Representative (if any) may, in accordance with the provisions of Sections 5 to 22 of the Debenture Act, obtain separate majority resolutions of the Noteholders of each Class of Notes.

25.2 The Issuer may, or upon the request of the Trustee, shall ensure the Noteholders':

- (a) consent to any action (in particular, without limitation, to the amendment of any existing Transaction Document, the termination of existing Transaction Documents or the entering into any new Transaction Documents);
- (b) consent to any waiver of any breach of any Transaction Document;
- (c) consent to any other matter relating to the Transaction; and/or
- (d) directions to the Trustee and/or the Issuer (in particular following the service of an Enforcement Notice);

by way of separate majority resolutions of the Noteholders of each Class of Notes. Where Noteholders of a Class of Notes pass any Resolution instructing the relevant Common Representative of such Class to give any instructions or directions to the Trustee or the Issuer, the Common Representative shall have complied with its obligations to comply with the directions of the relevant Noteholders upon delivery of such instructions or directions to the Trustee or the Issuer, as applicable (which delivery, if the Common Representative and the Trustee are not the same entity, shall be in writing).

25.3 Majority resolutions of the Noteholders may be obtained by way of Noteholders' Meetings of each Class of Notes or by way of a Written Resolution of each Class of Notes and shall only be effective if it is passed in accordance with the provisions of the Debenture Act and the Terms and Conditions.

25.4 A Noteholders' Meeting or a Written Resolution shall be convened by the Issuer or the relevant Common Representative, as applicable, by way of:

- (a) publishing a notice in the electronic German Federal Gazette (*elektronischer Bundesanzeiger*);
- (b) where the relevant Notes are held in Euroclear or Clearstream Luxembourg, delivery of the notice to Euroclear and Clearstream Luxembourg to be sent through the communication channels of Euroclear and Clearstream Luxembourg to the Noteholders of such Class of Notes; and
- (c) for so long as any of the Notes are admitted to the Luxembourg Stock Exchange, by publishing a notice on the website of the Luxembourg Stock Exchange (www.bourse.lu).

25.5 A Noteholder may only exercise its voting rights at a Noteholders' Meeting or in a Written Resolution if it has presented proof of its holding and the amount of such holding of the respective Notes in writing to the Issuer with a copy to each of the Common Representatives, the Trustee and the Principal Paying Agent not later than the second calendar day prior to the date of the respective Noteholders' Meeting or Written Resolution. In particular, without limitation, where the Notes are held in common safe custody by a Common Safekeeper, proof by way of a blocking certificate shall be sufficient proof for this purpose.

25.6 The Issuer shall, from the date on which the relevant Noteholders' Meeting or Written Resolution is convened until the date of the Noteholders' Meeting or the last date of the period within which a vote may be cast in a Written Resolution, as applicable, publish the notice convening the Noteholders' Meeting or Written Resolution and specify the requirements for attending the meeting and the casting of the vote on the website of the Luxembourg Stock Exchange (www.bourse.lu).

25.7 The Issuer shall publish the results of any Noteholders' meeting and/or vote without meeting in the form required by Condition 25.4 above and on the website of the Luxembourg Stock Exchange (www.bourse.lu) for a period of not less than one month. In the event of an amendment of the Terms and Conditions, the Issuer shall, in addition, publish the original Terms and Conditions on such website for a period of not less than one month.

25.8 Without prejudice to the provisions set out in Condition 24 (*Common Representative (Gemeinsamer Vertreter)*) in respect of amendments to the Terms and Conditions, where any Resolution has been cast with respect to the matters specified in Condition 25.2 above (regardless of whether such Resolutions have been cast upon the request of the Trustee or otherwise), the Trustee shall only be bound to comply with such Resolutions if such Resolutions have been cast by (i) the Noteholders of all Classes of Notes or (ii) the Noteholders of at least two (2) Classes of Notes.

26. AGENTS

26.1 Principal Paying Agent

The Issuer shall procure that for as long as any Notes are outstanding, there shall always be a Principal Paying Agent (and/or a Required Paying Agent, as applicable) to perform the functions assigned to the Principal Paying Agent (and/or a Required Paying Agent, as applicable) in the Transaction Documents.

26.2 Interest Determination Agent

The Issuer shall ensure that there is at all times an Interest Determination Agent appointed to act on its behalf in accordance with the provisions of the Agency Agreement.

26.3 Agents of Issuer

In acting under the Agency Agreement and in connection with the Notes, the Paying Agents and the Interest Determination Agent act solely as agents of the Issuer and (to the extent provided therein) the Trustee and do not assume any obligations towards or relationship of agency or trust for or with any of the Noteholders.

27. SUBSTITUTION OF THE ISSUER

27.1 General

The Trustee shall agree to the substitution, in place of the Issuer (or of any previous substitute hereunder) of another entity (the "**New Issuer**") as debtor in respect of all obligations arising under or in connection with the Notes and the Transaction Documents, **provided that** the Noteholders have consented to such substitution by way of a Written Resolution and:

- (a) the New Issuer assumes all rights and duties of the Issuer in respect of the Notes and under the Transaction Documents and, the Security is, upon the Issuer's substitution, held by the Trustee to secure the obligations of the New Issuer under the Notes;
- (b) the New Issuer has obtained all necessary authorisations and governmental approvals in the country in which it has its registered office and is in a position to fulfil all its obligations in respect of the Notes without discrimination against the Noteholders in their entirety and the New Issuer has delivered a written certificate to the Trustee to this effect;
- (c) the New Issuer may pay in the currency required hereunder and without being obliged to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the New Issuer has its domicile or tax residence from any payments due under the Notes and the substitution shall not result in any withholding or deduction of taxes on the amounts payable under the Notes which would not arise if there was no such substitution and the New Issuer has delivered a written certificate to the Trustee to this effect;
- (d) there shall have been delivered to the Trustee and the Principal Paying Agent one legal opinion for each jurisdiction affected by the substitution of a law firm of recognised standing to the effect that paragraphs (a) to (c) above have been satisfied and no additional expenses or legal disadvantages of any kind arise for the Noteholders from the substitution;
- (e) each Rating Agency has given a confirmation that the substitution shall not adversely affect its rating of the Rated Notes; and

- (f) the Trustee, the Issuer and the New Issuer enter into such agreements and execute such documents as the Issuer or the Trustee considers necessary for the effectiveness of the substitution.

Upon fulfilment of the above conditions, the New Issuer shall in every respect substitute the Issuer and the Issuer shall be released from all its obligations to the Noteholders as issuer of the Notes.

27.2 Notice of Substitution

The New Issuer shall give notice of the substitution to the Noteholders pursuant to Condition 23 (*Forms of Notices*).

27.3 Effects of Substitution

Upon the substitution, each reference to the Issuer in the Terms and Conditions shall from then on be deemed to be a reference to the New Issuer and any reference to the country in which the Issuer has its registered office, domicile or residency for tax purposes, as relevant, shall from then on be deemed to be a reference to the country in which the New Issuer has its registered office, domicile or residency for tax purposes, as relevant.

28. MISCELLANEOUS

28.1 Presentation and Prescription

The presentation period for a Global Note provided in Section 801(1), sentence 1 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall end five (5) years after Final Maturity Date. If the Global Note is presented within five (5) years after the Final Maturity Date, distributions in relation to principal and interest on the Notes that have not been claimed within two (2) years after the end of such presentation period revert back to the Issuer.

28.2 Global Notes

If a Global Note is lost, stolen, damaged or destroyed, the Issuer, upon payment by the claimant of the costs arising in connection therewith, may replace it. As a condition of replacement, the Issuer may require the fulfilment of certain conditions, the provision of proof regarding the existence of indemnification and/or the provision of adequate collateral. In the event of a Global Note being damaged, such Global Note shall be surrendered before a replacement is issued. In the event of a Global Note being lost or destroyed, the foregoing shall not limit any right to file a petition for the annulment of such Global Note pursuant to the provisions of German law.

28.3 Place of Performance

Place of performance of the Notes shall be Hamburg, Germany.

28.4 Partial Invalidity

Without prejudice to any other provision hereof, if one or more provisions hereof is or becomes invalid, illegal or unenforceable in any respect in any jurisdiction or with respect to any person or entity, or if the Issuer or the Trustee becomes aware of any omission (*Vertragslücke*) hereto of any terms which were intended to be included herein, such invalidity, illegality, unenforceability in such jurisdiction or with respect to such person or entity or such omission (*Vertragslücke*) shall not, to the fullest extent permitted by applicable law, render invalid, illegal or unenforceable such provision or provisions in any other jurisdiction or with respect to any other person or entity hereto. Such invalid, illegal or unenforceable provision or such omission (*Vertragslücke*) shall be replaced by the Issuer and Trustee, without the consent of any Class of Noteholders, with a provision which comes as close as reasonably possible to the commercial intentions of the invalid, illegal, unenforceable or omitted provision.

29. **APPLICABLE LAW AND PLACE OF JURISDICTION**

29.1 Governing Law

The form and content of the Notes and all of the rights and obligations of the Noteholders and the Issuer under the Notes shall be governed in all respects by the laws of the Federal Republic of Germany.

For the avoidance of doubt, the provisions of articles 86 to 97 of the amended Luxembourg law dated 10 August 1915 on commercial companies do not apply to the Notes or to the representation of the holders of the Notes.

29.2 Jurisdiction

The non-exclusive place of jurisdiction for any action or other legal proceedings arising out of or in connection with the Notes shall be the District Court (*Landgericht*) in Frankfurt am Main. The Issuer hereby submits to the jurisdiction of such court. The German courts shall have exclusive jurisdiction over the annulment of the Global Notes in the event of their loss or destruction.

29.3 Service of Process

Promptly upon the request of a party to the Trust Agreement, the Issuer (not having a valid address or process agent (*Zustellungsbevollmächtigter*) in Germany) has agreed to appoint a competent third party as its agent for service of process (*Zustellungsbevollmächtigter*) in relation to any proceeding before the German courts which may arise out of or in connection with the Trust Agreement or the Notes.

ANNEX 1 TO THE TERMS AND CONDITIONS OF THE NOTES

Defined Terms applicable to the Terms and Conditions of the Notes

"**Accessory Loan Collateral**" means, in respect of a Purchased Loan Receivable, such Loan Collateral or part thereof which is, accessory to such Purchased Loan Receivable under applicable law.

"**Additional Loan Receivables**" means any further Loan Receivables and the relevant Loan Collateral purchased by the Issuer from the Seller pursuant to the Loan Receivables Purchase Agreement on a Purchase Date other than the Closing Date.

"**Additional Security Assets**" has the meaning ascribed to such term in Clause 5.11 of the Trust Agreement.

"**Adviser**" has the meaning ascribed to such term in Clause 27.1 of the Trust Agreement.

"**Agency Agreement**" means the agency agreement to be dated on or about the Closing Date between the Issuer, the Principal Paying Agent, the Interest Determination Agent and the Trustee.

"**Agents**" means the Interest Determination Agent, the Principal Paying Agent and any Required Paying Agent and, each an "**Agent**".

"**Aggregate Initial Principal Amount**" means, in respect of the Notes, €1,191,100,000.

"**Aggregate Outstanding Loan Principal Amount**" means, at any time, the aggregate Outstanding Loan Principal Amount of all Purchased Loan Receivables at that time.

"**Allocation Rule**" means that Collections shall be allocated in accordance with the underlying Loan Agreements for the relevant Purchased Loan Receivables **provided that** in the case of a Partial Loan, Collections on the relevant obligation of the Borrower shall be allocated *pari passu* on a *pro rata* basis between the Partial Loan and the part of the Borrower's obligation not included in the Loan Portfolio.

"**Amortisation**" means the redemption of Notes, in part, on each Payment Date up to (and including) the Scheduled Maturity Date, at their then Outstanding Principal Amount on such Payment Date (after allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to the relevant Classes of Notes on any such date) to the extent of the Available Principal Distribution Amount available for application towards the redemption of the Notes on each such Payment Date in accordance with the Principal Priority of Payments together with interest accrued on the Notes (other than the Class C Notes) to (but excluding) such Payment Date in accordance with the Interest Priority of Payments.

"**Amortisation Date**" means any day on which Notes are redeemed in accordance with the procedure for Amortisation.

"**Amortisation Event**" means any of the following:

- (a) the Seller fails to make any payment under the Loan Receivables Purchase Agreement or the Servicer or the Special Servicer fails to make any payment under the Servicing Agreement, in any case, within ten (10) Business Days of the due date therefor; or
- (b) the Seller fails to perform any of its other material obligations under the Loan Receivables Purchase Agreement or the Servicer or the Special Servicer fails to perform any of its other material obligations under the Servicing Agreement and such breach, if capable of remedy, is not remedied within fifteen (15) Business Days of notice from the Issuer, or, following the service of an Enforcement Notice, the Trustee; or
- (c) any representation or warranty in the Loan Receivables Purchase Agreement or in any Portfolio Report or in any other report provided by the Seller, the Servicer or the Special Servicer is materially false or incorrect and such inaccuracy, if capable of remedy, is not remedied within fifteen (15) Business Days of notice from the Issuer, or, following the service of an Enforcement Notice, the Trustee and has a Material Adverse Effect in relation to the Issuer; or
- (d) an Insolvency Event occurs in respect of the Seller; or
- (e) a Servicer Termination Event occurs; or

- (f) a Seller Regulatory Event or a Seller Tax Event occurs; or
- (g) the appointment of the Seller as Servicer or Special Servicer is terminated pursuant to the Servicing Agreement and no Substitute Servicer or Substitute Special Servicer has been appointed in accordance with the Servicing Agreement; or
- (h) the Trustee delivers an Enforcement Notice upon the occurrence of an Event of Default to the Purchaser in accordance with the provisions of the Trust Agreement; or
- (i) any Tax Event occurs and has a Material Adverse Effect on the Issuer; or
- (j) the banking licence of the Seller is revoked, restricted or made subject to any conditions or any of the proceedings referred to in or any action under Sections 45 to 47 of the German Banking Act (*Kreditwesengesetz*) are commenced with respect to the Seller (including, without limitation, a Moratorium Event); or
- (k) the performance by the Seller, the Servicer, the Special Servicer or the Purchaser of its obligations under any Transaction Document becomes illegal; or
- (l) any party to the Loan Receivables Purchase Agreement exercises its right to terminate the Loan Receivables Purchase Agreement for any other good cause (*wichtiger Grund*); or
- (m) the Interest Rate Swap Agreement is terminated prior to the Interest Rate Swap Termination Date and no replacement swap agreement has been entered into by the Issuer or the Interest Rate Swap Counterparty does not satisfy the Rating Agency Swap Criteria as set forth in the Interest Rate Swap Agreement and such non-compliance has not been remedied in accordance with the applicable Rating Agency Swap Criteria as set forth in the Interest Rate Swap Agreement; or
- (n) no successor trustee is appointed upon the resignation or termination of the appointment of the Trustee pursuant to the Trust Agreement.

"**Ancillary Rights**" means in relation to a Right, all ancillary rights, accretions and supplements to such Right, including any guarantees or indemnities in respect of such Right.

"**Applicable Margin**" means, in the case of the Class A Notes, the Class A Margin and, in the case of the Class B Notes, the Class B Margin.

"**Applicable Rate of Interest**" means, in the case of the Class A Notes, the Class A Rate of Interest and, in the case of the Class B Notes, the Class B Rate of Interest.

"**Arranger**" means HSH Nordbank AG.

"**Authorised Investments**" means each investment of any amount standing to the credit of any Issuer Operating Account, any Issuer Reserve Account (other than the Verity Account) and any Replacement Reserve Account (other than the Replacement Verity Account) made by the Cash Administrator (on behalf of the Issuer) in cash deposited with a financial institution or in any euro denominated, senior, unsubordinated debt security, investment, commercial paper or other debt instrument, such institution or debt instrument, as applicable, having at least a minimum short-term rating of F1 by Fitch or, in the event that no such short-term rating is available, a minimum long-term rating of AAA by Fitch maturing no later than two (2) Business Days prior to the immediately following Payment Date **provided that** such investment may not consist, in whole or in part, actually or potentially, of credit linked notes or similar claims resulting from the transfer of credit risk by means of credit derivatives or tranches of asset-backed securities.

"**Authorised Signatory**" means any director of the Issuer or any other person or persons notified to the Trustee, the Cash Administrator, the Reporting Agent, the Principal Paying Agent, the Interest Determination Agent, the Servicer, the Special Servicer or the Interest Rate Swap Counterparty (if any) by any such director as being an "**Authorised Signatory**".

"Available Interest Distribution Amount" means, in respect of each Payment Date, the amount calculated by the Cash Administrator on the Calculation and Reporting Date in respect of the Relevant Collection Period, as verified by the Trustee pursuant to the Trust Agreement and standing to the credit of the Issuer Interest Account on such Payment Date being the sum of:

- (a) all Floating Payments and other payments (including termination payments) receivable by the Issuer under the Interest Rate Swap Agreement on (or prior to) such Payment Date in respect of the Relevant Collection Period;
- (b) all Interest Collections to be received by the Issuer under the Servicing Agreement prior to such Payment Date in respect of the Purchased Loan Receivables which are not subject to the Interest Rate Swap Agreement as at the relevant Collection Period End Date;
- (c) all income from all Authorised Investments received by the Issuer during the Relevant Collection Period;
- (d) all interest accrued on the amounts standing to the credit of the Issuer Operating Accounts and the RR Expenses Account in respect of the relevant Collection Period End Date;
- (e) all interest accrued on amounts standing to the credit of the Prefunding Account and the Verity Account in respect of the relevant Collection Period End Date;
- (f) all interest accrued on amounts standing to the credit of the Replacement Reserve Accounts as at the relevant Collection Period End Date;
- (g) all amounts (other than Collections) paid by the Seller, the Servicer or the Special Servicer to the Issuer pursuant to the Loan Receivables Purchase Agreement and/or the Servicing Agreement, including amounts paid in satisfaction of indemnification, reimbursement, default interest and gross-up obligations on the part of the Seller, the Servicer or the Special Servicer during the Relevant Collection Period;
- (h) the proceeds of the Liquidity Drawings made in respect of such Payment Date; and
- (i) all Interest Collections to be received by the Issuer under the Servicing Agreement prior to such Payment Date (i) which are not payable to the Interest Rate Swap Counterparty because of the netting provisions under the Interest Rate Swap Agreement as notified by the Calculation Agent under the Interest Rate Swap Agreement to the Cash Administrator (if applicable) and/or (b) which have been received in connection with an early repayment (in full) of a Purchased Loan Receivable and which repayment (in full) occurred in the Relevant Collection Period but prior to the last preceding Payment Date,

but, for the avoidance of doubt, excluding any Other Payments comprised therein.

"Available Loan Collateral Recoveries" means, in respect of any Specially Serviced Loan Receivable, the Loan Collateral Recoveries in respect of such Specially Serviced Loan Receivable less any Borrower Hedge Collateral Amount.

"Available Prefunded Amount" means, in respect of any Payment Date, the balance of the Prefunding Reserve standing to the credit of the Prefunding Account as calculated by the Cash Administrator on the Calculation and Reporting Date in respect of the Relevant Collection Period before application towards payment of the Purchase Price for Additional Loan Receivables on the Purchase Date (if any).

"Available Principal Distribution Amount" means, in respect of each Payment Date (including a Payment Date that is also a Purchase Date) the amount calculated by the Cash Administrator on the Calculation and Reporting Date in respect of the Relevant Collection Period, as verified by the Trustee pursuant to the Trust Agreement and standing to the credit of the Issuer Principal Account on such Payment Date, being the sum of:

- (a) the Principal Collections to be received by the Issuer under the Servicing Agreement prior to such Payment Date in respect of the Purchased Loan Receivables during the Relevant Collection Period;

- (b) the balance of any Net Disposal Proceeds after application towards, the payment of the Purchase Price for Additional Loan Receivables (if any) and related costs and expenses if such Payment Date is also a Purchase Date; and
 - (c) prior to the Final Prefunding Date, the amount by which the Prefunding Reserve is to be reduced on such Payment Date;
 - (d) the Verity Seller Amounts in respect of such Payment Date; and
 - (e) on or after the Final Prefunding Date, the Available Prefunding Amount,
- but excluding any amounts in respect of Other Payments comprised therein.

"**Available Recoveries**" means the Interest Recoveries and the Principal Recoveries in each relevant Collection Period.

"**BaFin**" means the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*).

"**Bank Regulations**" means the international, European, German or Luxembourg regulations, rules and instructions applicable to or applied by the Issuer.

"**Bankruptcy**" means, with respect to a party to the Interest Rate Swap Agreement, it (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it proceedings seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation or a reprieve from payment; (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (vii) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; or (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified under paragraphs (i) to (vii) (inclusive); or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

"**Belgian Loan Collateral**" means any Loan Collateral governed by Belgian law in relation to any Purchased Loan Receivables.

"**Belgian Security Loan Receivables**" means any Purchased Loan Receivables secured by (i) a Related Mortgage and/or (ii) a mortgage mandate and/or (iii) a share pledge over a Belgian Property and/or the related property vehicle.

"**Benefit**" in respect of any asset, agreement, property or right (each a "**Right**" for the purpose of this definition) held, assigned, conveyed, transferred, charged, sold or disposed of by any person shall be construed so as to include:

- (a) all right, title, interest and benefit, present and future, actual and contingent (and interests arising in respect thereof) of such person in, to, under and in respect of such Right and all Ancillary Rights in respect of such Right;
- (b) all monies and proceeds payable or to become payable under, in respect of, or pursuant to such Right or its Ancillary Rights and the right to receive payment of such monies and proceeds and all payments made including, in respect of any bank account, all sums of money which may at any time be credited to such bank account together with all interest accruing from time to time on such money and the debts represented by such bank account;

- (c) the benefit of all covenants, undertakings, representations, warranties and indemnities in favour of such person contained in or relating to such Right or its Ancillary Rights;
- (d) the benefit of all powers of and remedies for enforcing or protecting such person's right, title, interest and benefit in, to, under and in respect of such Right or its Ancillary Rights, including the right to demand, sue for, recover, receive and give receipts for proceeds of and amounts due under or in respect of or relating to such Right or its Ancillary Rights; and
- (e) all items expressed to be held on trust for such person under or comprised in any such Right or its Ancillary Rights, all rights to deliver notices and/or take such steps as are required to cause payment to become due and payable in respect of such Right and its Ancillary Rights, all rights of action in respect of any breach of or in connection with any such Right and its Ancillary Rights and all rights to receive damages or obtain other relief in respect of such breach.

"Borrower" means, with respect to a Loan Receivable, the borrower set out in the records of the Seller.

"Borrower Group" means two (2) or more Borrowers forming a group of debtors within the meaning of Section 19 (2) of the German Banking Act (*Kreditwesengesetz*).

"Borrower Hedge Agreement" means any hedging agreement entered into by a Borrower with a Borrower Hedge Counterparty in respect of a Purchased Loan Receivable.

"Borrower Hedge Collateral Amount" means, in respect of the Loan Collateral (or any part thereof) related to any Specially Serviced Loan Receivable, an amount equal to such part of the recoveries of the Loan Collateral Recoveries as determined by the Special Servicer and verified by the Trustee for allocation to the respective Borrower Hedge Counterparty under a Borrower Hedging Agreement.

"Borrower Hedge Counterparty" means the counterparty to the relevant Borrower under a Borrower Hedge Agreement.

"Borrower Jurisdiction" means any EU member state and the Isle of Man.

"Borrower Payment Notification Event" means:

- (a) an Insolvency Event or Transfer Event occurs in respect of the Seller, the Servicer or the Special Servicer; or
- (b) the rating of long-term unsecured, unsubordinated indebtedness of the Servicer or the Special Servicer falls below BBB- by Fitch; or
- (c) the banking licence of the Seller, the Servicer or the Special Servicer is revoked, restricted or made subject to any conditions; or
- (d) a reasonable determination by the Issuer (or, after the service of an Enforcement Notice, the Trustee) that it is necessary to protect the Issuer's interest in the payments owed to the Issuer in respect of the Purchased Loan Receivables and it serves written notice on the Seller to such effect (setting out its reasons therefor), and the Seller fails to remedy the situation referred to in such notice within five (5) Business Days; or
- (e) the Servicer Collection Account Bank ceases to be an Eligible Bank.

"Borrower Security Trustees" means the relevant persons who will from time to time hold on trust or, as the case may be, administer, the Loan Collateral in connection with any Loan on behalf of the relevant Finance Parties.

"Borrower Security Trustee Rescission Event" means, in respect of a Loan Receivable, the rescission (*Rücktritt vom Vertrag*) of the Purchaser of the purchase of such Loan Receivables and the relevant Loan Collateral for which NIBC Bank N.V. is acting as Borrower Security Trustee pursuant to the Loan Receivables Purchase Agreement due to the failure of the Seller to replace NIBC Bank N.V. in its capacity as Borrower Security Trustee by a different entity acting as Borrower Security Trustee in respect of the relevant Loan **provided that** the Rating Agency has confirmed that the rating of the Rated Notes will not be adversely affected by such replacement.

"Business Day" means any TARGET Settlement Day or, if such TARGET Settlement Day is not a day on which banks are open for general business and foreign exchange markets settle payments in Hamburg, Kiel, Luxembourg and London, the following TARGET Settlement Day on which banks are open for general business and foreign exchange markets settle payments in Hamburg, Kiel, Luxembourg and London unless that day falls in the next month, in which case the date will be the preceding TARGET Settlement Day on which banks are open for general business and foreign exchange markets settle payments in Hamburg, Kiel, Luxembourg and London.

"Calculation and Reporting Date" means twelve (12) Reporting Business Days before each Payment Date.

"Cash Administration Agreement" means the cash administration agreement to be dated on or about the Closing Date between the Issuer, the Servicer, the Special Servicer, the Issuer Reserve Account Bank, the RR Expenses Facility Provider, the Liquidity Facility Provider, the Reporting Agent, the Interest Rate Swap Counterparty, the Cash Administrator, the Issuer Account Bank, the Replacement Reserve Account Bank, the Principal Paying Agent, the Interest Determination Agent, the Corporate Services Provider and the Trustee.

"Cash Administration Report" means the report of the Cash Administrator in respect of each Relevant Collection Period including the information to be disclosed in the Investor Report described in paragraphs (a) and (b) of Condition 21 (*Investor Reports*) (or such other information as the Cash Administrator and the Reporting Agent may agree with the Trustee from time to time).

"Cash Administrator" means Bank of America, National Association.

"Certified Date" has the meaning ascribed to such term in Clause 21.4(m)(i) of the Trust Agreement.

"Class" or **"Class of Notes"** means the Class A Notes, the Class B Notes or the Class C Notes as appropriate.

"Class A Drawing" means a Class A Liquidity Drawing or a Class A Stand-By Drawing.

"Class A Interest Amount" means, in respect of each Interest Period, the amount of interest payable in respect of the Class A Notes as determined by the Interest Determination Agent in accordance with Condition 6.5 (*Calculation of Interest Amounts*).

"Class A LFP Requisite Rating" means a bank or financial institution whose short term, unsecured, unguaranteed and unsubordinated debt obligations are rated at least F1 or long term, unsecured, unguaranteed and unsubordinated debt obligations rated at least A by the Rating Agency.

"Class A Liquidity Drawing" means a drawing under the Class A Liquidity Facility to fund any shortfall in the Available Interest Distribution Amount to pay on the relevant Payment Date (i) such of the Issuer's expenses referred to in items (a) to (h) (inclusive) of the Interest Priority of Payments and/or (ii) interest on the Class A Notes, in each case, as determined from time to time by the Cash Administrator on the Calculation and Reporting Date immediately preceding the relevant Payment Date in the event that the Servicer has notified the Cash Administrator that such shortfall would occur solely as a result of interest accrued under a Purchased Loan Receivable that is not a Specially Serviced Loan Receivable as at the relevant Collection Period End Date immediately preceding such Calculation and Reporting Date.

"Class A Liquidity Facility" means the liquidity facility provided by the Liquidity Facility Provider to the Issuer under the Liquidity Facility Agreement in relation to shortfalls in respect of the Class A Notes.

"Class A Liquidity Facility Commitment" means an amount equal to €15,000,000.

"Class A Liquidity Facility Margin" means 1.00 per cent.

"Class A Margin" means 0.90 per cent.

"Class A Noteholders" means each holder of any Class A Note from to time.

"Class A Notes" means the Class A Asset Backed Floating Rate Notes issued in an initial aggregate principal amount of €700,000,000 due 2017.

"**Class A Rate of Interest**" means the rate of interest applicable to the Outstanding Principal Amount of each Class A Note for each Interest Period, determined in accordance with Condition 6.4 (*Class A Rate of Interest, Class B Rate of Interest and Class C Interest*).

"**Class A Stand-By Drawing**" means a drawing under the Liquidity Facility of an amount equal to the Liquidity Facility Provider's undrawn Class A Liquidity Facility Commitment under the Liquidity Facility Agreement.

"**Class A Stand-By I Account**" means the account in the name of the Issuer with the Issuer Reserve Account Bank designated as the "Class A Stand-By I Account".

"**Class A Stand-By II Account**" means the account in the name of HSH Nordbank with the Replacement Reserve Account Bank designated as the "Class A Stand-By II Account" or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the HSH Account Agreement.

"**Class B Drawing**" means a Class B Liquidity Drawing or a Class B Stand-By Drawing.

"**Class B Interest Amount**" means, in respect of each Interest Period, the amount of interest payable in respect of the Class B Notes as determined by the Interest Determination Agent in accordance with Condition 6.5 (*Calculation of Interest Amounts*).

"**Class B LFP Requisite Rating**" means a bank or financial institution whose short term unsecured unguaranteed and unsubordinated debt obligations are rated at least F2 by the Rating Agency.

"**Class B Liquidity Drawing**" means a drawing under the Class B Liquidity Facility to fund any shortfall in the Available Interest Distribution Amount to pay on the relevant Payment Date (i) such of the Issuer's expenses referred to in items (j) to (l) (inclusive) of the Interest Priority of Payments and (ii) interest on the Class B Notes, as determined from time to time by the Cash Administrator on the Calculation and Reporting Date immediately preceding the relevant Payment Date in the event that the Servicer has notified the Cash Administrator that such shortfall would occur solely as a result of interest accrued under a Purchased Loan Receivable that is not a Specially Serviced Loan Receivable as at the relevant Collection Period End Date immediately preceding such Calculation and Reporting Date.

"**Class B Liquidity Facility**" means the liquidity facility provided by the Liquidity Facility Provider to the Issuer under the Liquidity Facility Agreement in relation to shortfalls in respect of the Class B Notes.

"**Class B Liquidity Facility Commitment**" means an amount equal to €5,000,000.

"**Class B Liquidity Facility Margin**" means 1.50 per cent.

"**Class B Margin**" means 0.90 per cent.

"**Class B Noteholders**" means each holder of any Class B Note from time to time.

"**Class B Notes**" means the Class B Asset Backed Floating Rate Notes issued in an initial aggregate principal amount of €30,000,000 due 2017.

"**Class B Rate of Interest**" means the rate of interest applicable to the Outstanding Principal Amount of each Class B Note for each Interest Period, determined in accordance with Condition 6.4 (*Class A Rate of Interest, Class B Rate of Interest and Class C Interest*).

"**Class B Stand-By I Account**" means the account in the name of the Issuer with the Issuer Reserve Account Bank designated as the "Class B Stand-By I Account".

"**Class B Stand-By II Account**" means the account in the name of HSH Nordbank with the Replacement Reserve Account Bank designated as the "Class B Stand-By II Account" or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the HSH Account Agreement.

"**Class B Stand-By Drawing**" means a drawing under the Class B Liquidity Facility of an amount equal to the Liquidity Facility Provider's undrawn Class B Liquidity Facility Commitment under the Liquidity Facility Agreement.

"**Class C Interest Amount**" means, in respect of each Interest Period, the amount available for application in respect of the Class C Notes on each Payment Date under item (s) of the Interest Priority of Payments.

"**Class C Noteholders**" means each holder of any Class C Note from time to time.

"**Class C Notes**" means the Class C Asset Backed Notes issued in an initial aggregate principal amount of €461,100,000 due 2017.

"**Clean-up Call**" means notice from the Seller that it wishes to exercise its right to redeem the Notes in whole, but not in part, prior to their respective Scheduled Maturity Date in accordance with the procedure set out in Condition 13.2 (*Early Redemption upon exercise of Clean-up Call*).

"**Clean-up Call Date**" means the Payment Date immediately following a Clean-up Call.

"**Clearing System**" means Euroclear or Clearstream Luxembourg.

"**Clearstream Luxembourg**" means Clearstream Banking, société anonyme.

"**Closing Date**" means 3 February 2010.

"**Collection Period**" means the period commencing on (and including) 29 January 2010 and ending on (but excluding) the first Collection Period End Date and, in respect of any subsequent Collection Period End Date, from (and including) the immediately preceding Collection Period End Date to (but excluding) such Collection Period End Date.

"**Collection Period End Date**" means, so long as any Notes are outstanding, the last day in January, April, July and October in each year commencing in April 2010, subject, in each case, to adjustment for non-Business Days, as further described in the Terms and Conditions.

"**Collections**" means, with respect to any Collection Period, an amount equal to:

- (a) any and all cash collections and proceeds of principal, interest, late payment or similar charges and related payments or damages of or in respect of each Purchased Loan Receivable or other amounts received or recovered in respect thereof, including, without limitation, any wire transfer (*Überweisung*), any direct payment (*Lastschrift*) (irrespective of any subsequent valid return thereof (*Lastschriftrückbelastung*)) and any payment made on any bill of exchange, promissory note or other negotiable instrument issued in respect of such Purchased Loan Receivable to any holder thereof (whether or not issued in contravention of any provisions of the related Loan Agreement or the Loan Receivables Purchase Agreement);
- (b) all Available Recoveries with respect to each Purchased Loan Receivable if it has become a Specially Serviced Loan Receivable; and
- (c) all Deemed Collections in respect of each Purchased Loan Receivable,

provided that such payments shall be allocated in accordance with the Allocation Rule.

"**Commercial Real Estate Loan**" means a loan made directly or indirectly to finance the acquisition, construction and/or improvement of any commercial and/or multi-family property or properties or property financing vehicle (or to refinance any existing loans made for such purpose) and which is typically secured by, *inter alia*, a mortgage or an equivalent interest in such commercial and/or multi-family property or properties or the owner thereof, a reimbursement claim or a share pledge over the property financing vehicle.

"**Common Safekeeper**" means, in respect of the Class A Global Note, Clearstream Luxembourg and in respect of the Class B Global Note and the Class C Global Note, Bank of America, National Association and in each case holding such Global Notes for Euroclear and Clearstream Luxembourg.

"**Conditions**" means the Terms and Conditions and a numbered "**Condition**" shall be construed accordingly.

"**Confidential Data**" means any data protected by the Data Protection Standards, it being understood that data transmitted to the Issuer in the Portfolio Report does not constitute "Confidential Data".

"**Confidentiality Restrictions**" means applicable law, regulations, Data Protection Standards and other restrictions applicable in respect of any Offered Loan Receivables listed in an Offer and Offered Loan Receivables List.

"**Corporate Services Agreement**" means the corporate services agreement dated 16 July 2009 between the Issuer, the Corporate Services Provider and the sole shareholder of the Issuer.

"**Corporate Services Provider**" means Structured Finance Management (Luxembourg) S.A.

"**Corporate Services Provider Fee**" means all fees, costs and expenses payable by the Issuer to the Corporate Services Provider under the Corporate Services Agreement.

"**Corrected Loan Receivable**" means any Specially Serviced Loan Receivable after the Servicer Transfer Event in respect of such Specially Serviced Loan Receivable has discontinued.

"**Correction Event**" means any of the following events ceases to exist:

- (a) with respect to the circumstances described in item (a) and (b) in the definition of Servicer Transfer Event, once the Obligor has made one timely quarterly payment in full;
- (b) with respect to the circumstances described in item (c) in the definition of Servicer Transfer Event once such proceedings are terminated (other than where such termination has resulted in the liquidation of the relevant Obligor);
- (c) with respect to the circumstances described in item (d) in the definition of Servicer Transfer Event once such circumstances cease to exist in the good faith and reasonable judgement of the Special Servicer;
- (d) with respect to the circumstances described in item (e) in the definition of Servicer Transfer Event once the relevant Obligor ceases to claim an inability to pay its debts or suspend the payment of obligations or the termination of any assignment for the benefit of its creditors; or
- (e) with respect to the circumstances described in item (f) in the definition of Servicer Transfer Event once such default is, in the good faith and reasonable judgement of the Special Servicer, cured.

"**Course of Action**" has the meaning ascribed to such term in Clause 19.1 of the Trust Agreement.

"**CR Appointment Letter**" means the appointment letter between Bank of America Trustees Limited and the Issuer dated on or about the Closing Date reflecting the appointment of Bank of America Trustees Limited as Common Representative for each Class of Notes, respectively.

"**Credit and Collection Policies**" means the loan origination and administration procedures set out in the Prospectus relating to the Notes as amended from time to time in accordance with the Servicing Agreement.

"**CSSF**" means the *Commission de Surveillance du Secteur Financier* of Luxembourg.

"**Cut-off Date**" means in respect of any Offered Loan Receivables, the Initial Cut-off Date and, thereafter, prior to the Substitution Period End Date or the Final Prefunding Date (as applicable), the Collection Period End Date immediately preceding each day on which an Offer and Offered Loan Receivables List is delivered to the Purchaser.

"**Data Protection Standards**" means the German Data Protection Act (*Bundesdatenschutzgesetz*) and the rules of the German Banking Secrecy (*Bankgeheimnis*), including their interpretation by the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*), as well as all other applicable data protection laws and/or regulations and the Luxembourg data protection rules as set out in the law of 2 August 2002 on the protection of persons with respect to the treatment of personal data and the Luxembourg banking secrecy rules as set out in the law of 5 April 1993 on the financial sector, as amended.

"**Debenture Act**" means the German debenture act as entered into force on 5 August 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*).

"Deemed Collection" means, the Seller shall be deemed to have received a Deemed Collection at any time in an amount equal to the aggregate of:

- (a) the Initial Purchase Price plus any Verity Issuer Payment Amount in respect of the Initial Loan Receivables or the Purchase Price in respect of any other Loan Receivables paid by the Purchaser in respect of a Purchased Loan Receivable plus accrued interest thereon from the relevant Cut-off Date therefor if:
 - (i) any representation or warranty in respect of such Purchased Loan Receivable proves to have been incorrect when made (including, without limitation, if such Loan Receivable (including a Purchased Loan Receivable proves not to have been an Eligible Loan Receivable or the Substitution Criteria or the Prefunding Criteria (as applicable) have not been satisfied, in each case, on the Purchase Date thereof);
 - (ii) such Purchased Loan Receivable is extended, amended or otherwise modified other than in accordance with the Servicing Agreement; or
 - (iii) the payment obligation of a Borrower under a Purchased Loan Receivable has been satisfied, in whole or in part, by way of set-off; and
- (b) the amounts received by the Seller in respect of any Loan Receivable which is purported to be sold to the Purchaser that would have been collected in whole or in part following the Cut-off Date immediately preceding the Purchase Date thereof but prior to the Purchase Date thereof.

"Default" means (i) the non-payment of interest or principal in respect of a Purchased Loan Receivable for more than two hundred and seventy (270) calendar days after the earlier of (a) the termination of the relevant Loan Agreement or (b) the Loan Maturity Date of such Purchased Loan Receivable, or (ii) the insolvency of any Obligor.

"Default Notice" means a notice, delivered by the Servicer or the Special Servicer to the relevant Borrower(s) in connection with a Purchased Loan Receivable in respect of which a Default has occurred.

"Defaulted Loan Receivable" means any Purchased Loan Receivable (which is not a Disputed Loan Receivable) in respect of which a Default has occurred.

"Delinquent Loan Receivable" means any Purchased Loan Receivable in respect of which interest and/or principal has not been paid within one hundred and eighty (180) calendar days after the due date for interest and/or principal payment of such Purchased Loan Receivable and which has not become a Defaulted Loan Receivable.

"Directors" means the directors of the Issuer.

"Disputed Loan Receivable" means any Purchased Loan Receivable or any part thereof in respect of which the obligation to pay is either booked or qualified by the Seller, the Servicer or the Special Servicer as disputed by any Borrower owing such Loan Receivable (other than for reason of a Borrower's inability to pay) with or without justification or in relation to which any court in any instance has ruled that an obligation to pay does not exist as an unconditionally enforceable obligation by reason of any matter whatsoever or in respect of which a set-off, counterclaim or any retention right or right to contest, rescind or otherwise challenge exists under the related Loan Agreement or is being claimed by such Borrower.

"Documents" has the meaning ascribed to such term in Clause 15.6 of the Trust Agreement.

"Drawing" means a Class A Drawing or a Class B Drawing.

"Dutch Deed of Pledge" means the Dutch deed of pledge dated on or about the Closing Date between the Issuer and the Trustee.

"Dutch Loan Collateral" means any Loan Collateral governed by Dutch law in relation to any Purchased Loan Receivables.

"Dutch Loan Receivables" means any Purchased Loan Receivables governed by Dutch law.

"Early Redemption" means the early redemption of the Notes in whole (but not in part) prior to the Final Maturity Date in accordance with Conditions 13.2 (*Early Redemption upon exercise of Clean-up Call*) or 13.3 (*Early Redemption following a Delivery of Enforcement Notice*).

"Early Redemption Date" means each date on which Notes are redeemed in accordance with Conditions 13.2 (*Early Redemption upon exercise of Clean-up Call*) or 13.3 (*Early Redemption following a Delivery of Enforcement Notice*).

"Eligibility Criteria" means, in respect of any Loan Receivable listed on an Offer and Offered Loan Receivables List:

- (a) such Loan Receivable is denominated in Euro;
- (b) each Borrower of such Loan Receivable is resident in a Borrower Jurisdiction;
- (c) such Loan Receivable is a Commercial Real Estate Loan;
- (d) such Loan Receivable is governed by the laws of a Loan Jurisdiction;
- (e) if such Loan Receivable arises under a Mortgage Loan Agreement, such Loan Receivable is secured by (i) a Related Mortgage and/or (ii) a mortgage mandate and/or (iii) a share pledge over a Related Property and/or property vehicle located in a Property Jurisdiction;
- (f) such Loan Receivable has its final maturity date on or before the Scheduled Maturity Date;
- (g) such Loan Receivable may be segregated and identified at any time for the purpose of ownership and may be transferred without the consent of the related Obligor(s) or such consent has been obtained;
- (h) legal title to such Loan Receivable can be validly transferred, such transfer is not subject to any legal restriction and, upon such transfer, such Loan Receivable will not be available to the creditors of the Seller upon its Insolvency;
- (i) payments under such Loan Receivable are not subject to any withholding tax;
- (j) the Borrower of such Loan Receivable is not a natural person;
- (k) immediately before the execution of the Loan Receivables Purchase Agreement, the Seller was the full legal and beneficial owner of such Loan Receivable and the beneficial owner of the Loan Collateral in respect of such Loan Receivable and all internal "know your customer" and other applicable internal compliance checks had been completed by the Seller;
- (l) the Seller has, since its acquisition of the relevant Loan Receivable, kept or caused to be kept full and proper accounts, books and records showing clearly all transactions, payments, receipts, proceedings and notices relating to the relevant Loan Receivable and which are complete and accurate in all material respects. All such accounts, books and records are up-to-date and are held by, or to the order of, the Seller;
- (m) each Loan Receivable and the relevant Loan Collateral constitutes a valid, legal, binding and enforceable obligation;
- (n) to the best of the Seller's knowledge, prior to the date of the initial advance under the relevant Loan Agreement and the creation of the relevant Loan Collateral, such Loan Receivable, the relevant Loan Collateral and the relevant Obligors satisfied in all material respects the lending criteria which the Seller believes to be reasonably consistent with lending criteria that other reasonably prudent lenders of money would have applied in the circumstances so far as applicable subject to such variations or waivers as would, as at that date, have been acceptable to a reasonably prudent lender of money in the circumstances;
- (o) to the best of the Seller's knowledge, having used reasonable endeavours to ensure the same, there is no material default, breach or violation (other than a default in the payment of an amount of principal or interest as referred to in paragraph (p) below) that would materially and adversely affect the value of any Loan Receivable or the relevant Loan Collateral which has not been remedied, cured or waived, or

of any outstanding event which with the giving of notice or lapse of any applicable grace period would constitute such a default or breach;

- (p) as at the Purchase Date, the Seller has not received written notice of any default that has not been remedied or waived, or any forfeiture of any occupational leases granted in respect of a Related Property regarding such Loan Receivable which would render such property unacceptable as security for such Loan Receivable in the context of the applicable lending criteria (such criteria being reasonably consistent with lending criteria that other reasonably prudent lenders of money would have applied in the circumstances);
- (q) if such Loan Receivable arises under a Mortgage Loan Agreement, as at the relevant Purchase Date, the relevant Obligor was obliged to effect and maintain sufficient and appropriate policies of insurance in respect of that Related Property regarding such Loan Receivable and supply copies or evidence of them on written demand by the Seller. The Seller has no knowledge that any required coverage is not in effect and the Seller has not received any written notice that any policy of insurance covering such Related Property is about to lapse on account of a failure by the relevant entity maintaining such insurance to pay the relevant premiums;
- (r) as at the Purchase Date, since the date of origination by the Seller of such Loan Receivable or the Seller's acquisition of such Loan Receivable, such Loan Receivable has not been a Specially Serviced Loan Receivable;
- (s) the Seller has not received written notice of the bankruptcy, liquidation, winding-up, receivership, administration or administrative receivership of any Obligor;
- (t) the Seller has performed in all material respects all of its obligations under such Loan Receivable and the relevant Loan Collateral and so far as the Seller is aware no Obligor has taken or has threatened to take any action against the Seller or the relevant Borrower Security Trustee for any material failure on the part of the Seller or the relevant Borrower Security Trustee under any Loan Receivable or the relevant Loan Collateral to perform any such obligation;
- (u) the Seller is not aware of any litigation or claim calling into question in any material way the Seller's or the relevant Borrower Security Trustee's title to such Loan Receivable or the relevant Loan Collateral and such Loan Receivable is not otherwise a Disputed Loan Receivable;
- (v) if such Loan Receivable arises under a Mortgage Loan Agreement each mortgage in respect of a Related Property regarding such Loan Receivable is, or upon due registration in the relevant land register and the deletion of any prior ranking mortgage will be, first-ranking;
- (w) if such Loan Receivable arises under a Mortgage Loan Agreement governed by German law, in respect of each Related Property regarding such Loan Receivable for which the related mortgage has not yet been registered (i) it has been confirmed by unqualified notarial confirmation that the relevant mortgage will be registered in first rank and (ii) such notarial confirmation is true and complete and in full force and effect;
- (x) such Loan Receivable does not contain an obligation to make any further advance which remains to be performed by the Seller on the Closing Date and no part of any advance pursuant to a Loan Receivable has been retained by the Seller pending compliance by the Borrower or any other party with any other conditions;
- (y) such Loan Receivable or the relevant Loan Collateral has not been discharged, terminated, redeemed, cancelled, or repudiated and, to the best of the Seller's knowledge, no Obligor, has expressed any intention to do so and no right of set-off has been asserted by any Borrower in respect of such Loan Receivables;
- (z) if such Loan Receivable arises under a Mortgage Loan Agreement, to the best of the Seller's knowledge, each Related Property regarding such Loan Receivable was at the Closing Date, held by the relevant Obligor free (save for any Loan Collateral) from any encumbrance (other than any encumbrances imposed by applicable law) which would be senior in priority to the Loan Collateral and which would materially and adversely affect the title to such Related Property or the value for mortgage purposes set out in the relevant valuation (including any encumbrance contained in any Finance Documents relevant

to such Related Properties and excluding any usufruct or other right *in rem* granted to the tenant in relation to one Related Property); and

- (aa) if such Loan Receivable arises under a Fund Loan Agreement, the present and future claims for reimbursement of expenses (*Aufwendersersatzansprüche*) against the relevant Fund pursuant to Section 31 subsection 3 of the German Investment Act (*Investmentgesetz*) in connection with Sections 675 and 670 of the German Civil Code (*Bürgerliches Gesetzbuch*) have been assigned to the Seller.

"Eligible Bank" means any bank or financial institution, organised under the laws of any state which is a member of the European Union or of the United States, the short term unsecured, unsubordinated and unguaranteed debt obligations of which are rated at least F1 by the Rating Agency or such lower rating which is otherwise acceptable to the Rating Agency.

"Eligible Loan Receivables" means Loan Receivables satisfying the Eligibility Criteria and **"Eligible Loan Receivable"** means any of them.

"encumbrance" means any mortgage, pledge, charge, encumbrance, proprietary or security interest, lien (including, without limitation, any lien by attachment (*Pfändungspfandrecht*)), ownership interest, priority, or other right or claim in, over or on any person's assets or properties in favour of any other person.

"Enforcement Notice" means a notice to be delivered by the Trustee to the Issuer upon the occurrence of an Event of Default pursuant to Clause 11 (*Enforcement*) of the Trust Agreement.

"Enforcement Priority of Payments" has the meaning ascribed to such term in Condition 18 (*Application of Monies on Enforcement*).

"English Loan Collateral" means any Loan Collateral governed by English law in relation to any Purchased Loan Receivables.

"English Loan Receivables" means any Purchased Loan Receivables governed by English law.

"EURIBOR" means the Euro Interbank Offered Rate.

"euro", **"EUR"** or **"€"** means the currency introduced at the commencement of the third stage of European economic and monetary union pursuant to the Treaty on the Functioning of the European Union.

"Euroclear" means Euroclear Bank S.A./N.V.

"European Union" or **"EU"** means the political, economic and legal entity formed by the TFEU.

"Euro-zone" means the region comprising member states of the European Union that have adopted the single currency, the euro, in accordance with the TFEU.

"Event of Default" means:

- (i) failure by the Issuer to make any payment in respect of interest or principal within twenty (20) Business Days of the due date therefor on the Class A Notes or, if no Class A Notes are outstanding, the Class B Notes or, if no Class B Notes are outstanding, the Class C Notes; or
- (ii) any other default which is made by the Issuer in the performance or observance of any other material obligation under the Notes or any Transaction Document to which it is a party and, except where in the opinion of the Trustee such default is not capable of remedy, such default continues unremedied for a period of forty five (45) Business Days following the delivery by the Trustee of written notice to the Issuer requiring the same to be remedied; or
- (iii) one or more judgment(s) or order(s) from which no further appeal or judicial review is permissible under applicable law for the payment of any amount (or its equivalent in any other currency or currencies) is rendered against the Issuer and continues unsatisfied and unstayed for a period of forty five (45) Business Days after the date(s) thereof or, if later, the date therein specified for payment; or

- (iv) other than pursuant to the Security Documents, a secured party takes possession of, or a receiver, manager or other similar officer is appointed in relation to, the whole or a substantial part of the undertaking, assets and revenues of the Issuer; or
- (v) any of the security interests constituted over the Security Assets under the relevant Security Documents is or becomes invalid, void, voidable or unenforceable; or
- (vi) the Issuer becomes Insolvent.

"**Final Maturity Date**" means the Payment Date falling in February 2020.

"**Final Prefunding Date**" means the earlier of:

- (a) the occurrence of an Amortisation Event;
- (b) the Payment Date falling in August 2011; or
- (c) the occurrence of an IRAB Transfer Event.

"**Final Regular Amortisation Date**" means the Amortisation Date on which all Notes (other than the Notes which remain outstanding in respect of Specially Serviced Loan Receivables as a result of the Trustee not having verified the respective Loan Losses) are redeemed.

"**Finance Documents**" means, in respect of any Loan Receivable, the finance documents in respect of such Loan Receivable, including the relevant loan agreement, related documents, intercreditor agreements, subordination agreements, security documents creating the Loan Collateral and ancillary agreements.

"**Finance Parties**" means, in respect of any Loan, the lenders (including the Issuer in that capacity, any senior counterparty and any subordinated counterparty) and the other persons named as Finance Parties and/or secured parties in respect of such Loan.

"**Fitch**" means Fitch Ratings Limited.

"**Fixed Rate Purchased Loan Receivables**" means, at any time, the Purchased Loan Receivables in respect of which interest is payable at a fixed rate.

"**Floating Payment**" means the amount payable by the Interest Rate Swap Counterparty pursuant to and in accordance with the provisions of the Interest Rate Swap Agreement (including with respect to netting) to the Issuer on each Payment Date after the Closing Date until the Interest Rate Swap Termination Date or the earlier termination of the Interest Rate Swap Agreement.

"**Fund**" means a real estate fund (*Immobilien-Sondervermögen*).

"**Fund Loan Agreement**" means a Loan Agreement between, *inter alios*, the Seller and a KAG in relation to a Fund.

"**Future Mortgage**" means a mortgage created or increased due to a Mortgage Undertaking.

"**German Loan Collateral**" means any Loan Collateral governed by German law in relation to any Purchased Loan Receivables.

"**German Loan Receivables**" means any Purchased Loan Receivables governed by German law.

"**German Security Assets**" has the meaning ascribed to such term in Clause 5.2 of the Trust Agreement.

"**Germany**" means the Federal Republic of Germany.

"**Global Note**" means a permanent global bearer note representing a Class of Notes.

"**HSH Account Agreement**" means an account agreement to be dated on or about the Closing Date between the Issuer, the Replacement Reserve Account Holder, the Cash Administrator, the Replacement Reserve Account Bank and the Trustee in respect of the Replacement Reserve Accounts.

"**HSH Deed of Charge**" means the deed of charge to be dated on or about the Closing Date between, *inter alios*, HSH Nordbank and the Issuer.

"**HSH Enforcement Notice**" means a notice to be delivered by the Issuer or, following the delivery of an Enforcement Notice, the Trustee to the Issuer Reserve Account Bank upon the occurrence of an HSH Event of Default pursuant to Clause 11 (*HSH Events of Default*) of the HSH Deed of Charge.

"**HSH Event of Default**" has the meaning given to it in the HSH Deed of Charge including, *inter alia*, a breach by HSH Nordbank of a material obligation under the HSH Account Agreement.

"**HSH Group**" means HSH Nordbank AG and its affiliates.

"**HSH IFRS Reporting Package**" means reporting documents containing the necessary information for HSH Nordbank to prepare IFRS Group Accounts (*IFRS Konzernabschluss*).

"**HSH Nordbank**" means HSH Nordbank AG.

"**HSH Regulatory Reporting Package**" means reporting documents containing the necessary information on financial statement statistics (*Bilanzstatistik - BISTA*) and on regulatory capital requirements and banking according to Basel I (*Grundsatz I*).

"**ICR**" means, with respect to any date and any Loan Receivable, the fraction of (x) the Projected Net Rental Income of the relevant Related Properties for the 12-month period commencing on such date and (y) the aggregate interest amount with respect to the Loan Receivable arising under such Loan for the 12-month period commencing on such date calculated at the interest rate on the Loan prevailing as of such date.

"**Initial Borrower Jurisdiction**" means each of Germany, Belgium, The Netherlands, Spain, Luxembourg and the Isle of Man.

"**Initial Cut-off Date**" means 1 April 2009.

"**Initial Loan Jurisdiction**" means each of Germany, England and The Netherlands.

"**Initial Loan Receivables**" means the Purchased Loan Receivables and the relevant Loan Collateral on the Closing Date.

"**Initial Loans**" means the commercial real estate loans denominated in euro governed by the laws of any of the Initial Loan Jurisdictions, secured by commercial properties situated in any of the Initial Property Jurisdictions and certain other related security and granted by HSH Nordbank (as sole lender or together with further syndicate banks) in relation to the Initial Loan Receivables.

"**Initial Principal Amount**" means the initial principal amount of each Class of Notes.

"**Initial Property Jurisdiction**" means each of Germany, Belgium, France, The Netherlands and Spain.

"**Initial Purchase Price**" means €652,006,000.

"**Initial RR Assets**" means all claims under or in respect of (i) the Purchased Loan Receivables comprised in the Initial Portfolio secured by Belgian mortgages and/or share pledges over the entity holding the relevant Belgian Property and the related Loan Collateral, (ii) the German law governed non-certificated mortgages (*Buchgrundschulden*) comprised in the Loan Collateral related to the Purchased Loan Receivables in the Initial Portfolio, (iii) the Spanish law governed mortgage comprised in the Loan Collateral and the Purchased Loan Receivable related thereto which is included in the Initial Portfolio and (iv) replacement bank accounts which will be opened by HSH Nordbank in its own name on or prior to the Closing Date as Replacement Reserve Accounts.

"**Insolvency**" of a person means the occurrence of an Insolvency Event in respect of such person.

"Insolvency Event" means:

- (a) in relation to any person not incorporated, domiciled or resident in Germany or Luxembourg, such person:
 - (i) is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); or
 - (ii) becomes insolvent or is unable to pay its debts as they become due or fails or admits in writing its inability generally to pay its debts as they become due; or
 - (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; or
 - (iv) institutes or has instituted against it proceedings seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within thirty (30) days of the institution or presentation thereof; or
 - (v) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; or
 - (vi) has a creditor take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such creditor maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; or
 - (vii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified under paragraphs (i) to (vi) above (inclusive); or
 - (viii) takes any formal action in indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or
- (b) if such person is incorporated, domiciled or resident in Germany, such person:
 - (i) enters into a voluntary arrangement with its creditors or is declared bankrupt; or
 - (ii) is itself or any of its assets are the subject of any insolvency proceedings commenced pursuant to the German Insolvency Code (*Insolvenzordnung*), unless the application for such proceedings is dismissed within thirty (30) days from and excluding the day it is filed (unless dismissed on the ground that the costs of the insolvency proceedings were likely to exceed the assets of such person (*Abweisung mangels Masse*)); or
 - (iii) takes any corporate action or is the subject of any legal proceedings commenced against it for its dissolution or liquidation; or
 - (iv) any reason exists which would justify and/or require the submission of an application for the opening of insolvency proceedings pursuant to the German Insolvency Code (*Insolvenzordnung*); or
 - (v) where such person is a credit institution, any action under Sections 45 to 48 of the German Banking Act (*Kreditwesengesetz*) has been taken with respect to such person; or

- (c) if such person is incorporated, domiciled or resident in Luxembourg, such person:
- (i) enters into a voluntary arrangement with its creditors (*concordat préventif de faillite*) pursuant to the Luxembourg law dated 14 April 1886 on arrangements to prevent insolvency, as amended; or
 - (ii) is granted a suspension of payments within the meaning of Articles 593 *et seq.* of the Luxembourg Commercial Code; or
 - (iii) is subject to controlled management (*gestion contrôlée*) within the meaning of the Grand Ducal Regulation 24 May 1935 on controlled management; or
 - (iv) is itself or any of its assets the subject of any Insolvency Proceedings commenced pursuant to Articles 437 *et seq.* of the Luxembourg Commercial Code or any other Insolvency Proceedings pursuant to the Council Regulation EC/1346/2000 of 29 May 2000 on Insolvency Proceedings, unless the application for such proceedings is dismissed within thirty (30) days from and excluding the day it is filed (unless dismissed on the ground that the costs of the Insolvency Proceedings were likely to exceed the assets of such person (*clôture pour insuffisance d'actifs*)); or
 - (v) takes any corporate action or is the subject of any legal proceedings commenced against it for its dissolution or liquidation; or
 - (vi) is in a situation of illiquidity (*cessation de paiements*) and without access to credit (*credit ébranlé*) within the meaning of Article 437 of the Luxembourg Commercial Code.

"Insolvency Proceedings" means, with respect to any person, the winding-up, liquidation, dissolution, bankruptcy, receivership, insolvency or administration of such person or any equivalent or analogous proceedings under the law of the jurisdiction in which such person is incorporated (or, if not a company or corporation, domiciled) or of any jurisdiction in which such person carries on business or has any assets including the seeking of an arrangement, adjustment, protection or relief of creditors and means, without limitation, the occurrence of any of the following events in respect of the Issuer: (i) a "*concordat préventif de faillite*", a "*gestion contrôlée*", a "*sursis de paiement*", a "*liquidation judiciaire*", a bankruptcy, a general agreement with any of its creditors, or any other similar legal procedure, liquidation, bankruptcy or insolvency proceedings; or (ii) a "*commissaire a la gestion contrôlée*", a "*liquidateur judiciaire*", a "*curateur*", a "*commissaire*" or any other similar officer appointed or any procedure of similar effect under Luxembourg or foreign law.

"Insolvent" means any person in respect of whom an Insolvency Event has occurred.

"Intercreditor Agreement" means, in respect of a Loan, the intercreditor agreement governing the relationship between any relevant senior counterparty and/or subordinated counterparty and the Issuer, and the priorities of their several claims.

"Interest Amount" means the Class A Interest Amount, the Class B Interest Amount or the Class C Interest Amount (as applicable).

"Interest Collections" means, in respect of a Purchased Loan Receivable, all collections with regard to interest, late payment and all other payments in respect of such Purchased Loan Receivable, including the element of interest comprised in Deemed Collections (if any) and, if such Purchased Loan Receivable has become a Specially Serviced Loan Receivable, the Interest Recoveries in relation to such Purchased Loan Receivable but excluding, for the avoidance of doubt, any Principal Collections.

"Interest Determination Agent" means Bank of America, National Association.

"Interest Determination Date" means the day two (2) TARGET Settlement Days before the first day of each Interest Period.

"Interest Period" means, in respect of the first Payment Date, the period from (and including) the Closing Date to (but excluding) the first Payment Date and, in respect of any subsequent Payment Date, the period from (and including) the immediately preceding Payment Date to (but excluding) such Payment Date.

"**Interest Priority of Payments**" has the meaning ascribed to such term in Condition 6.9 (*Payment of Interest*).

"**Interest Rate Swap Agreement**" means the interest rate swap agreement governed by a 1992 ISDA Master Agreement, rating compliant schedule and credit support annex and confirmations to be dated on or about the Closing Date between the Issuer, the Trustee and the Interest Rate Swap Counterparty.

"**Interest Rate Swap Collateral**" means any cash, securities or other collateral transferred by the Interest Rate Swap Counterparty or its credit support provider pursuant to the Interest Rate Swap Agreement which, to the extent not applied by the Issuer (or the Cash Administrator on its behalf) towards the obligations of the Interest Rate Swap Counterparty, is required to be returned by the Issuer to the Interest Rate Swap Counterparty or such credit support provider, *inter alia*, upon enforcement of the Security.

"**Interest Rate Swap Collateral Account**" means the Interest Rate Swap Collateral Reserve Account and the Interest Rate Swap Collateral Replacement Reserve Account as the context requires and "**Interest Rate Swap Collateral Accounts**" means both of them.

"**Interest Rate Swap Collateral Replacement Reserve Account**" means the account in the name of HSH Nordbank with the Replacement Reserve Account Bank designated as the "Interest Rate Swap Collateral Replacement Reserve Account" or such other account as may from time to time be substituted therefor with a bank or financial institution in accordance with the provisions of the HSH Account Agreement.

"**Interest Rate Swap Collateral Reserve Account**" means any account in the name of the Issuer with the Issuer Reserve Account Bank designated as "Interest Rate Swap Collateral Reserve Account".

"**Interest Rate Swap Counterparty**" means HSH Nordbank AG.

"**Interest Rate Swap Termination Date**" means the earliest of:

- (a) the Payment Date which is the next Payment Date occurring after the day on which all principal and interest owed to the Issuer under the relevant Purchased Loan Receivable has been paid to the Issuer;
- (b) the Payment Date which is the next Payment Date occurring after the day on which the relevant Purchased Loan Receivable has been substituted or sold by the Issuer;
- (c) the Scheduled Maturity Date;
- (d) the Optional Early Redemption Date;
- (e) the Early Redemption Date in connection with an Early Redemption of the Notes upon exercise of a Clean-up Call;
- (f) any Amortisation Date on which the payments which are being made result in all then outstanding Class A and Class B Notes being paid in full (principal and interest); or
- (g) the Final Regular Amortisation Date.

"**Interest Rate Swap Transaction**" means any hedge transaction entered into from time to time by the Issuer with the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement.

"**Interest Recoveries**" means, in respect of a Purchased Loan Receivable that has become a Specially Serviced Loan Receivable, the amount verified by the Trustee as all recoveries of interest, late payment and all other payments and the interest component of the Available Loan Collateral Recoveries in respect of such Purchased Loan Receivable.

"**Interest Shortfall**" means any accrued interest not paid on any Payment Date related to the Interest Period in which it accrued.

"**Investor Report**" means the report prepared by the Reporting Agent in accordance with Condition 21 (*Investor Reports*).

"**IRAB Transfer Event**" means the Issuer Reserve Account Bank ceases to have a short term, unsecured, unguaranteed and unsubordinated debt obligation rating of at least F1 by the Rating Agency, a long term,

unsecured, unguaranteed and unsubordinated debt obligation rating of at least A- by the Rating Agency or the support rating of at least 1 by the Rating Agency.

"**Issuer**" means Plato No. 1 S.A.

"**Issuer Account Agreement**" means the issuer account agreement in respect of the Issuer Operating Accounts and the RR Expenses Account to be dated on or about the Closing Date between the Issuer, the Issuer Account Bank, the Cash Administrator and the Trustee.

"**Issuer Account Bank**" means Bank of America, National Association.

"**Issuer Account Bank Termination Event**" means the Issuer Account Bank ceases to be an Eligible Bank.

"**Issuer Accounts**" means the Issuer Operating Accounts, the RR Expenses Account, the Issuer Capital and Profit Account, the Prefunding Account and the Issuer Reserve Accounts, and each, an "**Issuer Account**".

"**Issuer Deed of Charge**" means the deed of charge to be dated on or about the Closing Date between the Issuer and the Trustee.

"**Issuer English Security**" shall be construed as the Security created by the Issuer under the Issuer Deed of Charge.

"**Issuer English Security Assets**" shall be construed as the assets which are the subject of the Issuer English Security.

"**Issuer Interest Account**" means the account in the name of the Issuer at the Issuer Account Bank for Interest Collections designated as the "Issuer Interest Account" (or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the Issuer Account Agreement).

"**Issuer Operating Accounts**" means the Issuer Principal Account, the Issuer Interest Account and the Issuer Post-Notification Account and each, an "**Issuer Operating Account**".

"**Issuer Payment**" means an amount equal to the Interest Collections in respect of the Purchased Loan Receivables as set forth in the Interest Rate Swap Agreement calculated by the Servicer on each Calculation and Reporting Date in respect of the Relevant Collection Period received by the Issuer and standing to the credit of the Issuer Interest Account in respect of the Relevant Collection Period and payable by the Issuer no later than 10.30 (London time) on each Payment Date to the Interest Rate Swap Counterparty pursuant to and in accordance with the provisions of the Interest Rate Swap Agreement (including with respect to netting). For the avoidance of doubt, Issuer Payments (1) include Interest Collections standing to the credit of the Issuer Interest Account which have been received in connection with an early repayment (in full) of a Purchased Loan Receivable and which repayment (in full) occurred during the Relevant Collection Period, but (2) do not include Interest Collections standing to the credit of the Issuer Interest Account which have been received in connection with an early repayment (in full) of a Purchased Loan Receivable and which repayment (in full) occurred after the end of the Relevant Collection Period.

"**Issuer Post-Notification Account**" means the account in the name of the Issuer at the Issuer Account Bank designated as the "Issuer Post-Notification Account" (or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the Issuer Account Agreement).

"**Issuer Principal Account**" means the account in the name of the Issuer at the Issuer Account Bank for Principal Collections designated as the "Issuer Principal Account" (or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the Issuer Account Agreement).

"**Issuer Profit and Capital Account**" means the euro account of the Issuer with HSH Nordbank AG, Luxembourg Branch for the sole purpose of holding the share capital of the Issuer and payments representing the Profit Margin and interest thereon (if any).

"**Issuer Reserve Account Agreement**" means the issuer reserve account agreement to be dated on or about the Closing Date between the Issuer, the Issuer Reserve Account Bank, the Cash Administrator, the Trustee, the Seller and the Replacement Reserve Account Bank in respect of the prefunding Account and the Issuer Reserve Accounts.

"Issuer Reserve Account Bank" means HSH Nordbank AG.

"Issuer Reserve Accounts" means the RR Expenses Stand-By I Account, the Class A Stand-By I Account, the Class B Stand-By I Account, the Interest Rate Swap Collateral Reserve Account and the Verity Account and each, an **"Issuer Reserve Account"**.

"Issuer's Expenses" means, on any Payment Date, any fees, costs, expenses and indemnification amounts then due and payable by the Issuer to:

- (a) the Cash Administrator under the Cash Administration Agreement;
- (b) the Reporting Agent under the Cash Administration Agreement;
- (c) the Issuer Account Bank under the Issuer Account Agreement;
- (d) the Issuer Reserve Account Bank under the Issuer Reserve Account Agreement;
- (e) the Agents under the Agency Agreement;
- (f) the Listing Agent;
- (g) the Luxembourg Stock Exchange;
- (h) the Rating Agency;
- (i) its directors and the Corporate Services Provider under the Corporate Services Agreement; and
- (j) the auditors and legal counsel of the Issuer.

"Issuer Subordinated Amounts" means all termination payments due and payable by the Issuer to the Interest Rate Swap Counterparty upon the early termination of any Interest Rate Swap Transactions due to an event of default in respect of the Interest Rate Swap Counterparty or due to the Interest Rate Swap Counterparty's failure to comply with the Rating Agency Swap Criteria.

"KAG" means an investment fund company within the meaning of Section 6 Paragraph 1 of the German Investment Act (*Investmentgesetz*).

"KWG" means the German Banking Act (*Kreditwesengesetz*).

"Lead Manager" means HSH Nordbank AG.

"Letter of Advice" means a letter from a representative of the Class C Noteholders pursuant to Condition 8 (*Purchase of Additional Loan Receivables*) and Condition 9 (*Sale of Purchased Loan Receivables*).

"Liabilities" means, in respect of any person, any losses, damages, costs, charges, awards, claims, demands, expenses, judgments, actions, proceedings or other liabilities whatsoever including reasonable legal fees and any taxes and penalties incurred by that person, together with any VAT charged or chargeable in respect of any of the sums referred to in this definition.

"Liquidity Accounts" means the Class A Stand-By I Account, the Class B Stand-By I Account, the Class A Stand-By II Account and the Class B Stand-By II Account.

"Liquidity Drawings" means the Class A Liquidity Drawings and the Class B Liquidity Drawings and **"Liquidity Drawing"** means any of them.

"Liquidity Facilities" means the Class A Liquidity Facility and the Class B Liquidity Facility and **"Liquidity Facility"** means either of them.

"Liquidity Facility Agreement" means the liquidity facility agreement to be dated on or about the Closing Date between the Liquidity Facility Provider, the Issuer, the Cash Administrator, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank and the Trustee.

"Liquidity Facility Commitment" means the Class A Liquidity Facility Commitment and the Class B Liquidity Facility Commitment.

"Liquidity Facility Increased Costs" means the amount of increased costs of the Liquidity Facility Provider as a result of the compliance with and/or change in laws and regulations as further described in the Liquidity Facility Agreement.

"Liquidity Facility Margin" means the Class A Liquidity Facility Margin or the Class B Liquidity Facility Margin.

"Liquidity Facility Provider" means HSH Nordbank AG.

"Liquidity Subordinated Amount" means any amount in respect of Liquidity Facility Increased Costs and tax gross up amounts payable to the Liquidity Facility Provider under the Liquidity Facility Agreement.

"Loan Agreement" means any loan agreement between the Seller and a Borrower which is governed by the laws of Germany, England or The Netherlands.

"Loan Collateral" means, with respect to any Purchased Loan Receivable:

- (a) any form of legal title including, without limitation, any claim or title which the Seller acquires (directly or indirectly by means of the Loan Agreement) against the Obligor(s) under such Purchased Loan Receivable pursuant to the provisions of the Loan Agreement, including, without limitation, the following:
 - (i) in relation to a Loan Agreement which is a Mortgage Loan Agreement, one or more Related Mortgages;
 - (ii) in relation to a Loan Agreement which is a Mortgage Loan Agreement in relation to which a Related Mortgage has only been created for part of the secured amount under the relevant Loan Receivable, the Mortgage Increase Undertakings;
 - (iii) in relation to a Loan Agreement which is a Fund Loan Agreement, the Mortgage Creation Undertakings;
 - (iv) in relation to a Loan Agreement which is a Fund Loan Agreement, all of the Seller's present and future claims for reimbursement of expenses (*Aufwendungsersatzansprüche*) against the relevant Fund pursuant to Section 31 Paragraph 3 of the German Investment Act (*Investmentgesetz*) in connection with Sections 675 and 670 of the German Civil Code (*Bürgerliches Gesetzbuch*);
 - (v) any accessory security interest and any dependent ancillary rights in relation to such Loan Agreement;
 - (vi) any non-accessory security interest and any independent ancillary rights in relation to such Loan Agreement (including, without limitation, claims to be granted in respect of any further security by the relevant Obligor) (other than the collateral referred to under (i) through (v) above);
 - (vii) any claim against any Borrower Security Trustee; or
 - (viii) any present and future claims and rights under the Related Property (other than the collateral referred to under (i) to (vii) above); and/or
- (b) all guarantees, insurance, share pledges and other agreements or arrangements of whatever character from time to time supporting or securing payment of such Purchased Loan Receivable whether pursuant to the Loan Agreement related to such Purchased Loan Receivable or otherwise.

"Loan Collateral Recoveries" means, in respect of a Specially Serviced Loan Receivable, the amount verified by the Trustee as recoveries from any enforcement of Loan Collateral in respect of such Specially Serviced Loan Receivable pursuant to the Credit and Collection Policies to which the Issuer is entitled less all of the Issuer's, the Servicer's and the Special Servicer's related enforcement costs in the Relevant Collection Period.

"Loan Jurisdiction" means each of Germany, England or The Netherlands.

"Loan Loss" means, in respect of a Specially Serviced Loan Receivable, following the termination of the workout upon determination by the Special Servicer that all amounts expected to be recovered by it from the Obligors have been received, an amount equal to the outstanding principal amount of such Loan Receivable on the Purchase Date thereof less the sum of all Principal Collections (including, for the avoidance of doubt, all Available Principal Recoveries allocated to such Specially Serviced Loan Receivable), and **"Loan Losses"** shall be construed accordingly.

"Loan Loss Allocation Notice" means a notice from the Special Servicer to the Issuer and the Trustee pursuant to the Trust Agreement setting out, *inter alia*, the Loan Losses and the allocation thereof to the Notes and confirming that the Special Servicer is not in material breach substantially in the form of schedule 9 (*Form of Loan Loss Allocation Notice*) of the Servicing Agreement.

"Loan Maturity Date" means, in respect of a Purchased Loan Receivable, the last day of the term thereof.

"Loan Portfolio" means, at any time, the portfolio of Purchased Loan Receivables.

"Loan Receivable" means all rights, title, interests, claims and benefit of the Seller, present and future, actual and contingent (and interests arising in respect thereof) in, to, under and in respect of a Loan under the related Loan Agreement ("**Seller's Rights**") including, without limitation:

- (a) the right to demand, recover, receive and give receipts for, all monies and proceeds payable or to become payable under, in respect of, or pursuant to the Loan Agreement, including principal monies payable or to become payable under the Loan Agreement and any unpaid part thereof and the interest due thereon and the benefit of all powers of, and remedies for, enforcing or protecting the Seller's Rights; and
- (b) the benefit of all covenants, undertakings, representations, warranties and indemnities in favour of the Seller contained in or relating to the Loan Agreement.

"Loan Receivable Disposal Agreement" means a sale agreement relating to the sale of Purchase Loan Receivables by the Issuer entered into in accordance with Condition 9 (*Sale of Purchased Loan Receivables*).

"Loan Receivables Purchase Agreement" means the loan receivables purchase agreement dated the Closing Date between the Purchaser, the Seller and the Trustee.

"Loans" means the commercial mortgage loans denominated in euro governed by the laws of any of the Loan Jurisdictions, secured directly or indirectly by commercial properties situated in any of the Property Jurisdictions and certain other related security and originated by HSH Nordbank and **"Loan"** means any of them.

"LTV" means, in respect to a Loan Receivable, the fraction of (x) the Outstanding Loan Principal Amount of the Loan Receivable and (y) the value of the Related Properties.

"Luxembourg" means the Grand Duchy of Luxembourg.

"Luxembourg Loan Collateral" means any Loan Collateral governed by Luxembourg law in relation to any Purchased Loan Receivables.

"Luxembourg Securitisation Law" means the Luxembourg law dated 22 March 2004 on securitisation, as amended.

"Luxembourg Stock Exchange" means the Luxembourg Stock Exchange (*Bourse de Luxembourg*).

"Material Adverse Effect" means (a) in relation to any person, any effect that results in, or could reasonably be expected to result in, the insolvency of that person or otherwise hinders, or could reasonably be expected to hinder, the performance of that person's obligations under any of the Transaction Documents as and when due and (b) in relation to any Purchased Loan Receivable, any effect which is, or could be reasonably be expected to be, adverse to the timely collection of the principal of, or interest on, such Purchased Loan Receivable.

"Moratorium Event" means a suspension of payments and controlled management pursuant to Sections 46 and 46a of the German Banking Act (*Kreditwesengesetz*) in respect of the Servicer or the Special Servicer for the time being.

"Mortgage Creation Undertaking" means the undertaking of a KAG to grant, upon the request of the Seller, a mortgage on one or more Related Properties forming part of a Fund managed by it.

"Mortgage Increase Undertaking" means the undertaking of the Obligor to agree to an increase of the amount secured under a Related Mortgage which has only been created for part of the secured amount under the relevant Loan subject to certain conditions.

"Mortgage Loan Agreement" means a Loan Agreement which is secured by (i) a Related Mortgage and/or (ii) a mortgage mandate and/or (iii) a share pledge over a Related Property and/or property vehicle located in a Property Jurisdiction.

"Mortgage Undertaking" means a Mortgage Creation Undertaking or Mortgage Increase Undertaking.

"Net Disposal Proceeds" means the purchase price paid to the Issuer for any Purchased Loan Receivable less all of the costs incurred by the Issuer in connection with the sale or disposal of such Purchased Loan Receivable.

"New Issuer" means the entity substituted in place of the Issuer (or any entity previously substituted in place of the Issuer) as debtor in respect of all obligations arising under or in connection with the Notes in accordance with the terms contained in Condition 27.1 (*General*).

"Note Custodian" means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the relevant Noteholder maintains a security account in respect of the Notes and which maintains an account with Euroclear and/or Clearstream Luxembourg, either directly or indirectly through another custodian.

"Noteholders" has the meaning ascribed to such term in Condition 1.3 (*Trust Agreement*) and **"Noteholder"** means any of them.

"Noteholders' Meeting" means a meeting of Noteholders of any Class of Notes which is held in accordance with the terms of the Debenture Act and the Terms and Conditions.

"Notes" means the Class A Notes, the Class B Notes and the Class C Notes.

"Notice of Payment" means, upon the occurrence of a Borrower Payment Notification Event, the notice to be delivered by the Servicer or the Special Servicer or, if the appointment of the Servicer or the Special Servicer under the Servicing Agreement has been terminated, a Substitute Servicer or the Substitute Special Servicer (as appropriate) or, if the appointment of the Servicer or the Special Servicer under the Servicing Agreement has been terminated and no Substitute Servicer or no Substitute Special Servicer has been appointed pursuant thereto, the Trustee and instructing the relevant Borrower to make all payments in respect of such Purchased Loan Receivable to the Issuer Post-Notification Account or, after the service of an Enforcement Notice, such other account as may from time to time be specified by the Trustee.

"Notice of Sale" means a notice from the Seller to the Borrowers stating that the Loan Receivables have been sold to the Issuer substantially in the form of schedule 7 (*Notice of Sale*) of the Loan Receivables Purchase Agreement.

"Obligor" means, with respect to a Loan Receivable, the relevant borrower and each of the relevant guarantors of, or entities providing indemnities in respect of, some or all of any borrower's obligations.

"Offer" means an offer made by the Seller to the Purchaser on the Closing Date or any Purchase Date to:

- (i) sell certain Eligible Loan Receivables and the relevant Loan Collateral and to assign and/or transfer (as applicable) the Offered Loan Receivables (other than RR Loan Receivables) and the relevant Loan Collateral (other than RR Security); and
- (ii) grant the Transfer Claims in respect of the RR Assets related to the Offered Loan Receivables.

"Offer and Offered Loan Receivables List" means a list specifying certain details (including the account number (*Abrechnungsnummer*), the Outstanding Loan Principal Amount and the applicable rate of interest but, in each case, excluding any personal data) of Loan Receivables and the relevant Loan Collateral listed offered for sale by the Seller to the Purchaser pursuant to the Loan Receivables Purchase Agreement.

"Offered Loan Receivables" means all Loan Receivables listed in an Offer and Offered Loan Receivables List.

"Optional Early Redemption" means the early redemption of the Notes in whole (but not in part) prior to the Final Maturity Date in accordance with Condition 13.1 (*Optional Early Redemption following a Tax Event*).

"Optional Early Redemption Date" means the Payment Date following the delivery of a Tax Event Notice.

"Order of Seniority" means, in respect of the Classes of Notes, the order of entitlement to the payment of principal and/or interest on such Class of Notes upon the enforcement of the Security as further described in Condition 2.1 (*Status of the Notes*).

"Other Payments" means the amounts (if any) payable by the Issuer pursuant to Condition 6.10 (*Other Revenue Payments*) and Condition 15 (*Payment of Borrower Hedge Collateral Amounts and Shared Collateral Amounts*) or, after the service of an Enforcement Notice by the Trustee pursuant to Condition 18.2 and, for the avoidance of doubt, no such amount shall be part of the Available Interest Distribution Amount or the Available Principal Distribution Amount or upon the service of an Enforcement Notice, be available for application under Condition 18.1.

"Outstanding Loan Principal Amount" means:

- (a) with respect to a Purchased Loan Receivable, at any time, the Principal Amount of such Purchased Loan Receivable less the amount of Collections received by the Issuer and applied to the Principal Amount of such Purchased Loan Receivable, as evidenced by the most recent Portfolio Report, **provided that** Collections shall not be treated as received by the Issuer until credited to the respective Issuer Operating Account and **provided further that** such Outstanding Loan Principal Amount shall be restored in the amount and to the extent of any Collections so received and applied if at any time the distribution of such Collections is rescinded or must otherwise be returned by the Issuer to the Seller for any reason; and
- (b) with respect to an Offered Loan Receivable, the Principal Amount outstanding of such Offered Loan Receivable.

"Outstanding Principal Amount" means, in respect of the Notes (or any Class of Notes), as at any Payment Date an amount equal to the Initial Principal Amount of the Notes (or such Class of Notes) as reduced by the aggregate amount of payments of principal made in respect thereof in accordance with Condition 14 (*Payments of Principal*) and/or allocation of Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) thereto pursuant to Condition 10 (*Principal Reductions*), in each case, on or before such Payment Date.

"Partial Loan" means, at any time, the part of an obligation of a Borrower and/or Loan Receivable which is included in the Loan Portfolio.

"Participating Member State" means each state so described in any EU Legislation, including Germany at the date hereof.

"Paying Agents" means the Principal Paying Agent and any other paying agent under, or appointed by the Issuer pursuant to, the Agency Agreement.

"Payment Date" means the 28th day in February, May, August and November of each year commencing in May 2010, subject in each case, to adjustment for non-Business Days as further described in Condition 5.3 (*Business Days*).

"Permanent Global Note" means a permanent global bearer note representing a Class of Notes.

"person" shall be construed as a reference to any natural person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two (2) or more of the foregoing.

"Portfolio Report" means the report on the Loan Portfolio in respect of each Relevant Collection Period including the information to be disclosed in the Investor Report described in paragraphs (c) and (d) of Condition 21 (*Investor Reports*) (or such other information as the Servicer, the Cash Administrator and the Reporting Agent may agree with the Trustee from time to time).

"Potential Amortisation Event" means any event or circumstance which would (with the expiry of a grace period, the giving of notice, the making of any determination under any Transaction Document or any combination of any of the foregoing) be an Amortisation Event.

"Prefunding Account" means the account in the name of the Issuer at the Issuer Reserve Account Bank designated as the "Prefunding Account".

"Prefunding Criteria" means, in respect of any Offered Loan Receivable, the following criteria as at the relevant Purchase Date:

- (a) the Offered Loan Receivable complies with the Eligibility Criteria;
- (b) the Outstanding Loan Principal Amount of the Offered Loan Receivable does not exceed the amount standing to the credit of the Prefunding Account on such Purchase Date;
- (c) the weighted average ICR in respect of all Purchased Loan Receivables will not be lower as a result of such prefunding;
- (d) the weighted average ICR in respect of all Purchased Loan Receivables, with the ICR calculations based on an 18-month period rather than a 12-month period, will not be lower as a result of such prefunding;
- (e) the weighted average LTV in respect of all Purchased Loan Receivables will not be higher as a result of such prefunding;
- (f) the LTV of the Offered Loan Receivable is equal or lower than forty (40) per cent.;
- (g) the appraisal of the value of the Related Properties in respect of the Offered Loan Receivable referred to under (f) is not older than six (6) months;
- (h) the ICR of the Offered Loan Receivable is equal or greater than 1.5;
- (i) following such prefunding the Outstanding Loan Principal Amount of all Purchased Loan Receivables secured by Properties located in:
 - (i) Germany, will not exceed forty (40) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (ii) The Netherlands, will not exceed thirty-five (35) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iii) France, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes; and
 - (iv) Belgium, will not exceed twenty-five (25) per cent. of the Outstanding Principal Amount of all of the Notes;
- (j) the Offered Loan Receivable will not be secured by Properties located in Spain;
- (k) the weighted average lease length of the lease agreements (first break)⁵ relating to all of the Purchased Loan Receivables will not be lower as a result of such prefunding;
- (l) the Related Properties in respect of the Offered Loan Receivable are office, multi-family, retail warehouse, retail, residential, distribution or industrial properties;

⁵ Calculated on leases, assuming (i) no re-letting and (ii) no lease renewals, to the earlier of (a) first contractual break and (b) lease expiry.

- (m) following such prefunding the portion of the Outstanding Loan Principal Amount of all Purchased Loan Receivables which relates to Related Properties which are:
- (i) office properties, will not exceed sixty-five (65) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (ii) multi-family properties, will not exceed forty (40) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iii) retail warehouse properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iv) retail properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (v) residential properties, will not exceed fifteen (15) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (vi) distribution properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes; and
 - (vii) industrial properties, will not exceed ten (10) per cent. of the Outstanding Principal Amount of all of the Notes;
- (n) none of the Borrowers under the Offered Loan Receivable is a Borrower under any of the other Purchased Loan Receivables;
- (o) the Related Properties in respect of the Offered Loan Receivable have more than one tenant, other than Related Properties which are let to a tenant with long term unsecured, unsubordinated and unguaranteed debt obligations which are rated at least AA- by the Rating Agency (or such lower rating which is otherwise acceptable to the Rating Agency) which may have one or more tenants;
- (p) the Offered Loan Receivable arises under a Mortgage Loan Agreement and is secured by a Related Mortgage and a share pledge; and
- (q) the Issuer and the Trustee have received a legal opinion satisfactory to them that the transfer of any Offered Loan Receivable and/or related Loan Collateral would be legal, valid, binding and enforceable.

"Prefunding Event" means the purchase by the Issuer of Prefunding Loan Receivables from the Seller in accordance with the Loan Receivables Purchase Agreement and the Conditions from (and excluding) the Closing Date up to (and including) the Final Prefunding Date.

"Prefunding Loan Receivable" means any Loan Receivable which has been purchased by the Issuer with, and subject to, sufficient funds standing to the credit of the Prefunding Account and references to **"Prefunding Loan Receivables"** shall be construed accordingly.

"Prefunding Period" means the period from and including the Closing Date up to and including the Final Prefunding Date.

"Prefunding Reserve" means the monies held by the Issuer in the Prefunding Account as a reserve for the future purchase by the Issuer of certain Additional Loan Receivables in accordance with these Terms and Conditions and the Issuer Reserve Account Agreement which shall not exceed €235,000,000 on any Payment Date until (and including) the Prefunding Step-Down Date and €117,500,000 on any Payment Date after the Prefunding Step-Down Date.

"Prefunding Step-Down Date" means the Payment Date falling in May 2011.

"Preliminary Prospectus" means the preliminary offering circular dated 4 November 2009 published in respect of the issue of the Notes.

"Principal Amount" means, with respect to any Loan Receivable, the amount owed to the Seller on account of principal under such Loan Receivable as of the relevant Cut-off Date.

"Principal Collections" means the element of principal comprised in each payment made in respect of a Purchased Loan Receivable under the related Loan Agreement, including Net Disposal Proceeds, the element of principal comprised in Deemed Collections (if any) and, if such Purchased Loan Receivable has become a Specially Serviced Loan Receivable, the Principal Recoveries in relation to such Purchased Loan Receivable.

"Principal Paying Agent" means Bank of America, National Association.

"Principal Priority of Payments" has the meaning ascribed to such term in Condition 14 (*Payments of Principal*).

"Principal Recoveries" means, in respect of a Purchased Loan Receivable that has become a Specially Serviced Loan Receivable, the amount verified by the Trustee as all recoveries of principal and the principal component of the Available Loan Collateral Recoveries in respect of such Purchased Loan Receivable.

"Proceeds" means all receipts or recoveries by or on behalf of the Trustee obtained in such capacity and all receipts or recoveries by the Trustee pursuant to, or upon enforcement of, any of the Security together with interest accrued on the Security Proceeds Account.

"Profit Margin" means ten per cent. (10%) of the then issued share capital (employed equity) of the Issuer per annum.

"Projected Net Rental Income" means, for any interest period, the rental income receivable in respect of the Related Properties during for the 12-month period commencing on such date as determined by the Servicer (assuming that any lease break options have been exercised).

"Property Jurisdiction" means each of Germany, Belgium, France, The Netherlands and Spain.

"Prospectus" means the Prospectus in respect of the issue of the Notes.

"Prospectus Directive" means the Prospectus Directive (Directive 2003/71/EC).

"Purchase" means any acquisition by the Purchaser of Offered Loan Receivables under the Loan Receivables Purchase Agreement and payable on the relevant Purchase Date.

"Purchase Date" means the Closing Date and, thereafter any Payment Date prior to the Substitution Period End Date and/or Final Prefunding Date, any Payment Date on which the Issuer accepts an offer for the purchase of Offered Loan Receivables.

"Purchase Price" means, in respect of each Loan Receivable which is an Offered Loan Receivable, the Outstanding Loan Principal Amount of such Offered Loan Receivable as at the relevant Cut-off Date applicable thereto.

"Purchased Loan Receivables" means, in respect of the Initial Loan Receivables, the Loan Receivables (including the portion thereof attributable to interest or value added tax, if applicable) in respect of which the Initial Purchase Price and, in respect of any other Loan Receivables, the Loan Receivables (including the portion thereof attributable to interest or value added tax, if applicable) in respect of which the Purchase Price has been paid by the Issuer to the Seller pursuant to the Loan Receivables Purchase Agreement but excluding Sold Loan Receivables and **"Purchased Loan Receivable"** means any of them.

"Purchaser" means Plato No. 1 S.A.

"Qualifying Bank" means any bank or financial institution, organised under the laws of any state which is a member of the European Union or of the United States to which payments may be made free of any Tax Deduction by the Issuer pursuant to the Liquidity Facility Agreement or the RR Expenses Facility Agreement (as applicable).

"Rated Notes" means the Class A Notes and the Class B Notes.

"Rating" means a rating score evaluated by the Rating Agency either in form of a Borrower's public rating or a Borrower's rating as requested from time to time by the Seller for the purpose of the Transaction.

"Rating Agency" means Fitch Ratings Limited.

"Rating Agency Swap Criteria" means the criteria set forth in "Counterparty Criteria for Structured Finance Transactions " published by Fitch dated 22 October 2009.

"Records" means, in respect to any Purchased Loan Receivable, all Loan Agreements, correspondence, notes of dealings with other documents, books, books of account, registers, records and other information (including, without limitation, computer programmes, tapes, discs, CD-Roms, punch cards or other media of data storage, data processing software and related property and rights) maintained (or recreated in the event of destruction of the originals thereof) with respect to such Purchased Loan Receivable, Loan Collateral and the relevant related Obligor.

"Redemption Date" means any Amortisation Date, the Scheduled Maturity Date, the Optional Early Redemption Date, the Early Redemption Date or the Final Maturity Date.

"Refinancing Register" means the refinancing register (*Refinanzierungsregister*) within the meaning of sections 22a *et seq.* of the German Banking Act (*Kreditwesengesetz*) established by HSH Nordbank.

"Related Mortgage" means a first ranking mortgage on one or more Related Properties.

"Related Property" means a property situated in a Property Jurisdiction for which financing has been provided in the form of a Loan.

"Relevant Collection Period" means, in respect of a Payment Date, the Collection Period ending on the Collection Period End Date immediately prior to such Payment Date.

"Replacement Reserve Accounts" means the Class A Stand-By II Account, the Class B Stand-By II Account, the RR Expenses Stand-By II Account, the Replacement Verity Account and the Interest Rate Swap Collateral Replacement Reserve Account and each, a **"Replacement Reserve Account"**.

"Replacement Reserve Account Holder" means HSH Nordbank AG.

"Replacement Verity Account" means the account in the name of HSH Nordbank with the Replacement Reserve Account Bank designated as the "Replacement Verity Account".

"Reporting Agent" means HSH Nordbank AG.

"Reporting Business Day" means any day, or if such a day is not a day on which banks are open for general business and foreign exchange markets settle payments in Hamburg and Kiel, the following day on which banks are open for general business and foreign exchange markets settle payments in Hamburg and Kiel, unless that day falls in the next month, in which case the date will be the preceding day on which banks are open for general business and foreign exchange markets settle payments in Hamburg and Kiel.

"Reports" means the Portfolio Report, the Cash Administration Report and the Investor Report.

"Repurchase Loan Receivables" has the meaning ascribed to such term in Clause 20.2 of the Trust Agreement.

"Repurchase Price" means the price, not exceeding the then current value of the Purchased Loan Receivables, agreed between the Seller, the Issuer and the Trustee to be payable by the Seller to the Issuer for the Repurchase Loan Receivables in the context of the exercise of a Clean-up Call.

"Required Paying Agent" means any paying agent (which may be the Principal Paying Agent) which is the sole remaining paying agent with its Specified Office in any city where a stock exchange on which the Notes are listed requires there to be a paying agent.

"Resolution" means a resolution of a Class of Notes at a Noteholders' Meeting or by way of a Written Resolution passed in accordance with the provisions of the Debenture Act and the Terms and Conditions.

"Reuters Page" means a page of the Reuters service for the electronic display of data.

"Reverse Order of Seniority" means, on each Payment Date, an amount equal to the Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) (if any) on Specially Serviced Loan Receivables not previously allocated in accordance with the Terms and Conditions which shall be allocated to reduce the Outstanding Principal Amount of each Class of Notes and any such reduction will be allocated to reduce the Outstanding Principal Amount of first, the Class C Notes, second, the Class B Notes and third, the

Class A Notes in each case, *pari passu* on a *pro rata* basis within any Class of Notes on such Payment Date until the Outstanding Principal Amount of each such Class of Notes is reduced to zero.

"RR Asset Expenses" means any expenses, costs, fees or charges (collectively, "expenses") incurred in connection with (a) the transfer of any RR Assets to the Issuer; and (b) the creation of mortgage(s) on any of the Related Properties if and to the extent such expenses relate to Purchased Loan Receivables and, if and to the extent the relevant Loan Agreements are syndicated loans, such portions of such loans ranking *pari passu* with the respective Purchased Loan Receivable pursuant to the relevant syndication agreement which are allocated to the Seller (or upon transfer, the Issuer).

"RR Asset Expenses Subordinated Amount" means any amounts in respect of RR Expenses Facility Increased Costs and tax gross up amounts payable to the RR Expenses Facility Provider under the RR Expenses Facility Agreement.

"RR Assets" means the Initial RR Assets and any further Loan Receivables and/or Loan Collateral that the Issuer and HSH Nordbank agree to be held by HSH Nordbank and registered in the Refinancing Register .

"RR Expenses Account" means the account in the name of the Issuer at the Issuer Account Bank designated as the "RR Expenses Account" (or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the Issuer Account Agreement).

"RR Expenses Drawing" means is a drawing under the RR Expenses Facility Agreement to fund the payment of certain RR Asset Expenses.

"RR Expenses Facility" means the expenses facility to fund the payment of certain RR Asset Expenses provided by the RR Expenses Facility Provider to the Issuer under the RR Expenses Facility Agreement.

"RR Expenses Facility Agreement" means an expenses facility agreement to be dated on or about the Closing Date between the RR Expenses Facility Provider, the Issuer, the Cash Administrator, the Issuer Reserve Account Bank, the Replacement Reserve Account Bank and the Trustee.

"RR Expenses Facility Commitment" means an amount equal to €11,000,000.

"RR Expenses Facility Increased Costs" means the amount of increased costs of the RR Expenses Facility Provider as a result of the compliance with and/or a change in laws and regulations as further described in the RR Expenses Facility Agreement.

"RR Expenses Facility Provider" means HSH Nordbank AG.

"RR Expenses Stand-By I Account" means the account in the name of the Issuer at the Issuer Reserve Account Bank designated as the "RR Expenses Stand-By I Account".

"RR Expenses Stand-By II Account" means the account in the name of HSH Nordbank with the Replacement Reserve Account Bank designated as the "RR Expenses Stand-By II Account" or such other account as may from time to time be substituted therefor with an Eligible Bank in accordance with the provisions of the HSH Account Agreement.

"RR Expenses Stand-By Drawing" means a drawing under the RR Expenses Facility of an amount equal to the RR Expenses Facility Provider's undrawn RR Expenses Facility Commitment under the RR Expenses Facility Agreement.

"RREF Requisite Rating" means a bank or financial institution whose short term, unsecured, unguaranteed and unsubordinated debt obligations are rated at least F1 and a long-term, unsecured and unsubordinated debt obligation rating of at least A by the Rating Agency.

"Sale Price" means the fair market value of the Specially Serviced Loan Receivable as determined by the Special Servicer.

"Scheduled Maturity Date" means the Payment Date falling in February 2017.

"Secured Obligations" means any and all obligations (present, future, actual and contingent) which are (or are expressed to be) or become due, owing or payable by the Issuer (including, but not limited to, any obligations

based on unjust enrichment (*ungerechtfertigte Bereicherung*) or tort (*Delikt*) and obligations under the Trustee Claim to each, some or any of the Trustee and the other Secured Parties under the Notes or the Transaction Documents.

"**Secured Parties**" has the meaning ascribed to such term in Condition 1.3 (*Trust Agreement*) and "**Secured Party**" means any of them.

"**Secured Portion**" means the amount specified in the definition of Verity Loan Receivables in relation to the relevant Verity Loan Receivable.

"**Security**" has the meaning ascribed to such term in Condition 4 (*The Security*).

"**Security Assets**" means the assets of the Issuer comprised in the Security.

"**Security Documents**" means the Trust Agreement, the Issuer Deed of Charge, the Dutch Deed of Pledge and any other document entered into by the Issuer from time to time pursuant thereto or in respect of the Secured Obligations.

"**Security Proceeds Account**" means the separate interest bearing cash account denominated in euro and designated as such in the name of the Trustee with an Eligible Bank in accordance with the provisions of the Trust Agreement.

"**Seller**" means HSH Nordbank AG.

"**Seller Regulatory Event**" means, after the Closing Date, any enactment or establishment of or supplement or amendment to, or change in any law, regulation, rule, policy or guideline (including any accord, standard or recommendation of the Basel Committee on Banking Supervision) or in the international, European or German regulations, rules and instructions applicable to or applied by the Seller, or in the application or official interpretation of any such law, regulation, rule, policy or guideline by any relevant competent international, European or national body (including any relevant international, German or European central bank or other competent authority) (whether or not under consideration or otherwise contemplated as at the Closing Date (including draft circulars)), or a change in circumstance, that, in each case, is applicable to and becomes effective for the Seller on or after the Closing Date, which has the effect that (i) the Seller would be subject to less favourable capital adequacy treatment with respect to the Transaction or the Purchased Loan Receivables than the capital adequacy treatment applicable with respect thereto on the Closing Date and/or (ii) the risk weighting factor(s) applicable to the Purchased Loan Receivables would be less favourable than the risk weighting factor(s) applicable thereto on the Closing Date for the Seller.

"**Seller Tax Event**" means that HSH Nordbank is required by the laws of Germany to withhold or deduct an amount in respect of any taxes from any amount payable by it to the Purchaser under any Transaction Document and HSH Nordbank has taken reasonable steps to mitigate the effects of such circumstances for a period of thirty (30) days and such circumstances are subsisting.

"**Servicer**" means HSH Nordbank AG.

"**Servicer Collection Account Bank**" means the account banks of the Servicer Collection Accounts into which Obligors are required to make payments under the Loan Agreements.

"**Servicer Collection Accounts**" means the bank accounts of the Servicer into which Obligors are required to make payments under the Loan Agreements.

"**Servicer Termination Date**" means the date on which the appointment of the Servicer or the Special Servicer is terminated upon the occurrence of a Servicer Termination Event in accordance with the Servicing Agreement.

"**Servicer Termination Event**" means in respect of the Servicer and the Special Servicer:

- (a) the Servicer or the Special Servicer fails to make any payment under the Servicing Agreement within five (5) Business Days of the due date therefor; or
- (b) the Servicer or the Special Servicer fails to perform any of its other material obligations under the Servicing Agreement and any such breach not being remedied within ten (10) Business Days; or

- (c) any representation or warranty in the Servicing Agreement provided by the Servicer or the Special Servicer is materially false, incorrect and such inaccuracy, if capable of remedy, is not remedied within five (5) Business Days and has a Material Adverse Effect in relation to the Purchaser; or
- (d) any Insolvency Event occurs in respect of the Servicer or the Special Servicer; or
- (e) the performance by the Servicer or the Special Servicer of its obligations under any Transaction Document becomes illegal; or
- (f) the exercise by any party to the Servicing Agreement of its right to terminate the Servicing Agreement for good cause; or
- (g) the banking licence of the Servicer or the Special Servicer is revoked, restricted or made subject to any conditions or any of the proceedings referred to in or any action under Sections 45 to 47 of the German Banking Act (*Kreditwesengesetz*) are commenced with respect to the Servicer or the Special Servicer; or
- (h) any Material Adverse Effect occurs in relation to (i) the Servicer or the Special Servicer or (ii) the Purchased Loan Receivables whether or not by reason of a change in the Credit and Collection Policies.

"Servicer Transfer Event" means any of the following events with respect to a Purchased Loan Receivable:

- (a) such Purchased Loan Receivable becomes a Delinquent Loan Receivable;
- (b) such Purchased Loan Receivable becomes a Defaulted Loan Receivable;
- (c) any Obligor has become subject to, entered into or consented to any insolvency, moratorium, administration, liquidation, receivership or similar procedures or proceedings;
- (d) the Servicer has received a notice of enforcement or proposed enforcement of any of the relevant Loan Collateral;
- (e) any Obligor notifies the relevant Borrower Security Trustee or the Servicer, as applicable, in writing of its inability to pay its debts generally as they become due or enters into an assignment for the benefit of its creditors or its voluntary suspension of payment of its obligations; or
- (f) any other event of default occurs in relation to the Purchased Loan Receivable, which in the good faith and reasonable judgment of the Servicer, materially impairs or could materially impair or jeopardise the Loan Collateral in respect of the Purchased Loan Receivable or the value thereof as security for the Purchased Loan Receivable and the ability of the Obligors to satisfy their obligations in respect of that Purchased Loan Receivable.

"Servicing Agreement" means the servicing agreement to be dated on or about the Closing Date between the Issuer, the Cash Administrator, the Reporting Agent, the Servicer, the Special Servicer and the Trustee.

"Servicing Expense Amounts" means at any time all costs and expenses then due and payable by the Issuer to the Servicer and/or the Special Servicer in connection with the transfer, perfection and/or enforcement of Specially Serviced Loan Receivables and/or the related Loan Collateral pursuant to the Servicing Agreement after taking into account the proceeds of any RR Expenses Drawings applied by the Issuer (or the Cash Administrator on its behalf) towards such costs and expenses.

"Servicing Fee" means a fee of 0.1 per cent. per annum of (a) the Aggregate Outstanding Loan Principal Amount of all Purchased Loan Receivables calculated on each Calculation and Reporting Date in respect of the Relevant Collection Period less (b) the amount of all Principal Collections which fell due but were not received by the Issuer during the Relevant Collection Period in respect of the Purchased Loan Receivables, such fee to accrue on the basis of a 360-day year and the actual number of days elapsed and to become due and payable in arrear on each Payment Date in accordance with the Interest Priority of Payments and the Enforcement Priority of Payments.

"Servicing Standard" means the standard that aims to maximise the recovery of funds taking into account:

- (a) the likelihood of recovery of amounts due in respect of that Purchased Loan Receivable;

- (b) the timing of recovery;
- (c) the costs of recovery on a net present value basis;
- (d) the interests of the Issuer in respect of the Purchased Loan Receivable; and
- (e) the standard of care the Servicer or, as the case may be, the Special Servicer applies to its own dealings (*diligentia quam in suis*) and shall, notwithstanding any higher standard of care provided pursuant to the Servicing Agreement, give at least the time and attention a prudent merchant would exercise (*Sorgfalt eines ordentlichen Kaufmanns*) in the performance of the Services,

without regard to (A) any relationship that the Servicer or, as the case may be, the Special Servicer or any affiliate thereof may have with any of the Obligor or any party to the Cash Administration Agreement; (B) the ownership of any Note by the Servicer or, as the case may be, the Special Servicer, or any affiliate thereof; (C) the obligation of the Servicer or, as the case may be, the Special Servicer, or any affiliate thereof to make out-of-pocket expenditures; (D) the right of the Servicer or, as the case may be, the Special Servicer or any affiliate thereof, to receive reimbursement of costs, or any compensation payable by or to it under the Cash Administration Agreement and (E) the ownership, servicing or management of other securities, loans or properties not included in or securing, as the case may be, the Purchased Loan Receivable.

"**Sold Loan Receivable**" means any Purchased Loan Receivable that has been sold by the Issuer pursuant to Condition 9 (*Sale of Purchased Loan Receivables*).

"**Specially Serviced Loan Receivable**" means a Purchased Loan Receivable in respect of which a Servicer Transfer Event is continuing, irrespective of whether the servicing of such Purchased Loan Receivable has been transferred to the Special Servicer pursuant to the Servicing Agreement.

"**Special Servicer**" means HSH Nordbank AG.

"**Specified Office**" means, in relation to any Agent either the office identified with its name in these Terms and Conditions or any other office notified to any relevant parties pursuant to the Agency Agreement and "**Specified Offices**" means two (2) or more of such offices.

"**Standard of Care**" has the meaning ascribed to such term in Clause 3.1 of the Trust Agreement.

"**Stand-By Account**" means each separate interest bearing account denominated in euro and designated as such in the name of the Issuer in accordance with the provisions of the Liquidity Facility Agreements.

"**Stand-By Drawings**" means the Class A Stand By Drawings and the Class B Stand By Drawings and "Stand By Drawings" means any of them.

"**Subscription Agreement**" means the subscription agreement dated the Closing Date between, *inter alios*, the Issuer, the Seller and the Lead Manager.

"**Substitute Cash Administrator**" means a substitute cash administrator replacing the Cash Administrator pursuant to and in accordance with the terms of the Cash Administration Agreement.

"**Substitute Reporting Agent**" means a substitute reporting agent replacing the Reporting Agent pursuant to and in accordance with the terms of the Cash Administration Agreement.

"**Substitute Servicer**" means a substitute servicer replacing the Servicer pursuant to and in accordance with the terms of the Servicing Agreement.

"**Substitute Special Servicer**" means a substitute servicer replacing the Special Servicer pursuant to and in accordance with the terms of the Servicing Agreement.

"**Substitution Criteria**" means, in respect of any Offered Loan Receivable, the following criteria as at the relevant Purchase Date:

- (a) the Offered Loan Receivable complies with the Eligibility Criteria;

- (b) the Outstanding Loan Principal Amount of the Offered Loan Receivables does not exceed the lower of:
 - (i) the Net Disposal Proceeds from the disposal of Purchased Loan Receivables in accordance with Condition 9 (*Sale of Purchased Loan Receivables*) received by the Issuer during the immediately preceding Collection Period; and
 - (ii) thirty (30) per cent. of the Outstanding Principal Amount of the Notes on the Closing Date less the aggregate Purchase Price paid for all Substitution Loan Receivables purchased prior to such Purchase Date;
- (c) the Offered Loan Receivable complies with the same security and quality standards, in particular in respect of the tenants and the lease profile, as the Purchased Loan Receivable which is being replaced;
- (d) the weighted average ICR in respect of all Purchased Loan Receivables will not be lower as a result of such substitution;
- (e) the weighted average ICR in respect of all Purchased Loan Receivables, with the ICR calculations based on an 18-month period rather than a 12-month period, will not be lower as a result of such substitution;
- (f) the weighted average LTV in respect of all Purchased Loan Receivables will not be lower as a result of such substitution;
- (g) the LTV of the Offered Loan Receivable is equal or lower than the LTV of the Purchased Loan Receivable which is being replaced;
- (h) the appraisal of the value of the Related Properties in respect of the Offered Loan Receivable referred to under (g) is not older than six (6) months;
- (i) the ICR of the Offered Loan Receivable is not lower than the ICR of the Purchased Loan Receivable which is being replaced;
- (j) following such substitution the Outstanding Loan Principal Amount of all Purchased Loan Receivables secured by Properties located in:
 - (i) Germany, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (ii) Spain, will not exceed twenty-six (26) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iii) The Netherlands, will not exceed twenty-six (26) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iv) France, will not exceed twenty-six (26) per cent. of the Outstanding Principal Amount of all of the Notes; and
 - (v) Belgium, will not exceed twenty-six (26) per cent. of the Outstanding Principal Amount of all of the Notes;
- (k) the weighted average lease length of the lease agreements (first break)⁶ relating to the Offered Loan Receivable is not lower than the weighted average lease length of the lease agreements (first break) relating to the Purchased Loan Receivable which is being replaced;
- (l) the Related Properties in respect of the Offered Loan Receivable are office, multi-family, retail warehouse, retail, residential, distribution or industrial properties;

⁶ Calculated on leases, assuming (i) no re-letting and (ii) no lease renewals, to the earlier of the (a) first contractual break and (b) lease expiry.

- (m) following such prefunding the portion of the Outstanding Loan Principal Amount of all Purchased Loan Receivables which relates to Related Properties which are:
 - (i) office properties, will not exceed sixty-five (65) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (ii) multi-family properties, will not exceed forty (40) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iii) retail warehouse properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (iv) retail properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (v) residential properties, will not exceed fifteen (15) per cent. of the Outstanding Principal Amount of all of the Notes;
 - (vi) distribution properties, will not exceed thirty (30) per cent. of the Outstanding Principal Amount of all of the Notes; and
 - (vii) industrial properties, will not exceed ten (10) per cent. of the Outstanding Principal Amount of all of the Notes;
- (n) following such substitution the aggregate number of the Borrowers of the Purchased Loan Receivables will not have decreased;
- (o) the Related Properties in respect of the Offered Loan Receivable have the same or a greater number of tenants as the Related Properties in respect of the Purchased Loan Receivable which is being replaced;
- (p) the Offered Loan Receivable arises under a Mortgage Loan Agreement and is secured by a Related Mortgage and a share pledge; and
- (q) the Issuer and the Trustee have received a legal opinion satisfactory to them that the transfer or registration in the Refinancing Register of any Offered Loan Receivable and/or related Loan Collateral would be legal, valid, binding and enforceable.

"Substitution Loan Receivables" means any Offered Loan Receivables purchased by the Issuer in accordance with the Loan Receivables Purchase Agreement after the Closing Date and prior to the Substitution Period End Date other than a Prefunding Loan Receivable.

"Substitution Period End Date" means the earlier of (a) the Payment Date falling in February 2013 or (b) the occurrence of an Amortisation Event.

"TARGET Settlement Day" means any day on which TARGET2 is open for the settlement of payments in euro.

"TARGET2" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007.

"Tax" shall be construed so as to include any present or future tax, levy, impost, duty, charge, fee, deduction or withholding of any nature whatsoever (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) imposed or levied by or on behalf of any Tax Authority and "Taxes", "taxation", "taxable" and comparable expressions shall be construed accordingly.

"Tax Authority" means any government, state, municipal, local, federal or other fiscal, revenue, customs or excise authority, body or official anywhere in the world exercising a fiscal, revenue, customs or excise function.

"Tax Deduction" means any deduction or withholding on account of Tax.

"Tax Event" means:

- (a) the Issuer is required by the laws of the Grand Duchy of Luxembourg or Germany to withhold or deduct an amount in respect of any taxes from any payment of principal of, interest on, or any other amount payable in respect of the Notes; or
- (b) the Issuer determines that income earned on any of the Issuer Operating Accounts, the Prefunding Account, the Issuer Reserve Accounts or the Replacement Reserve Accounts or any sum received or receivable by it pursuant to the Transaction Documents is subject to deduction or withholding for or on account of any tax, duty, assessment or other governmental charge or is otherwise subject to taxation in Luxembourg or Germany,

and the Issuer has taken reasonable steps to mitigate the effects of such circumstances for a period of thirty (30) days **provided that** the Issuer shall be under no obligation to take any such action if, in its reasonable opinion, it would thereby incur additional costs or expenses.

"Terms and Conditions" means the terms and conditions of the Notes.

"TFEU" means the Treaty on the Functioning of the European Union.

"Transaction" means the Transaction Documents together with all agreements and documents executed in connection with the issue of the Notes, the performance thereof and all other acts, undertakings and activities connected therewith.

"Transaction Documents" means the Notes (including the Terms and Conditions), the Loan Receivables Purchase Agreement, the Servicing Agreement, the Trust Agreement, the Agency Agreement, the Cash Administration Agreement, the Issuer Account Agreement, the Issuer Reserve Account Agreement, the Corporate Services Agreement, the Issuer Deed of Charge, the Liquidity Facility Agreement, the RR Expenses Facility Agreement, the Interest Rate Swap Agreement, the Subscription Agreement, the Dutch Deed of Pledge, the Issuer Pledge Agreement, the HSH Account Agreement, the HSH Deed of Charge and any other agreement made pursuant thereto or otherwise in connection with the Notes or the rights and benefits comprised in the Security and, each a **"Transaction Document"**.

"Transaction Party" means any party to a Transaction Document.

"transfer" means any *in rem* transfer of any right, title or interest irrespective of the specific legal mechanism applicable under any relevant law.

"Transfer Claim" means each entitlement of the Issuer to request from HSH Nordbank upon the occurrence of a Transfer Event the transfer of any RR Asset or any other claims or items registered in the Refinancing Register in favour of the Issuer.

"Transfer Event" means any of the following events:

- (a) any of the measures mentioned in Section 46a Paragraph 1 Sentence 1 No. 1 of the KWG are imposed by the BaFin on the Seller, the Liquidity Facility Provider, the RR Expenses Facility Provider or the Interest Rate Swap Provider (as appropriate). No Transfer Event shall occur as a result of a stoppage of disposals (*Veräußerungsverbot*) within the meaning of Section 46a Paragraph 1 Sentence 1 No. 1 KWG if, and to the extent, the transfer of the RR Assets would constitute a breach of such stoppage;
- (b) a petition for the institution of insolvency proceedings against the Seller, the Liquidity Facility Provider, the RR Expenses Facility Provider or the Interest Rate Swap Provider (as appropriate) has been filed by the BaFin;
- (c) insolvency proceedings have been instituted against the Seller, the Liquidity Facility Provider, the RR Expenses Facility Provider or the Interest Rate Swap Provider (as appropriate);
- (d) any request by Issuer for the transfer of the RR Assets; or
- (e) the delivery of an HSH Enforcement Notice pursuant to the HSH Deed Charge.

"**Trust Agreement**" means the trust agreement to be entered into on or about the Closing Date between, *inter alios*, the Issuer and the Trustee.

"**Trustee**" means Bank of America Trustees Limited.

"**Trustee Claim**" has the meaning ascribed to such term in Clause 4.2 of the Trust Agreement.

"**Trustee Fees**" means all fees, costs and expenses payable by the Issuer to the Trustee under the Trust Agreement.

"**United Kingdom**" means the United Kingdom of Great Britain and Northern Ireland.

"**VAT**" means value added tax.

"**Verification Notice**" has the meaning ascribed to such term in Clause 19.3 of the Trust Agreement.

"**Verity Account**" means the account in the name of the Seller at the Issuer Reserve Account Bank designated as the "Verity Account".

"**Verity Amount**" means the monies held by the Issuer in the Verity Account or the Verity Substitution Account as a reserve for the payment from time to time to the Seller upon delivery by the Seller to the Issuer of satisfactory legal opinions as to the enforceability of certain Loan Receivables and/or Loan Collateral in the Initial Portfolios, in accordance with the Loan Receivables Purchase Agreement, which shall not exceed €304,094,000.

"**Verity Issuer Payment Amount**" means, in respect of a Verity Loan Receivable in respect of which a Verity Issuer Payment Event has occurred, an amount equal to (but never less than zero):

- (a) the Secured Portion; less
- (b) any relevant Verity Seller Amount,

which is payable to the Seller on the Payment Date immediately following the Collection Period during which the Verity Issuer Payment Event occurred.

"**Verity Issuer Payment Event**" means that one of the following events occurs in relation to a Verity Loan Receivable:

- (a) the Issuer and the Trustee receive a legal opinion, in form and substance satisfactory to them, addressed to them regarding the enforceability of such Verity Loan Receivable and the related Loan Collateral and the Rating Agency gives a confirmation that a payment to the Seller in relation to the relevant Verity Loan Receivable based on the receipt of such opinion shall not adversely affect its rating of the Rated Notes;
- (b) such Verity Loan Receivable has been repaid or a Loan Loss has been allocated in respect of such Verity Loan Receivable; or
- (c) the Class A Notes have been redeemed in full.

"**Verity Loan Receivable**" means any of the following Initial Loan Receivables:

Verity Loan Receivable in relation to the following Loan Agreement	Secured Portion
€18,600,000 from HSH Nordbank to a certain borrower dated 20 December 2006 with the following loan identification number: 7993091913	€11,761,000
€29,550,000 from HSH Nordbank to a certain borrower dated 20 December 2006 with the following loan identification number: 7993091911	€16,350,000

€14,750,000 from HSH Nordbank to a certain borrower dated 20 December 2006 with the following loan identification number: 7993091913	€7,205,000
€31,000,000 from HSH Nordbank to a certain borrower dated 16/17 August 2007 with the following loan identification number: 7993116826	€17,525,000
€7,022,000 from HSH Nordbank to a certain borrower dated 28 February 2007 with the following loan identification number: 7993076274	€6,376,000
€45,952,485 from HSH Nordbank to a certain borrower dated 26/27 March 2007 with the following loan identification number: 7993076274	€20,043,000
€11,800,000 from HSH Nordbank to a certain borrower dated 30 January 2006 with the following loan identification number: 7993074409	€9,935,000
€65,500,000 from HSH Nordbank to a certain borrower dated 22/23 May 2006 with the following loan identification number: 7993081404	€58,526,000
€40,000,000 from HSH Nordbank to a certain borrower dated 29 September 2005 with the following loan identification number: 7993054908	€34,168,000
€43,200,000 from HSH Nordbank to a certain borrower dated 9 November 2006 with the following loan identification number: 7993084459	€24,275,000
€79,235,403.66 from HSH Nordbank to a certain borrower dated 28 September 2007 with the following loan identification number: 7993114993	€35,579,000
€136,785,814.00 from HSH Nordbank to a certain borrower dated 28 September 2007 with the following loan identification number: 7993141956	€62,351,000
TOTAL	€304,094,000

"**Verity Notice**" means the notice provided by the Servicer or the Special Servicer specifying any (a) Verity Issuer Payment Events and the portion of the Verity Amount which the Seller may procure to withdraw from the Verity Account and/or the Replacement Verity Account pursuant to the Loan Receivables Purchase Agreement and (b) Verity Seller Payment Events and the Verity Seller Amounts (as applicable).

"**Verity Seller Amount**" means, in respect of a Verity Loan Receivable in respect of which a Verity Seller Payment Event has occurred, an amount equal to (but never less than zero):

- (a) the Secured Portion; less
- (b) any Principal Recoveries in respect of such Verity Loan Receivable,

which is payable to the Issuer on the Payment Date immediately following the Collection Period during which the Verity Seller Payment Event occurred.

"**Verity Seller Payment Event**" means, in respect of a Verity Loan Receivable, the determination by the Special Servicer of a Loan Loss which is due to such Verity Loan Receivable and/or the related Loan Collateral (including security over any reimbursement claim (*Aufwendungersatzanspruch*) in respect of the Fund Loan

Agreements) not being a legal, valid, binding and enforceable obligation of the relevant Obligor resulting from the manifestation of a verity risk (*Veritätsrisiko*) (but, for the avoidance of doubt, not resulting from the manifestation of credit risk (*Delkrederisiko*)). Any determination by the Special Servicer of a Loan Loss shall be binding. If the Special Servicer is in any doubt as, or to what degree, such Loan Loss is due to such Verity Loan Receivable and/or the related Loan Collateral not being legal, valid, binding and enforceable resulting from the manifestation of a verity risk (*Veritätsrisiko*), then the Special Servicer shall liaise with the Issuer and, upon the Issuer's request, the Special Servicer shall procure to obtain a legal opinion from a internationally recognised law firm requiring such law firm to opine on whether the relevant Loan Receivable and/or related Loan Collateral is legal, valid, binding and enforceable and the Special Servicer shall act in accordance with the result of this legal opinion.

"**WAL**" or "**Weighted Average Life**" of each Loan Receivable equals the number obtained by (A) computing the sum of the product obtained by multiplying (i) the Outstanding Loan Principal Amount of each Loan Receivable in the portfolio by (ii) the remaining number of years (rounded to the nearest hundredth) until the Principal Amount of such Loan Receivable is due; and dividing such sum by (B) the sum of the aggregate Outstanding Loan Principal Amount of the relevant Loan Receivable.

"**Written Resolution**" shall mean a resolution passed by any Class of Noteholders by way of a vote without meeting (*Abstimmung ohne Versammlung*) in accordance with the provisions of the Debenture Act and the Terms and Conditions.

6. THE TRUST AGREEMENT

The following is the text of the Trust Agreement. The full Trust Agreement constitutes Annex 2 to the Terms and Conditions and forms an integral part of the Terms and Conditions. The parties, the text of the recitals and the signature pages, of the Trust Agreement have been omitted from the following text. In case of any inconsistency in the definition of a term or expression in the Trust Agreement and elsewhere in this Prospectus, the definition in the Trust Agreement will prevail.

1. DEFINITIONS AND INTERPRETATION

In this Agreement and in the Recitals hereto, except so far as the context otherwise requires and subject to any contrary indication, words and expressions used but not defined herein, shall have the respective meanings and constructions given to them, *mutatis mutandis*, in the terms and conditions of the Notes (the "**Terms and Conditions**") and Condition 1.2 of the Terms and Conditions shall apply, *mutatis mutandis*, hereto.

2. APPOINTMENT AS TRUSTEE AND DECLARATION OF TRUST (*TREUHAND*)

2.1 The Issuer hereby appoints Bank of America Trustees Limited to act as the Trustee in accordance with this Agreement. The Trustee hereby accepts this appointment.

2.2 The claims of the Trustee against the Issuer under this Agreement shall be directly secured by the Security.

2.3 None of the Secured Parties shall enforce any accessory security right which has been granted to it for the Secured Obligations or any part thereof without the prior written consent of the Trustee and each of the Secured Parties shall at all times during the term of this Agreement maintain in full force and effect the authorisation of the Trustee under Clause 7.1 to administer and enforce any such accessory security right granted to such Secured Party.

2.4 In relation to any Secured Party who is not a party to this Agreement (other than the Trustee and including, without limitation, each Noteholder), this Agreement shall be construed as a contract for the benefit of third parties pursuant to Section 328 of the German Civil Code (*Bürgerliches Gesetzbuch*) (*echter Vertrag zugunsten Dritter*) and each such Noteholder shall have the right to demand performance by the Trustee of its obligations hereunder.

2.5 The parties hereto hereby agree to be bound by provisions contained in the Terms and Conditions.

3. STANDARD OF CARE, VERIFICATION, DELEGATION AND EXTENT OF LIABILITY

3.1 The Trustee shall give at least the time and attention a proper and prudent merchant would exercise in accordance with Section 347 of the German Commercial Code (*Sorgfalt eines ordentlichen Kaufmanns*) in the performance of its services and obligations (both primary and ancillary) under this Agreement and the other Security Documents to which it is a party and with respect to the Security as contemplated herein and therein (the "**Standard of Care**"). The Standard of Care shall be applicable to all references in this Agreement to negligence (*Fahrlässigkeit*) or wilful default (*Vorsatz*) on the part of the Trustee.

3.2 Without prejudice to Clause 3.1, any obligation of the Trustee in this Agreement to "verify" or to conduct a "verification" shall be construed as the obligation of the Trustee to conduct a plausibility check (*Plausibilitätsprüfung*) which means that the Trustee shall review the Reports and other documents that are delivered to it for such purpose pursuant to this Agreement for obvious mistakes, manifest errors and obvious inconsistencies in such Reports and other documents and by comparing the information contained therein with other written information provided to, and other circumstances actually known (*positives Wissen*) to, it in its capacity as Trustee.

3.3 The Trustee may not delegate or sub-contract all or any of its rights, authorities and/or discretions and/or performance of its obligations under this Agreement and/or under any of the other Transaction Documents, except that the Trustee may delegate or sub-contract the performance of some (but not all) of its obligations under this Agreement to any person (*Erfüllungsgehilfe*) who is:

- (a) an affiliate of the Trustee **provided that** the Trustee shall at all times be and remain liable to perform the obligations assumed by it hereunder and under the other Transaction Documents and for all acts, omissions and manner of performance in respect thereof by such delegate or sub-contractor as if such acts or omissions or manner or performance were its own under Section 278 German Civil Code (*Bürgerliches Gesetzbuch*); or
- (b) a reputable professional trustee, notary, law firm, accounting firm or credit institution upon such terms and conditions as the Trustee may consider appropriate in the interests of the Secured Parties **provided that** (1) the Trustee has given thirty (30) Business Days' prior written notification to the other parties hereto and, if any of the Rated Notes are outstanding, the Rating Agency (except that in circumstances where the Trustee, in its own discretion, is of the opinion that any delay in such delegation or sub-contracting is reasonably likely to be materially prejudicial to the interests of the Secured Parties, the Trustee shall notify the Issuer of its intention to delegate or sub-contract as early as reasonably practicable prior to such delegation or sub-contract and the Issuer shall notify the other parties hereto and, if any of the Rated Notes are outstanding, the Rating Agency no later than one Business Day after receipt of such notification from the Trustee) and (2) the Trustee shall remain liable for diligently selecting such delegate or sub-contractor in accordance with the Standard of Care. Further:
 - (i) until a delegation agreement has been entered into by the delegate or sub-contractor with the Trustee whereby such delegate or sub-contractor agrees to be bound to the terms of this Agreement as regards the delegated or sub-contracted obligations (including, without limitation, the Standard of Care) and the Secured Parties are expressly included as beneficiaries under such delegation agreement;
 - (ii) until the identity and business of such delegate or sub-contractor and legal opinions reasonably required by the Issuer in respect of such delegate or sub-contractor (including, for the avoidance of doubt, legal opinions customary for this type of transaction as to its capacity (including licences) and the legality, validity and enforceability of its obligations under the delegation agreement under applicable laws) have been provided by the Trustee to the Issuer; and
 - (iii) if, in the Trustee's opinion, such delegation does not materially prejudice the interest of the Noteholders,

the Trustee shall at all times be and remain liable to perform the obligations assumed by it hereunder and under the other Documents and for all acts, omissions and manner of performance in respect thereof by such delegate or sub-contractor as if such acts or omissions or manner or performance were its own under Section 278 of the German Civil Code (*Bürgerliches Gesetzbuch*) and, after the conditions under paragraphs (i), (ii) and (iii) above have been satisfied, the Trustee shall be under no obligation to supervise such delegate and/or sub-contractor as regards the delegated or sub-contracted obligations.

Any delegation or sub-contract under this Clause 3.3 shall be subject to the further condition that the Issuer does not incur and, shall not be obliged to pay, any additional fees, costs or expenses than the fees, costs and expenses payable or reimbursable by the Issuer to the Trustee under this Agreement and/or any other Transaction Documents unless the Trustee certifies in writing to the Issuer that such delegation or sub-contract is in the interests of the Secured Parties.

3.4 After the termination of the appointment of the Trustee in accordance with this Agreement, the Issuer may require the Trustee, at the cost of the Issuer unless such termination is for good cause (*wichtiger Grund*), (and the Trustee shall comply with such requirements), with effect from the date such termination takes effect, to assign to the Issuer any rights which the Trustee may have against any such delegate or sub-contractor arising from the performance of the Trustee's services by such person.

3.5 The Trustee shall promptly notify the Issuer, the Cash Administrator, the Reporting Agent, the Servicer, the Issuer Account Bank, the Issuer Reserve Account Bank, the Principal Paying Agent, the Interest Rate Swap Counterparty, the Liquidity Facility Provider, the Corporate Services Provider and, if any of the Rated Notes are outstanding, the Rating Agency of any delegation or sub-contracting pursuant to Clause 3.3.

3.6 The Trustee shall not be liable for (a) any action of the Issuer or any other Transaction Party (other than the Trustee) or the Issuer's or other Transaction Party's (other than the Trustee's) failure to act, (b) the legality, validity, binding nature and enforceability of the Notes, the Security, the Purchased Loan Receivables or the fairness of the provisions of the Terms and Conditions, (c) any changes in the value of the Security Assets and (d) any failure by the Servicer to submit any report, information or other document, or to provide access and facilities to the Trustee.

4. COVENANT TO PAY

4.1 The Issuer hereby irrevocably and unconditionally covenants with the Trustee (*abstraktes Schuldanerkenntnis*) that, subject to the Terms and Conditions, this Agreement and the other Transaction Documents, it will as and when any amount falls due and payable from the Issuer to any Secured Party under any of the Transaction Documents unconditionally pay or procure to be paid to or to the order of the Trustee such amount in such currency and manner as specified in such Transaction Document. For the avoidance of doubt, the obligation of the Issuer to pay such amounts shall include:

- (a) obligations incurred by the Issuer on or after the opening of any insolvency proceedings; and
- (b) any potential obligations on the grounds of any invalidity or unenforceability of any or all of the Transaction Documents, in particular claims on the grounds of unjustified enrichment (*ungerechtfertigter Bereicherung*) and tort (*Delikt*).

4.2 The Trustee shall have its own independent right to demand payment of the amounts payable by the Issuer under Clause 4.1 (the "**Trustee Claim**"), irrespective of any discharge of the Issuer's obligation to pay those amounts to the other Secured Parties resulting from failure by them to take appropriate steps, in insolvency proceedings affecting the Issuer, to preserve their entitlement to be paid those amounts.

4.3 Any amount due and payable by the Issuer to the Trustee under the Trustee Claim shall be decreased to the extent that the other Secured Parties have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Transaction Documents and any amount due and payable by the Issuer to the other Secured Parties under those provisions shall be decreased to the extent that the Trustee has received (and is able to retain) payment in full of the corresponding amount under the Trustee Claim.

4.4 The rights of the Secured Parties (other than the Trustee) to receive payment of amounts payable by the Issuer under the Transaction Documents are several and are separate and independent from, and without prejudice to, the rights of the Trustee to receive payment under the Trustee Claim.

5. SECURITY

5.1 The Issuer hereby assigns and transfers, as security for the Secured Obligations, to the Trustee in its capacity as trustee (*Treuhänder*) for the benefit of the Secured Parties and for itself with respect to the Trustee Claim, all present, future, actual and contingent rights (including, without limitation, non-ancillary (*selbständige*) and ancillary (*unselbständige*) rights to determine the legal relationship (*Gestaltungsrechte*) such as termination rights (*Kündigungsrechte*)), title, claims, interests and benefits of the Issuer:

- (a) in, to and under all Purchased Loan Receivables that are German Loan Receivables and the Loan Collateral in respect thereof (other than German Loan Receivables which have been granted in respect of the financing of French Properties and other than German Loan Receivables or Loan Collateral which are RR Assets) and all German law governed claims against any Borrower Security Trustee under any Purchased Loan Receivable;
- (b) against the Seller under the Loan Receivables Purchase Agreement and any transaction or operation contemplated thereby (other than its Transfer Claim in respect of the RR Assets);

- (c) against the Lead Manager and the Arranger under the Subscription Agreement and any transaction or operation contemplated thereby;
 - (d) against the Liquidity Facility Provider under the Liquidity Facility Agreement and any transaction or operation contemplated thereby;
 - (e) against the RR Expenses Facility Provider under the RR Expenses Facility Agreement and any transaction or operation contemplated thereby;
 - (f) against each of the Servicer and the Special Servicer under the Servicing Agreement and any transaction or operation contemplated thereby;
 - (g) against each Agent under the Agency Agreement and any transaction or operation contemplated thereby;
 - (h) against the Cash Administrator under the Cash Administration Agreement and any transaction or operation contemplated thereby; and
 - (i) against the Reporting Agent under the Cash Administration Agreement and any transaction or operation contemplated thereby.
- 5.2 As security for the Secured Obligations, the Issuer hereby also assigns to the Trustee for the benefit of the Secured Parties, and for itself with respect to the Trustee Claim, any and all future assets, rights (including, without limitation, non-ancillary (*selbständige*) and ancillary (*unselbständige*) rights to determine the legal relationship (*Gestaltungsrechte*) such as termination rights (*Kündigungsrechte*), title, claims, interests and benefits acquired by, or granted to, it from time to time (the "**Additional German Security Assets**") including, without limitation, all such assets which it receives from any party to any Transaction Document (other than its rights and claims under the Issuer English Security Assets and the Dutch Security Assets) as collateral for the obligations of such party owed from time to time to the Issuer.
- 5.3 The assets referred to in Clause 5.1 shall pass over to the Trustee on execution of this Agreement and any Additional German Security Assets and the assets referred to in Clause 5.2 shall directly pass over to the Trustee at the date any such Additional German Security Assets arise.
- 5.4 To the extent that title to any of the German Security Assets (as defined in Clause 5.11) cannot be transferred by mere agreement between the Issuer and the Trustee as effected in Clauses 5.1 and 5.2, the Issuer agrees with the Trustee that:
- (a) any transfer of possession (*Übergabe*) necessary to transfer title in or to any German Security Assets, in particular, in relation to cheques or bills of exchange is hereby replaced by the Issuer holding such instruments of debt or other movables in custody for the Trustee free of charge (*unentgeltliche Verwahrung*) or, insofar as the Issuer has no direct possession (*unmittelbaren Besitz*) of any German Security, the Issuer hereby assigns to the Trustee all claims for return against the relevant persons who are in actual possession of such instrument or movable and, as the case may be, all other persons having indirect possession (*mittelbaren Besitz*) of such German Security Assets;
 - (b) any notice to be given in order to effect transfer of title in or to the German Security Assets shall immediately be given by the Issuer in such form as the Trustee requires and the Issuer hereby agrees that if it fails to give such notice, the Trustee is hereby irrevocably authorised to give such notice on behalf of the Issuer; and
 - (c) any other act or thing necessary or, in the opinion of the Trustee, desirable (including, without limitation, any consent to be obtained or notification to be given or registration to be effected under any applicable law) to perfect a first priority security interest of the Trustee for the benefit of the Secured Parties in the German Security Assets shall be immediately done and effected by the Issuer upon request of the Trustee at the Issuer's cost.
- 5.5 The Issuer hereby gives notice of the assignments and transfers under Clauses 5.1 and 5.2 and each of the Seller, the Cash Administrator, the Reporting Agent, the Interest Rate Swap Counterparty, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the

Principal Paying Agent and the Interest Determination Agent hereby acknowledges and confirms receipt of such notice.

- 5.6 The Issuer hereby pledges (*verpfänden*) pursuant to Sections 1204, 1273 and 1279 of the German Civil Code (*Bürgerliches Gesetzbuch*) to the Trustee in its capacity as trustee (*Treuhänder*) for the benefit of the Secured Parties as security for the Trustee Claim all of its present and future, conditional and unconditional claims and rights:
- (a) in and to the Verity Account and all monies standing to the credit thereof, including interest thereon (if any);
 - (b) in and to the Issuer Reserve Accounts (other than the Verity Account), the Prefunding Account and against the Issuer Reserve Account Bank under the Issuer Reserve Account Agreement and any transaction or operation contemplated thereby and any future accounts and all monies standing to the credit thereof, including interest thereon (if any) to the extent capable of being secured under German law;
 - (c) in, to and under all Purchased Loan Receivables that are German Loan Receivables which have been granted in respect of the financing of French Properties; and
 - (d) in and to all Transfer Claims in respect of the RR Assets,
- (each a "**Pledge**" and together the "**Pledges**").
- 5.7 The Trustee acknowledges that prior to creating the Pledge over the Verity Account pursuant to Clause 5.6(a) above, the Issuer has granted a first ranking pledge over all its present and future claims and rights in and to the Verity Account and all monies standing to the credit thereof, including interest thereon to the Seller pursuant to the Issuer Pledge Agreement as security for certain rights of the Seller against the Issuer under the Loan Receivables Purchase Agreement. The Issuer and the Trustee agree that such first ranking pledge shall rank senior to the Pledge over the Verity Account pursuant to Clause 5.6(a) above.
- 5.8 The Issuer hereby gives notice to HSH Nordbank of the Pledges under Clause 5.6 (a), (b) and (d) and the Issuer Reserve Account Bank hereby acknowledges and confirms receipt of such notice. The Issuer shall promptly give notice to the debtors under the Loan Receivables referred to in Clause 5.6(c) of the Pledges under Clause 5.6(c) and shall provide a written confirmation to the Trustee that it has received a confirmation of receipt of such notice from each such debtor.
- 5.9 The Issuer Reserve Account Bank hereby agrees that its general terms and conditions (*Allgemeine Geschäftsbedingungen*) shall not apply and waives any right it has or may hereafter acquire to combine, consolidate or merge the Prefunding Account or the Issuer Reserve Accounts with any other account of the Issuer or set off any liabilities of the Issuer to the Issuer Reserve Account Bank and agrees that it shall not exercise any right of retention or set off or transfer any sum standing to the credit of or to be credited to the Prefunding Account or the Issuer Reserve Accounts in or towards the satisfaction of any liabilities of the Issuer to the Issuer Reserve Account Bank or any other person. Insofar as additional declarations or actions are necessary for the creation of the Pledges, the Issuer shall, at the request of the Trustee, make such declarations or undertake such actions at the Issuer's costs and expenses.
- 5.10 The Trustee hereby accepts the assignment, transfer and pledge, as applicable, of the German Security Assets under Clauses 5.1, 5.2 and 5.6 together with the covenants of the Issuer hereunder.
- 5.11 The security granted under Clauses 5.1, 5.2 and 5.6 is referred to as the "**German Security**", and the assets comprised therein (including, for the avoidance of doubt, the "**Additional Security Assets**") are referred to as the "**German Security Assets**".
- 5.12 On the Closing Date, pursuant to the Issuer Deed of Charge, the Issuer shall, as continuing security for the payment or discharge of the Secured Obligations, with full title guarantee in favour of the Trustee for the benefit of the Secured Parties and for itself:
- (a) assign absolutely the Benefit of each English Loan Receivable which is from time to time a Purchased Loan Receivable (other than any English Loan Receivable that is an RR Asset) save that the Issuer shall not assign or transfer and shall instead hold on trust for the Seller as

the beneficial owner thereof any amount of interest or other sum (other than principal) due to be paid or accrued in respect of any period ending before the 3 February 2010 and the amount of any principal due to be paid prior to (but excluding) the Closing Date pursuant to or in respect of the English Loan Receivables sold by the Seller to the Issuer pursuant to the terms of the Loan Receivables Purchase Agreement;

- (b) assign absolutely the Benefit of the English Loan Collateral and the property, rights and assets constituting and comprised in the English Loan Collateral relating to Loan Receivables which are from time to time Purchased Loan Receivables (other than English Loan Collateral which is comprised in the RR Assets);
- (c) charge absolutely by way of first fixed charge the Benefit of each of the Issuer Operating Accounts and the RR Expenses Account and all sums of money which may now be or hereafter are from time to time standing to the credit of each of the Issuer Operating Accounts and the RR Expenses Account;
- (d) assign absolutely the Benefit in, under and to the Issuer Account Agreement;
- (e) assign absolutely the Benefit in, under and to the Interest Rate Swap Agreement (subject to the netting mechanism expressly contained in the Interest Rate Swap Agreement);
- (f) assign absolutely the Benefit in, under and to the HSH Deed of Charge; and
- (g) charge by way of first floating charge, the whole of its undertaking and all its property, assets and rights whatsoever and wheresoever, present and future, including the Benefit of each Authorised Investment (but excluding the Issuer Profit and Capital Account),

(together the "**Issuer English Security**" and the assets comprised therein, the "**Issuer English Security Assets**").

- 5.13 On the Closing Date, pursuant to the Dutch deed of pledge to be entered into by the Issuer and the Trustee (the "**Dutch Deed of Pledge**"), the Issuer shall as continuing security for the payment or discharge of the Secured Obligations (as defined in the Dutch Deed of Pledge) grant a Dutch disclosed right of pledge (*openbaar pandrecht*) in favour of the Trustee for the benefit of the Secured Parties over all present and future rights of the Issuer under or pursuant to the Dutch Loan Receivables which are at that time Purchased Loan Receivables (together the "**Dutch Security**" and the assets comprised therein, the "**Dutch Security Assets**").
- 5.14 For the avoidance of doubt, it is hereby confirmed that references in this Clause 5 to Purchased Loan Receivables, the relevant Loan Collateral and related items include those which are assigned or transferred to or otherwise acquired by the Issuer (whether pursuant to the Loan Receivables Purchase Agreement or otherwise) after the Closing Date and that the Security comprises, and is intended to comprise, specific and fixed assignments and assignments by way of security of, or specific and fixed charges or standard securities over (as the case may be), the items to which they relate, both present and acquired in the future.
- 5.15 The Issuer shall notify the Trustee in writing immediately upon each occasion after the Closing Date that it acquires any Loan Receivables, the related Loan Collateral and any other Security Assets and from time to time execute and do all such assurances, acts and things as the Trustee may require for perfecting or protecting the Security created or intended to be created by or pursuant to the Security Documents and from time to time. In the event that (i) the Issuer acquires any Additional Loan Receivables and any Additional Loan Collateral which do not fall within the scope of the Security pursuant to the existing Security Documents, (ii) the Issuer exercises its rights to require the transfer of any RR Assets which do not fall within the scope of the Security pursuant to the existing Security Documents or (iii) any Issuer Account Bank, Issuer Reserve Account Bank or Replacement Reserve Account Bank is required to be replaced, including upon a downgrade of such Issuer Account Bank, Issuer Reserve Account Bank or Replacement Reserve Account Bank in accordance with the provisions of the Transaction Documents and the Issuer is required to open new accounts with the relevant replacement account bank, which, in each of (i), (ii) and (iii) do not fall within the scope of the Security pursuant to the existing Security Documents (the "**Additional Assets**"), the Issuer shall do all such acts or execute all such documents (including assignments, transfers, mortgages, charges,

registrations in the Refinancing Register, notices and instructions) as the Trustee may specify (and in such form as the Trustee may require) in favour of the Trustee for the benefit of the Secured Parties for the purpose of exercising the rights under or perfecting the security created or intended to be created in respect of the Additional Assets.

- 5.16 If, at any time prior to the occurrence of a Transfer Event, (i) a Future Mortgage is to be created for the purpose of enforcing any Mortgage Undertaking in respect of any Loan Receivable which has been granted for the financing of German Properties or (ii) the Seller or the relevant Borrower Security Trustee (if any) is required to enforce a German land charge held by it in relation to which the relevant Loan Receivable has been transferred to the Trustee, the Trustee shall re-transfer such Loan Receivable and the related Loan Collateral to the Issuer for the purposes of onward transfer thereof to the Seller or the relevant Borrower Security Trustee (if any) and the Seller or the relevant Borrower Security Trustee (if any) has agreed under the Loan Receivables Purchase Agreement to register such re-transferred Loan Receivables and the related Loan Collateral in the Refinancing Register.

6. SECURITY PURPOSE

The Security (other than the Pledges) shall serve as security for the Secured Obligations and shall be enforced, collected and distributed pursuant to the provisions of this Agreement and applicable law. The Pledges shall serve as security for the Trustee Claim and shall be enforced, collected and distributed pursuant to the provisions of this Agreement and applicable law.

7. ADMINISTRATION OF SECURITY

- 7.1 In relation to any Security created by the Issuer under the Security Documents, the Trustee shall acquire and hold all such Security which is:

- (a) transferred to it by way of security (*Sicherungsabtretung*) and pledged to it (*verpfändet*) under this Agreement for the purpose of securing the Secured Obligations or any of them as German law trustee (*Treuhänder*); and
- (b) pledged, charged, assigned or transferred to it under the laws of any other jurisdiction for the purpose of securing the Secured Obligations or any of them as trustee under the laws of the jurisdiction governing such pledge, charge, assignment or transfer,

in each case, for the benefit of the Secured Parties and in each case, in accordance with the terms and subject to the conditions of the Security Documents.

- 7.2 With respect to the Security transferred to the Trustee for security purposes, the Trustee shall, in relation to the Issuer and the Secured Parties, have the rights and obligations of a party taking Security (*Sicherungsnehmer*).

- 7.3 The Trustee shall not release or dispose of the Security except as expressly provided in this Agreement and the other Security Documents, in particular, without limitation, as provided in Clause 10 (*Release of Security*) of this Agreement.

- 7.4 The Issuer shall be authorised (*ermächtigt*) to collect in the ordinary course of its business or otherwise exercise the rights in relation to the Security Assets and shall be authorised to grant a sub-authority to the relevant Transaction Parties. The authority and consents provided in this Clause may be revoked by the Trustee at any time if, in the Trustee's opinion, such revocation is necessary in order to avoid an adverse effect on the Security and the Trustee gives notice thereof to the Issuer. The authority and consents contained in this Clause 7.4 shall automatically terminate upon the delivery of an Enforcement Notice.

- 7.5 Notwithstanding Clause 7.4, the Trustee may at any time and to the extent permitted by applicable law:

- (a) enter into, make, execute, sign, deliver and do all such contracts, agreements, deeds, receipts, payments, assignments, transfers, conveyances, assurances and things and bring, prosecute, enforce, defend and abandon all such actions, suits and proceedings in relation to the Security Assets as it may think expedient;

- (b) exercise all or any of the powers or rights of the Issuer under or in relation to the Security Assets or incidental to the ownership of all or any of the assets comprising the Security Assets;
- (c) demand, sue for and take any advice or institute any proceedings to obtain payment of any amounts which may then be due and payable to the Issuer but which remain unpaid under or in respect of the Security Assets or any part thereof either in its own name or in the name of the Issuer to take any action or institute any such proceedings; and
- (d) without limitation, act generally in relation to the Security Assets in such manner as it may think to be in the interests of the Noteholders.

7.6 Upon the occurrence of a Borrower Payment Notification Event, the Trustee shall itself deliver Notices of Payment to the Borrowers under each Purchased Loan Receivable at the addresses provided by the Servicer in accordance with the Servicing Agreement if (and no later than two (2) Business Days after becoming aware), in its professional judgment, the delivery of such Notices of Payment is necessary or desirable to protect the interests of the Secured Parties and the Servicer is incapable of delivering, or has not delivered such notice within three (3) Business Days after the written request by the Issuer (a copy of which has been provided to the Trustee), such Notices of Payment and the Trustee shall instruct each such Borrower to make all payments in respect of such Purchased Loan Receivable to the Issuer Post-Notification Account or, after the service of an Enforcement Notice, such other account as may from time to time be specified by the Trustee.

8. REPRESENTATIONS

8.1 The Issuer hereby represents to the Trustee and the other parties hereto that:

- (a) it is a newly established entity duly incorporated and validly existing as a public limited liability company (*société anonyme*) under the laws of Luxembourg and governed by the Luxembourg Securitisation Law and it has full power and capacity to create and issue the Notes, to execute this Agreement and the other Transaction Documents and to undertake and perform the obligations expressed to be assumed by it herein and therein, that it has taken all necessary action to approve and authorise the same and that it has not engaged in any business other than those incidental to its incorporation prior to the Transaction;
- (b) it is, as at the date hereof and will be as of the Closing Date, the sole legal owner of the Security Assets free and clear of all liens, claims, charges, security interests or encumbrances, save for those created pursuant to this Agreement and the other Security Documents;
- (c) none of its rights, title, claims, benefits or interests in any of the Security Assets have previously been assigned or transferred to any third party;
- (d) it has not registered one or more "establishments" (as that term is defined in Part 1 of The Overseas Companies Regulations 2009) with the Registrar of Companies; and
- (e) it is not a credit institution, as defined in Article 1(1) of the EU Council Directive 2000/12 as amended, for the purposes of EU Council Directive 2001/24 (implemented in England and Wales by the Credit Institutions (Reorganisation and Winding-Up) Regulations 2004, 2004/1045 and the Council Regulation (EC) No 1346/2000 on insolvency proceedings.

8.2 Each of the Trustee, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, each Agent, the Interest Rate Swap Counterparty, the Cash Administrator, the Reporting Agent and the Corporate Services Provider hereby represents to the Issuer and any other party hereto that:

- (a) it is:
 - (i) in the case of the Servicer, the Special Servicer, the Reporting Agent, the Liquidity Facility Provider, the RR Expenses Facility Provider and the Issuer Reserve Account Bank and the Interest Rate Swap Counterparty, a company or corporation duly incorporated and validly existing under the laws of Germany for an indefinite period with power to enter into this Agreement and the other Transaction to which it is expressed to be a party and to exercise its rights and perform its obligations hereunder

and thereunder, and all action required to authorise its execution of this Agreement and its performance of its obligations hereunder and thereunder, has been duly taken;

- (ii) in the case of the Trustee, a company or corporation duly incorporated and validly existing under the laws of the England and Wales for an indefinite period and with power to enter into this Agreement and the other Transaction Documents to which it is expressed to be a party and to exercise its rights and perform its obligations hereunder and thereunder, and all action required to authorise its execution of this Agreement and its performance of its obligations hereunder and thereunder, has been duly taken;
 - (iii) in the case of the Issuer Account Bank, the Principal Paying Agent, the Interest Determination Agent and the Cash Administrator, a company or corporation duly incorporated and validly existing under the federal laws of the United States of America for an indefinite period and with power to enter into this Agreement and the other Transaction Documents to which it is expressed to be a party and to exercise its rights and perform its obligations hereunder and thereunder, and all action required to authorise its execution of this Agreement and its performance of its obligations hereunder and thereunder, has been duly taken; and
 - (iv) in the case of the Corporate Services Provider, a company or corporation duly incorporated and validly existing under the laws of the Grand Duchy of Luxembourg for an indefinite period and with power to enter into this Agreement and the other Transaction Documents to which it is expressed to be a party and to exercise its rights and perform its obligations hereunder and thereunder, and all action required to authorise its execution of this Agreement and its performance of its obligations hereunder and thereunder, has been duly taken;
- (b) all acts, conditions and things required to be done, fulfilled and performed by the respective party in order:
- (i) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this Agreement and the other Transaction Documents to which it is expressed to be a party; and
 - (ii) to ensure that the obligations expressed to be assumed by it in this Agreement and the other Transaction Documents to which it is expressed to be a party are legal, valid and binding on it;
- have been done, fulfilled and performed;
- (c) the execution and delivery of this Agreement and the other Transaction Documents to which it is expressed to be a party and the exercise by it of its rights and the performance of its obligations hereunder and thereunder, will not conflict with, result in any breach of the material terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under, any agreement, indenture, contract, mortgage, trust deed or other instrument to which it is a party or by which it or any of its assets is otherwise bound.

8.3 The Trustee further represents and warrants to the other parties hereto that, on the date hereof:

- (a) to the best of its knowledge, no cause exists for termination of this Agreement pursuant to Clause 31 (*Termination and Replacement*) or is foreseeable; and
- (b) it (i) does not have a registered office in Germany, (ii) has not held management meetings and/or board meetings in Germany (other than in the case of ad-hoc decisions of an exceptional nature), and (iii) does not store its books and records in Germany.

9. FURTHER ASSURANCE

9.1 The Issuer shall from time to time execute and do all such assurances, acts and things as the Trustee may require for perfecting or protecting the Security created or intended to be created by or pursuant to the Security Documents and from time to time, and at any time after the security constituted by or

pursuant to the Security Documents becomes enforceable, and shall execute and do all such assurances, acts and things as the Trustee may require for facilitating the enforcement of rights in respect of, all or any of the Security Assets and the exercise of all powers, authorities and discretions vested in the Trustee. For the purposes of this Clause 9.1, a certificate in writing signed by the Trustee to the effect that any particular assurance or thing required is required by it shall be conclusive evidence of that fact.

9.2 The Issuer hereby (i) irrevocably appoints the Trustee to be its attorney on its behalf and in its name to execute and to do any assurances, acts and things which the Issuer ought to execute or do under this Agreement and generally on its behalf and in its name to exercise all or any of the powers, authorities or discretions conferred by or pursuant to this Agreement or the other Transaction Documents or otherwise on the Trustee, (ii) exempts the Trustee and any sub-agent or successor to the fullest extent possible from the restrictions of Section 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and any similar provisions contained in the laws of any other jurisdiction and (iii) ratifies and confirms and agrees to ratify and confirm whatever the Trustee as its attorney shall do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 9.2.

10. RELEASE OF SECURITY

10.1 Upon the Trustee being satisfied (and, for this purpose, the Trustee may rely on any declaration of payment, discharge or satisfaction certified by any one or more directors or officers of the Issuer) that the Secured Obligations have been paid in full and **provided that** the Trustee has no further outstanding claims against the Issuer under this Agreement or any other Transaction Document, the Trustee shall, at the request and expense of the Issuer, execute and do all such acts and things as may be necessary to release the Security Assets from the Security created by this Agreement, the Issuer Deed of Charge and the Dutch Deed of Pledge, and the Trustee shall redeliver such Security Assets to the Issuer or to the order of the Issuer.

10.2 The Security from time to time constituted by or pursuant to the Security Documents shall remain in full force and effect as a continuing security for all of the Secured Obligations and the Trustee Claim, as applicable, from time to time until release of the Security under this Agreement, the Issuer Deed of Charge and the Dutch Deed of Pledge by the Trustee in accordance with Clause 10.1 notwithstanding any intermediate payment or satisfaction of any part of the Secured Obligations, as applicable, or any settlement of account or any other act, event or matter whatsoever that shall secure the ultimate balance of the Secured Obligations, as applicable.

10.3 If the Issuer sells any Purchased Loan Receivable and the relevant Loan Collateral pursuant to and in accordance with Condition 9 (*Sale of Purchased Loan Receivables*) the Trustee shall release such Purchased Loan Receivables and Loan Collateral and all other rights in relation thereto from the Security.

10.4 Notwithstanding the Security created by or pursuant to the Security Documents, the Trustee (on behalf of itself and the other Secured Parties) acknowledges and agrees:

- (a) that payments becoming due to the Issuer under any of the Transaction Documents may, subject to Clause 7.4, be made to the Issuer in accordance with the relevant Transaction Document; and
- (b) if no Event of Default or Amortisation Event has occurred, to release from the Security upon the request of the Purchaser immediately prior to:
 - (i) the Clean-up Call, the Purchased Loan Receivables the subject of the Clean-up Call;
 - (ii) the Optional Early Redemption Date, the Purchased Loan Receivables the subject of an offer for sale under Clause 20.1;
 - (iii) a sale pursuant to Clause 18, the Specially Serviced Loan Receivables the subject of an offer for sale under Clause 18 (*Determination and Verification of Final Loan Losses and Available Collateral Recoveries*); or
 - (iv) a sale pursuant to Condition 9 (*Sale of Purchased Loan Receivables*), all Purchased Loan Receivables subject to relevant Loan Receivables Disposal Agreement,

provided that, if any sale referred to in sub-paragraphs (i) to (iv) above is not concluded for whatever reason, the Issuer shall take all necessary steps to assign and transfer such Purchased Loan Receivables to the Trustee as security for the Secured Obligations forthwith upon becoming aware that any such sale may not be concluded on the due date therefor and the Trustee hereby accepts such assignment and transfer.

11. ENFORCEMENT

11.1 The Security created pursuant to this Agreement and the other Security Documents shall become enforceable on the date of the occurrence of an Event of Default and, in case of the Pledges, upon the requirements under Sections 1273 *et seq.* and 1204 *et seq.* of the German Civil Code (*Bürgerliches Gesetzbuch*) having been met (*Pfandreife*).

11.2 Each of the Secured Parties shall, forthwith upon becoming aware of any Event of Default, give notice in writing to the Trustee (with a copy to the Rating Agency).

11.3 The Trustee shall deliver an Enforcement Notice to the Issuer (with copies to the other parties hereto, the Noteholders, the Rating Agency and the Principal Paying Agent) as soon as it becomes aware of the occurrence of an Event of Default and, following service by the Trustee of the Enforcement Notice, the Trustee may in its sole discretion and without further notice, but subject to the provisions hereof and the other Transaction Documents, institute such proceedings against the Issuer as it may think fit in order to enforce the Security, including, without limitation, undertaking any of the following (either in its own name or in the name of the Issuer or otherwise and in such manner and upon such terms and conditions as it thinks fit):

- (a) take possession of the whole or any part of the Security Assets and sell, call in, collect and convert into money and enforce any rights it may have in respect of, the whole or any part of the relevant Security Assets in such manner and upon such terms as the Trustee shall think fit;
- (b) collect and receive any and all interest, distributions, fees, proceeds of repayment or redemption (whether in whole or in part) and other payments and receipts of, on or in respect of the Security Assets or any of them;
- (c) do all such other acts and things as the Trustee may consider necessary or expedient for the realisation of the Security Assets or incidental to the exercise of any of the rights conferred by it under or by virtue of this Agreement and the other Security Documents and to concur in the doing of anything which it has the right to do and to do any such thing jointly with any other person;
- (d) exercise any other rights and remedies that may be available at law; and
- (e) if the requirements set forth in Sections 1273 *et seq.* and 1204 *et seq.* German Civil Code (*Bürgerliches Gesetzbuch*) with regard to the enforcement of the Pledges over the Prefunding Account, the Issuer Reserve Accounts (other than the Verity Account) and second ranking pledge over the Verity Account are met (*Pfandreife*), (i) avail itself of all rights and remedies that a pledgee has upon default of a pledge under the laws of Germany and (ii) exercise its rights in accordance with this Agreement without obtaining an enforceable judgment or other instrument (*vollstreckbarer Titel*), notwithstanding Section 1277 German Civil Code (*Bürgerliches Gesetzbuch*), and the Trustee shall be entitled to revoke the power of withdrawal granted to the Issuer,

provided that, with regard to the Issuer English Security and the Issuer English Security Assets, the rights of the Trustee shall be determined in accordance with the Issuer Deed of Charge and English law and with regard to the Dutch Security and the Dutch Security Assets, the rights of the Trustee shall be determined in accordance with Dutch Deed of Pledge and Dutch law.

11.4 If the Trustee makes any claim of default in payment by the Issuer of any amount due in respect of any Note of any Class, certification by the Trustee that the Issuer defaulted in paying any principal, and/or interest due in respect of such Note shall (unless the contrary be proved) be sufficient evidence that the Issuer has made a similar default as regards all other Notes of such Class and all Notes of any other Class of Notes ranking after such Class of Notes.

- 11.5 The Trustee shall have no liability whatsoever to the Issuer or any of the Secured Parties with regard to any deficiency which might arise because the Trustee is subject to any tax in respect of the Security Assets, the income from such property or the proceeds of such property or is required to make any deduction or withholding from any payment to any Secured Party.
- 11.6 The Trustee will not be liable for any decline in the value nor any loss realised upon any sale or other disposition of any of the Security Assets made pursuant to this Agreement.
- 11.7 The Issuer hereby expressly waives all defences of voidability (*Einrede der Anfechtbarkeit*) and set-off (*Einrede der Aufrechnung*) pursuant to Sections 770 and 1211 German Civil Code (*Bürgerliches Gesetzbuch*) unless any counterclaim invoked by the Issuer as set-off is either undisputed between the parties or has been adjudicated by a court with *res judicata* (*rechtskräftig festgestellt*).
- 11.8 The Trustee shall be under no obligation to do anything to ascertain whether any Event of Default has occurred and will not be responsible to Noteholders or any other person for any loss arising from any failure by it to do so and, until it has actual knowledge or express notice to the contrary, the Trustee may assume that no such event has occurred and that the Issuer is performing all its obligations under this Agreement and the Terms and Conditions.

12. THE SECURITY PROCEEDS ACCOUNT

- 12.1 The Trustee shall establish and maintain the Security Proceeds Account as soon as practicable upon the delivery of an Enforcement Notice.
- 12.2 In making the necessary arrangements, the Trustee will use all reasonable endeavours to ensure that there is no disruption to any payment flows the subject of this Agreement.
- 12.3 The costs incurred in connection with replacing the bank or financial institution at which the Security Proceeds Account is maintained shall be borne by the Issuer.
- 12.4 Subject to Clause 12.5, the Trustee shall pay all Proceeds received or recovered by it, or otherwise paid to it pursuant to the Transaction Documents as a result of enforcement of the Security to the credit of the Security Proceeds Account.
- 12.5 The Trustee shall be entitled to convert or exchange any of the Proceeds (or part thereof) which are not denominated in euro at the time of receipt by the Trustee into euro at the relevant spot rate of exchange quoted by Bank of America, National Association, acting through its London Branch, at or about 11:00 a.m. (Luxembourg time) at the date of such conversion or exchange for the purchase of euro prior to crediting the Proceeds to the Security Proceeds Account.

13. APPLICATION OF MONIES ON ENFORCEMENT

- 13.1 Following delivery of an Enforcement Notice by the Trustee, any Proceeds standing to the credit of the Security Proceeds Account (other than any amounts in respect of Other Payments) shall be applied by the Trustee on any Business Day in making the following payments in the following order of priority (the "**Enforcement Priority of Payments**") but, in each case, only to the extent that there are funds available for that purpose and all payments of a higher priority have been made in full:
- (a) **first**, in or towards payment of the fees, costs, expenses and indemnification amounts then due and payable by the Issuer to the Trustee under the Trust Agreement and any Common Representative appointed in respect of a Class of Notes;
 - (b) **second**, in or towards payment of the Issuer's liability (if any) to tax;
 - (c) **third**, in or towards payment *pari passu* with each other on a *pro rata* basis then due and payable by the Issuer of all the Issuer's Expenses;
 - (d) **fourth**, in or towards payment of the Servicing Fee to the Servicer then due and payable by the Issuer, jointly for the account of the Servicer and the Special Servicer under the Servicing Agreement and Servicing Expense Amounts then due and payable to the Servicer and/or the Special Servicer pursuant to the Servicing Agreement;

- (e) **fifth**, in or towards payment *pari passu* with each other on a *pro rata* basis (a) of all termination payments then due and payable by the Issuer to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement and/or (b) in or towards payment of the Issuer Payments due, but not yet paid, to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement, in each case, other than any Issuer Subordinated Amount;
- (f) **sixth**, in or towards payment on a *pari passu* and *pro rata* basis of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class A Liquidity Facility (other than any Liquidity Subordinated Amount);
- (g) **seventh**, in or towards payment *pari passu* with each other on a *pro rata* basis of all amounts then due and payable by the Issuer in respect of accrued interest on the Class A Notes;
- (h) **eighth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class A Notes until the Outstanding Principal Amount of all Class A Notes is reduced to zero;
- (i) **ninth**, in or towards payment on a *pari passu* and *pro rata* basis of all amounts then due and payable by the Issuer to the Liquidity Facility Provider or any of the Stand-By Accounts under the Liquidity Facility Agreement pursuant to the Class B Liquidity Facility (other than any Liquidity Subordinated Amount);
- (j) **tenth**, in or towards all amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement (other than any principal amounts repayable in respect of an outstanding advance made thereunder and the RR Asset Expenses Subordinated Amount);
- (k) **eleventh**, in or towards payment of any principal amount of outstanding RR Expenses Drawings then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (l) **twelfth**, in or towards payment *pari passu* with each other on a *pro rata* basis of all amounts then due and payable by the Issuer in respect of accrued interest on the Class B Notes;
- (m) **thirteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class B Notes until the Outstanding Principal Amount of all Class B Notes is reduced to zero;
- (n) **fourteenth**, in or towards payment of any Issuer Subordinated Amount then due and payable to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement;
- (o) **fifteenth**, any Liquidity Subordinated Amounts then due and payable by the Issuer to the Liquidity Facility Provider under the Liquidity Facility Agreement;
- (p) **sixteenth**, in or towards payment of the RR Asset Expenses Subordinated Amounts then due and payable by the Issuer to the RR Expenses Facility Provider under the RR Expenses Facility Agreement;
- (q) **seventeenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of the Outstanding Principal Amount of the Class C Notes until the Outstanding Principal Amount of all Class C Notes is reduced to zero;
- (r) **eighteenth**, in or towards payment *pari passu* with each other on a *pro rata* basis of any remaining amount less the Profit Margin as interest on the Class C Notes on a *pro rata* basis within the Class C Notes; and
- (s) **nineteenth**, the Profit Margin, if any, to the Issuer.

13.2 To the extent that the Trustee receives or recovers any amounts in respect of the Other Payments, whether in the Security Proceeds Account or otherwise it shall, as soon as practicable upon such receipt or recovery, determine the amount of such Other Payments in respect of:

- (a) any Interest Rate Swap Collateral and pay such amount or return such collateral to the Interest Rate Swap Counterparty or its Credit Support Provider (as applicable); and
- (b) any Borrower Hedge Collateral Amount and pay such amount to the respective Borrower Hedge Counterparty,

referred to in paragraphs (a) and (b) shall not be available for application by the Trustee under Clause 13.1.

14. **COLLECTIONS AND DETERMINATIONS**

- 14.1 The Servicer and the Special Servicer shall be responsible for the administration, collection and enforcement of the Purchased Loan Receivables, including the enforcement of any Loan Collateral in accordance with the Credit and Collection Policies and the Servicing Agreement.
- 14.2 Each of the Servicer and the Special Servicer shall make such determinations and calculations as it is obliged to under this Agreement and the other Transaction Documents.
- 14.3 Following delivery of an Enforcement Notice, each Agent, the Cash Administrator, the Reporting Agent, the Servicer and the Special Servicer shall comply with any direction of the Trustee.

15. **REPORTS, DOCUMENTS AND INFORMATION**

- 15.1 The Special Servicer hereby undertakes to deliver to the Issuer, the Trustee, the Reporting Agent and the Cash Administrator the draft Portfolio Report in respect of each Relevant Collection Period, no later than 6:00 p.m. (Luxembourg time) on the Calculation and Reporting Date immediately following such Relevant Collection Period.
- 15.2 The Cash Administrator hereby undertakes to deliver to the Trustee, the Reporting Agent, the Issuer, the Servicer and the Special Servicer the draft Cash Administration Report in respect of each Relevant Collection Period, no later than 6:00 p.m. (Luxembourg time) nine (9) Reporting Business Days before the Payment Date immediately following such Relevant Collection Period.
- 15.3 The Reporting Agent hereby undertakes to deliver to the Issuer, the Servicer, the Special Servicer, the Cash Administrator and the Trustee the draft Investor Report in respect of each Relevant Collection Period, no later than 6:00 p.m. (Luxembourg time) seven (7) Reporting Business Day before the Payment Date immediately following such Relevant Collection Period.
- 15.4 The Special Servicer hereby undertakes to deliver to the Trustee each Loan Loss Allocation Notice in accordance with Clause 17.1 and Clause 18.1.
- 15.5 The Servicer or the Special Servicer shall deliver to the Trustee all such documents, notices and information in respect of any proposed purchase by the Issuer of Additional Loan Receivables under Condition 8 (*Purchase of Additional Loan Receivables*) or any proposed sale by the Issuer of Purchased Loan Receivables under Condition 9 (*Sale of Purchased Loan Receivables*) as set out in the respective Condition, in a timely manner, for verification by the Trustee in accordance with Clause 16 (*Verification of Reports and Other Documents*) including, in the case of a proposed sale, the Letter of Advice and the Loan Receivables Disposal Agreement in respect of the relevant Purchased Loan Receivable(s) and to grant its consent to such proposed sale and/or purchase.
- 15.6 The Trustee shall in relation to each Report and all other documents delivered to it pursuant to this Agreement (the "**Documents**") keep such Documents for two (2) years after the termination of this Agreement and, at the discretion the Servicer, thereafter either destroy such Documents or deliver the same to the Servicer or forward the documents to the successor trustee, if the Trustee is replaced in accordance with Clause 36 (*Benefit of Agreement and Assignment*).
- 15.7 None of the Trustee, the Issuer, the Reporting Agent or the Cash Administrator shall disclose any report, document or other information obtained from the Servicer or the Special Servicer (other than Portfolio Reports) pursuant to this Agreement to any third party without the prior written consent of the Servicer and the Special Servicer.

15.8 Unless otherwise specified or agreed with the Issuer, the Reporting Agent, the Cash Administrator and the Trustee, the Servicer and the Special Servicer shall provide to the Issuer, the Reporting Agent, the Cash Administrator and the Trustee all Portfolio Reports, documents and information in accordance with the provisions of Clause 35 (*Notices*).

16. VERIFICATION OF REPORTS AND OTHER DOCUMENTS

16.1 The Trustee shall verify each Report. For the avoidance of doubt, the Trustee's obligations pursuant to this Clause 16 (*Verification of Reports and other Documents*) shall be subject to Clause 19.5.

16.2 If, on the basis of the verification by the Trustee under Clause 16.1, the Trustee has concluded that such Report is:

- (a) plausible, then the Trustee shall provide a Verification Notice in accordance with Clause 19.3(a); or
- (b) not plausible, then the Trustee shall, no later than 11:00 a.m. (Luxembourg time) five (5) Reporting Business Days before each Payment Date, confirm its conclusion to this effect in writing to the Servicer, the Special Servicer, the Issuer, the Reporting Agent and/or the Cash Administrator, as applicable.

For the avoidance of doubt, in the event that the Trustee has not received any Report by the relevant deadline specified in Clause 15 (*Reports, Documents and Information*), it shall provide its confirmation according to items (a) and (b) above no later than three (3) Reporting Business Days following receipt of the relevant Report.

16.3 In addition the Trustee shall verify each Other Document delivered to it by the Issuer, the Servicer, the Special Servicer or the Cash Administrator and shall no later than 11:00 a.m. (Luxembourg time) three (3) Business Days after the delivery of such Other Document, confirm in writing to the Issuer, the Servicer, the Special Servicer, the Reporting Agent or the Cash Administrator (as applicable) that:

- (a) it has verified the such Other Document; and
- (b) on the basis of the verification by the Trustee under paragraph (a) above:
 - (i) the Trustee is satisfied that such Other Document is plausible; or
 - (ii) the Trustee has concluded that such Other Document is not plausible.

16.4 "**Other Documents**" means each Letter of Advice, each Loan Receivables Disposal Agreement, each document in which the fair market value of a Purchased Loan Receivable is determined and each Verity Notice.

17. VERIFICATION OF LOAN LOSSES AND RECOVERIES

17.1 To the extent that Loan Losses have been allocated to the Notes or Loan Collateral Recoveries, Borrower Hedge Collateral Amounts, Available Loan Collateral Recoveries, Principal Recoveries or Interest Recoveries have been calculated, the Special Servicer shall deliver to the Trustee, together with the relevant Portfolio Report, a Loan Loss Allocation Notice in respect of each relevant Specially Serviced Loan Receivable and the Trustee will verify the Loan Loss Allocation Notice no later than ten (10) Reporting Business Days prior to the relevant Payment Date, **provided that** in the case that the Trustee has not received the relevant Loan Loss Allocation Notice(s) by 6:00 p.m. (Luxembourg time) on the Calculation and Reporting Date, it shall conduct its verification within three (3) Business Days following receipt of the relevant Loan Loss Allocation Notice(s). If, on the basis of such verification, the Trustee comes to the conclusion that:

- (a) the Loan Loss Allocation Notice is plausible; or
- (b) the Loan Loss Allocation Notice is not plausible,

the Trustee shall without undue delay notify the Servicer, the Special Servicer, the Reporting Agent, the Cash Administrator and the Issuer.

17.2 For the purposes of the performance of its obligations under this Clause 17, the Trustee shall be entitled to rely on the certificates and information provided to it by the Servicer and the Special Servicer in relation to the enforcement of any Loan Collateral as conclusive evidence of the matters stated in any such certificate or information without having to make its own investigation **provided that**, in the case of a manifest error or obvious inconsistency in such certificate or information the Trustee shall be obliged to request a new certificate not showing such manifest error or obvious inconsistency.

18. **DETERMINATION AND VERIFICATION OF FINAL LOAN LOSSES AND AVAILABLE COLLATERAL RECOVERIES**

18.1 Without prejudice to Clause 17 (*Verification of Loan Losses and Recoveries*), in the event that a Specially Serviced Loan Receivable remains outstanding and no Loan Loss Allocation Notice has been delivered by the Special Servicer or a Loan Loss Allocation Notice in respect of such Specially Serviced Loan Receivable has been delivered by the Special Servicer to the Trustee pursuant to Clause 17.1, in either case, on or prior to the earlier of the Final Regular Amortisation Date or the Scheduled Maturity Date, and the Loan Loss in respect of such Specially Serviced Loan Receivable has not been finally determined by the Special Servicer or the Loan Loss Allocation Notice has not been verified by the Trustee in accordance with this Agreement for allocation to the Notes on the Final Regular Amortisation Date or the Scheduled Maturity Date (as applicable):

- (a) the Special Servicer shall deliver to the Trustee no later than each Calculation and Reporting Date, subject to the Confidentiality Restrictions, documents containing all relevant information in respect of each such Specially Serviced Loan Receivable and the Loan Collateral held by it in respect thereof, the Interest Recoveries and the Principal Recoveries and the expected date of receipt thereof;
- (b) the Trustee shall verify the documents delivered to it pursuant to paragraph (a) above (including documents showing Available Recoveries) and the Special Servicer shall, in the event that in its professional judgment, it is of the opinion that no recoveries may reasonably be expected on or before the Final Maturity Date, invite, on behalf of the Issuer, bids from three (3) banks and/or financial institutions which:
 - (i) are incorporated in a European Union jurisdiction;
 - (ii) trade in European non-performing loans in the ordinary course of their business; and
 - (iii) are subject to the Confidentiality Restrictions,no later than thirty (30) Business Days prior to the Final Maturity Date for the sale of such Specially Serviced Loan Receivables by the Issuer;
- (c) the Special Servicer shall, no later than twenty (20) Business Days prior to the Final Maturity Date, inform the Issuer and the Trustee of the bids received by it (if any) for the purchase of such Specially Serviced Loan Receivables;
- (d) in the event that no or less than three (3) bids have been received by the Special Servicer, if the Special Servicer or the Issuer is of the reasonable opinion that the valuation of the Specially Serviced Loan Receivables is lower than the estimated recoveries from enforcement thereof expected to be received by the Issuer on or before the Final Maturity Date, the Special Servicer or the Issuer shall notify the Trustee no later than three (3) Business Days after delivery by it to the Trustee of the information in paragraph (c) above, the Special Servicer shall repeat the procedure under paragraph (b) above by inviting further bids no later than fifteen (15) Business Days prior to the Final Maturity Date;
- (e) the Special Servicer shall, no later than ten (10) Business Days prior to the Final Maturity Date, inform the Issuer and the Trustee of the final bids received by it (if any) for the purchase of such Specially Serviced Loan Receivables;
- (f) the Issuer shall select the highest bidder and agree to sell such Specially Serviced Loan Receivables to such bank or financial institution without warranty or recourse unless the Special Servicer agrees (i) that it will service and administer such Specially Serviced Loan Receivables and the Loan Collateral related thereto and (ii) to enter into such arrangements as

are necessary for the purchaser of such Specially Serviced Loan Receivables, no later than five (5) Business Days prior to the Final Maturity Date;

(g) the Issuer shall deliver a final binding agreement for the sale of such Specially Serviced Loan Receivables at the agreed purchase price between the Issuer and the purchaser to the Trustee no later than four (4) Business Days prior to the Final Maturity Date and such agreement shall contain the obligation of the purchaser as well as the proceeds of such sale to pay such purchase price to the Issuer for value no later than one Business Day prior to the Final Maturity Date and such Loan Receivable Disposal Agreement shall be verified by the Trustee in accordance with Clause 16 (*Verification of Reports and Other Documents*). The purchase price paid by the purchaser will be segregated by the Cash Administrator into Principal Recoveries and Interest Recoveries and credited to the Issuer Operating Accounts for application by the Cash Administrator (on behalf of the Issuer) towards redemption of the Notes in accordance with the Principal Priority of Payments and, payment of interest in accordance with the Interest Priority of Payments respectively on the Final Maturity Date. However, in the event that:

(i) no bids have been received pursuant to Clause 18.1(e); or

(ii) the net proceeds of sale of such Specially Serviced Loan Receivables are lower than the Outstanding Loan Principal Amount of such Specially Serviced Loan Receivables,

the Special Servicer shall, as soon as practicable, but in any event, no later than nine (9) Business Days prior to the Final Maturity Date, deliver to the Trustee a Loan Loss Allocation Notice in respect of each such Specially Serviced Loan Receivable which Loan Loss Allocation Notice shall be verified by the Trustee in accordance with Clause 17 (*Verification of Loan Losses and Recoveries*). The Issuer shall deliver notice to the Noteholders no later than three (3) Business Days prior to the Final Maturity Date, specifying the amount of Loan Losses (if any) to be allocated to the Notes on such date and the Principal Recoveries and the Interest Recoveries to be applied by it (or the Cash Administrator on its behalf) towards redemption of the Notes and payments in respect of interest thereon on the Final Maturity Date.

(h) For the avoidance of doubt, the Loan Loss Allocation Notices shall specify any Verity Seller Amount to be paid to the Issuer on the Final Maturity Date. Payments made in accordance with such a Loan Loss Allocation Notice shall be considered final payment in respect of the Verity Amount.

19. VERIFICATION NOTICES

19.1 If the Trustee has concluded as set out in Clause 16.3(b)(ii) or 17.1(b), then it shall provide reasonable details with respect to (a) the relevant facts and circumstances and (b) the reasons for the lack of plausibility, and shall set out the actions and/or procedures it requires to be taken to remedy the lack of plausibility by written notice to the Servicer, the Special Servicer, the Reporting Agent and/or the Cash Administrator (as applicable), with a copy to the Issuer (a "**Course of Action**"), subject at all times to the Confidentiality Restrictions applicable to the Servicer and the Special Servicer and the Trustee shall, during such Course of Action, take such other action as it, in its professional judgment, considers necessary, desirable or expedient to protect the interests of the Secured Parties, including that the Trustee may request and the Servicer, the Special Servicer, the Reporting Agent, the Cash Administrator or the Issuer (as the case may be) shall provide upon such request to the Trustee and any independent auditors appointed by the Trustee such further information and access to its facilities and documentation, subject always to the Confidentiality Restrictions applicable to the Servicer and the Special Servicer, as the Trustee or any independent auditors appointed by the Trustee may reasonably require for the purpose of verification of any Report, Other Document or Loan Loss Allocation Notice.

19.2 The Servicer, the Special Servicer, the Reporting Agent and/or the Cash Administrator (as applicable) shall keep the Issuer and the Trustee informed of the steps being taken by it during such Course of Action and shall use its reasonable endeavours to conclude the Course of Action in order that the Trustee may deliver its Verification Notice under Clause 19.3 in a timely manner.

- 19.3 After having conducted its verification pursuant to Clauses 16 (*Verification of Reports and Other Documents*) and 17 (*Verification of Loan Losses and Recoveries*) and the conclusion of any Course of Action under Clause 19.1 (if applicable), the Trustee shall deliver its verification notice (the "**Verification Notice**") to the Issuer, the Servicer, the Special Servicer, the Reporting Agent and the Cash Administrator (with a copy to the Rating Agency):
- (a) in the case of each Report, no later than 10:00 a.m. (London time) four (4) Business Days before the Payment Date **provided that** in the case that the Trustee has not received any Report by the relevant deadline specified in Clause 15 (*Reports, Documents and Information*), it shall deliver its Verification Notice no later than two (2) Business Days following receipt of the relevant Report;
 - (b) in the case of each Other Document, no later than 10:00 a.m. (London time) five (5) Business Days after receipt of such Other Document;
 - (c) in the case of any Loan Loss Allocation Notice under Clause 17 (*Verification of Loan Losses and Recoveries*), within five (5) Business Days after the relevant Calculation and Reporting Date on which such Loan Loss Allocation Notice was delivered to the Trustee; and
 - (d) in the case of any Loan Loss Allocation Notice under Clause 18 (*Determination and Verification of Final Loan Losses and Available Collateral Recoveries*), if received, no later than six (6) Business Days prior to the Final Maturity Date.
- 19.4 For the avoidance of doubt, if, after having conducted its verification pursuant to Clauses 16 (*Verification of Reports and Other Documents*) and 17 (*Verification of Loan Losses and Recoveries*) and the conclusion of any Course of Action under Clause 19.1 (if applicable), the Trustee is not able to deliver its Verification Notice in accordance with Clause 19.3 because its verification could not be concluded to its satisfaction, the Trustee is under no obligation to provide a Verification Notice until its verification is concluded to its satisfaction. The Trustee shall, during such period, take such other action as it, in its professional judgment, considers necessary, desirable or expedient to protect the interests of the Secured Parties, including that the Trustee may request and the Servicer, the Special Servicer, the Reporting Agent, the Cash Administrator or the Issuer (as the case may be) shall provide upon such request to the Trustee and any independent auditors appointed by the Trustee such further information and access to its facilities and documentation, subject always to the Confidentiality Restrictions applicable to the Servicer and the Special Servicer, as the Trustee or any independent auditors appointed by the Trustee may reasonably require for the purpose of verification of any Report, Other Document or Loan Loss Allocation Notice.
- 19.5 As long as HSH Nordbank is acting in its capacity as Servicer and Special Servicer, the Portfolio Report and the Cash Administration Report will not be verified separately by the Trustee. However, the Trustee will verify the Investor Report.

20. **OPTIONAL EARLY REDEMPTION AND CLEAN-UP CALL**

- 20.1 If the Trustee receives a Tax Event Notice from the Issuer and the Trustee is satisfied that, on the proposed Optional Early Redemption Date,
- (a) no Enforcement Notice has been served;
 - (b) the Issuer will, on the basis of the latest Reports delivered to the Trustee in accordance with Clause 15 (*Reports, Documents and Information*), have the necessary funds to redeem the Notes at their then aggregate Outstanding Principal Amount of the Notes (after deduction from such aggregate Outstanding Principal Amount of the Notes of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them) on the proposed Early Redemption Date; and
 - (c) the Issuer will have the necessary funds to pay accrued interest on the Notes and all other obligations of the Issuer ranking senior to the Notes in accordance with the Interest Priority of Payments,

the Trustee shall grant its consent to the required sale of the Purchased Loan Receivables.

20.2 If the Issuer receives a notice from the Seller that the Seller wishes to repurchase all Purchased Loan Receivables that are outstanding (the "**Repurchase Loan Receivables**") in the event that the Aggregate Outstanding Loan Principal Amount of the Purchased Loan Receivables represents less than ten per cent. (10%) of the Aggregate Outstanding Loan Principal Amount of the Purchased Loan Receivables as at the Closing Date for the purpose of discharge by the Purchaser of all its obligations to its creditors and finalisation of the Transaction (the "**Clean-up Call**"), the Issuer shall forward such notice to the Trustee without undue delay (but without such forwarding of the notice constituting an obligation on the part of the Issuer to accept such offer of the Seller).

20.3 If the Trustee, on the basis of the latest Reports delivered to the Trustee in accordance with Clause 15 (*Reports, Documents and Information*), is satisfied that, on the proposed Early Redemption Date, the Issuer will have sufficient funds:

- (a) to redeem the Notes at their then aggregate Outstanding Principal Amount of the Notes (after deduction from such aggregate Outstanding Principal Amount of the Notes of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them) on the proposed Early Redemption Date; and
- (b) to pay accrued interest on the Notes and all other obligations of the Issuer ranking senior to the Notes in accordance with the Interest Priority of Payments,

and the Seller agrees to pay the Issuer's costs and expenses in connection with such sale, then:

- (i) the Issuer shall agree to sell all the Repurchase Loan Receivables to the Seller without recourse to, or warranty on the part of, the Purchaser or the benefit of any Loan Collateral, in respect of the Repurchase Loan Receivables no later than ten (10) Business Days prior to the proposed Early Redemption Date;
- (ii) the Trustee shall grant its consent to such sale and repurchase **provided that** a final binding agreement for the sale of the Repurchase Loan Receivables at the agreed purchase price between the Issuer as Seller and the Seller as purchaser is held by it no later than ten (10) Business Days prior to the proposed Early Redemption Date and such agreement contains the obligation of the Seller to pay such repurchase price to the Issuer for value no later than one Business Day prior to the proposed Early Redemption Date; and
- (iii) upon receipt of confirmation from the Trustee that the Trustee is holding the final binding agreement under sub-paragraph (ii) above, the Issuer shall deliver notice to the Noteholders no later than ten (10) Business Days prior to the proposed Early Redemption Date in accordance with the Terms and Conditions.

20.4 The sale of the Purchased Loan Receivables as contemplated in Clause 20.1 shall be concluded one Business Day prior to the proposed Optional Early Redemption Date and the sale of the Repurchase Loan Receivables as contemplated by Clauses 20.2 and 20.3 shall be concluded one Business Day prior to the proposed Early Redemption Date.

20.5 All proceeds of the sale of Purchased Loan Receivables pursuant to this Clause 20.5 will form part of the Available Principal Distribution Amount and be credited by the Issuer to the Issuer Principal Account. The Cash Administrator (on behalf of the Issuer) shall apply the Available Principal Distribution Amount towards redemption, in the case of the Optional Early Redemption, on the Optional Early Redemption Date or, in the case of an Early Redemption, on the Early Redemption Date in accordance with the Principal Priority of Payments and the Available Interest Distribution Amount then standing to the credit of the Issuer Interest Account towards payment of interest on the Notes outstanding on the Early Redemption Date in accordance with the Interest Priority of Payments.

21. **COVENANTS OF THE ISSUER**

21.1 The Issuer hereby covenants with the Trustee that it will perform, observe and comply with the Terms and Conditions. The Trustee shall be entitled to enforce the obligations of the Issuer under the Notes in the manner therein provided as if the Notes were incorporated in this Agreement, which shall be read and construed as one document with the Notes.

- 21.2 The Issuer hereby covenants with the Trustee to comply with those provisions of this Agreement, the other Transaction Documents and the Terms and Conditions which are expressed to be binding on it and to perform and observe the same and to notify the Trustee immediately if it becomes aware of any material breach of such obligations and not make any amendment or modification thereto or agree to waive or authorise any breach thereof without the prior written consent of the Trustee. The Notes are subject to the provisions contained in this Agreement, all of which shall be binding upon the Issuer and the Noteholders and all persons claiming through or under them respectively.
- 21.3 The Issuer hereby covenants with the Trustee that it will procure to enter into Interest Rate Swap Transactions with effect from the Payment Date falling in August 2011 to mitigate interest rate mismatches between the interest payments received by the Issuer under the Purchased Loan Receivables in respect of which interest is payable at a floating rate of interest with a determination date that is different to the Interest Determination Date in respect of the Notes (other than the Class C Notes).
- 21.4 The Issuer hereby covenants with the Trustee that, so long as any of the Notes remains outstanding, it will:
- (a) at all times keep such books of account as may be necessary to comply with all applicable laws and so as to enable the financial statements of the Issuer to be prepared and allow the Trustee and any person appointed by it free access to the same at all reasonable times during normal business hours and to discuss the same with responsible officers of the Issuer;
 - (b) maintain its books, records and accounts separate from any other person or entity;
 - (c) maintain separate financial statements;
 - (d) pay its own liabilities out of its own funds;
 - (e) conduct its own business in its own name;
 - (f) hold itself out as a separate entity;
 - (g) correct any known misunderstanding regarding its separate identity;
 - (h) maintain adequate capital in light of its contemplated business operations;
 - (i) observe all corporate formalities;
 - (j) use separate stationery, invoices, and checks;
 - (k) give notice in writing to the Trustee (with a copy to the Rating Agency) forthwith upon becoming aware of any Event of Default;
 - (l) send to the Trustee and to the Principal Paying Agent as soon as practicable after their date of publication (and in the case of annual financial statements, in any event not more than one hundred and eighty (180) days after the end of each financial year), four (4) copies of the Issuer's balance sheet, profit and loss account and accompanying auditors' report and of every balance sheet, profit and loss account, report or other notice, statement or circular issued (or which under any legal or contractual obligation should be issued) to the members or holders of debentures or creditors (or any Class of them) of the Issuer in their capacity as such at the time of the actual (or legally or contractually required) issue or publication thereof and procure that the same are made available for inspection by Noteholders at the Specified Office of the Principal Paying Agent (and on the website www.etrustee.net) as soon as practicable thereafter (for the avoidance of doubt, Clause 16 (*Verification of Reports and Other Documents*) shall not apply in respect of such documents);

- (m) on each anniversary of the date hereof and at any time within fourteen (14) days of a demand from any of the Trustee or the Servicer deliver to such party or all such parties a certificate of the Issuer signed by two (2) Authorised Signatories of the Issuer certifying that:
- (i) up to a specified date no earlier than five (5) days before the date of such certificate (the "**Certified Date**"), there did not exist nor had there existed at any time prior thereto since the Certified Date in respect of any previous certificate (or, in the case of the first certificate, since the date of this Agreement), any Event of Default or other matter which could affect the Issuer's ability to perform its obligations under this Agreement, the Notes and the other Transaction Documents or, if it is aware that an Event of Default or such other matter did then exist, specifying the same; and
 - (ii) it is in compliance with all its obligations under this Agreement and the other Transaction Documents to which it is a party or, if such is not the case, specifying the same;
- (n) so far as permitted by applicable law, at all times give to the Trustee such opinions, certificates and information as it may require for the performance of its functions (the Trustee being entitled to rely on the contents of such opinions, certificates and information as conclusive evidence of the matters stated herein or the matters to which they relate);
- (o) so far as permitted by applicable law and regulatory requirements, at all times execute all such further documents and do all such further acts and things as may be necessary at any time or times in the reasonable opinion of the Trustee, to give effect to the provisions of this Agreement, the Transaction Documents and the Notes and to enable the Trustee to perform its functions under this Agreement and the other Transaction Documents to which it is a party (for the avoidance of doubt, the Trustee shall be under no obligation to take any action under this Clause 21.3(o) unless it has indication that otherwise the interests of the Secured Parties would be at risk);
- (p) send or procure to be sent to the Trustee not less than three (3) days prior to the date of publication, for the Trustee's approval, one copy of each notice to be given to the Noteholders in accordance with the Terms and Conditions and not publish such notice without such approval and upon publication, send to the Trustee two (2) copies of such notice;
- (q) use its best endeavours to notify the Trustee forthwith in the event that it does not, on or before a Payment Date, possess in cleared funds in any Issuer Operating Account the full amount of the monies payable on such Payment Date to all Secured Parties;
- (r) in the event of the unconditional payment to the Principal Paying Agent or the Trustee of any sum due in respect of the Notes or any of them being made after the due date for payment thereof, forthwith give notice to the Noteholders that such payment has been made;
- (s) not less than the number of days specified in the relevant Terms and Conditions prior to any redemption or repayment date in respect of any Note, give to the Trustee notice in writing of the amount of such redemption or repayment pursuant to the Terms and Conditions;
- (t) at all times use its best endeavours to maintain its residence for tax purposes in Luxembourg and, if necessary in relation to any claim for exemption or relief from any tax, assessment or governmental charge, shall provide a written confirmation of its non-residence in Germany (and, in order to provide such confirmation, the Issuer may obtain such Luxembourg legal or tax advice as it deems necessary);
- (u) at all times use all its best efforts to maintain the listing of the Notes on the Luxembourg Stock Exchange or, if it is unable to do so having used all best efforts or if the maintenance of such listing is agreed by the Trustee (as instructed by the Noteholders in accordance with Clause 25 (*Noteholders' Instructions, Consents and Directions*)) and the Lead Manager to be unduly burdensome or impractical, use its best endeavours to obtain and maintain a quotation or listing of the Notes on such other stock exchange or exchanges or securities market or markets as the Issuer may (with the approval of the Trustee and the Lead Manager) decide and

will, in accordance with the Terms and Conditions, notify the Noteholders of the identity of such other stock exchange or exchanges, securities markets or markets;

- (v) upon the execution hereof and thereafter forthwith upon any change of the same, deliver to the Trustee (with a copy to the Principal Paying Agent) a list of the Authorised Signatories of the Issuer, together with certified specimen signatures of the same;
- (w) pay monies payable by it to the Trustee hereunder without set-off, counterclaim, deduction or withholding, unless otherwise compelled by law and in the event of any deduction or withholding compelled by law then pay such additional amount as will result in the payment to the Trustee of the amount which would otherwise have been payable by it to the Trustee hereunder;
- (x) give notice to the Noteholders in accordance with the Terms and Conditions of (i) any appointment, future appointment, resignation or removal of the Principal Paying Agent and/or the Interest Determination Agent (other than the appointment of the initial Principal Paying Agent and the initial Interest Determination Agent), (ii) any successor of any Transaction Party following any merger or conversion with respect to such Transaction Party and (iii) any change in the Specified Office of the Principal Paying Agent or the Interest Determination Agent (subject to the Issuer having received notice of such change pursuant to the Agency Agreement);
- (y) at all times comply with and perform all its obligations under the Transaction Documents including all of its obligations under, and in respect of, the Notes and use all reasonable endeavours to procure that the other parties hereto (other than the Trustee) comply with and perform all their respective obligations thereunder;
- (z) at all times ensure that the Issuer shall have no fewer than three (3) independent Directors;
- (aa) ensure that all of the Directors, whether individuals or corporate entities, will be tax resident only in Luxembourg and, in any event, will not be tax resident in Germany;
- (bb) ensure that a meeting of its Directors is held at least once a year and each meeting of its Directors is held only in Luxembourg and is duly minuted and that the Directors will make all decisions for and exercise the central management and control of the Issuer in Luxembourg and, in any event, outside Germany;
- (cc) ensure that the Directors shall not delegate any of their powers and that no decisions are taken for or on behalf of the Issuer other than decisions of the Directors taken only in Luxembourg and in each case except as contemplated by the Transaction Documents and, in any event, outside Germany and that the Directors will be (or be represented by) individuals of sufficient experience and expertise to take decisions for the Issuer and will have a substantive decision making role in respect of the Issuer;
- (dd) if the Issuer gives notice to the Trustee that it intends to redeem the Notes (or any of them) pursuant to Condition 22 (*Notices*), the Issuer shall, prior to giving such notice to the Noteholders, provide such information to the Trustee as the Trustee requires in order to satisfy itself of the matters referred to in such Terms and Conditions;
- (ee) promptly give notice to the Trustee if it is required by law to withhold or account for tax in respect of any payment due in respect of the Notes or if it becomes liable to tax in respect of its income and take such action as may be required by the Trustee in respect thereof;
- (ff) at all times maintain a Cash Administrator in accordance with the Cash Administration Agreement and procure that the Cash Administrator prepares and delivers each Cash Administration Report on the due date therefor;
- (gg) at all times maintain a Reporting Agent in accordance with the Cash Administration Agreement and procure that the Reporting Agent prepares and delivers each Investor Report on the due date therefor;

- (hh) at all times maintain a Corporate Services Provider in accordance with the Corporate Services Agreement for so long as any Note is outstanding being in full compliance with the law dated 31 May 1999 on the domiciliation of companies, as amended (and the relevant regulations);
- (ii) if the Interest Rate Swap Agreement is terminated prior to the Scheduled Maturity Date following an "Event of Default" or "Termination Event" (as defined in such Interest Rate Swap Agreement) with respect to the Interest Rate Swap Counterparty, enter into a replacement interest rate hedging agreement with a counterparty acceptable to the Rating Agency substantially on the terms of the terminated Interest Rate Swap Agreement;
- (jj) have and maintain the "**centre of main interest**" (as defined in the Council Regulation (EC) No. 1346/2000 on insolvency proceedings) as well as its place of central administration in Luxembourg and to run its business from there;
- (kk) keep its registered office in Luxembourg;
- (ll) forthwith upon registering one or more "establishments" (as that term is defined in Part 1 of The Overseas Companies Regulations 2009) with the Registrar of Companies provide to the Trustee sufficient details to enable an accurate search against it to be undertaken by the Trustee at the Companies Registry;
- (mm) duly comply with all matters (including, without limitation, the obtaining of the necessary consents, licences, approvals and authorisations, the making of the necessary filings, lodgements, registrations and notifications and the payment of stamp duties and other taxes) under any law as may relate to or be required in respect of Transactions Documents, the Notes and the Prospectus;
- (nn) issue, offer and sell the Notes in the form and in the denominations set out in, and on the terms and in accordance with the provisions of the Transaction Documents and that any certificate of any Note will be executed by two (2) Directors of the Issuer, authenticated (if necessary) and issued in conformity with what is provided in the Transaction Documents;
- (oo) make in conformity with the provisions of the Transaction Documents, and with any applicable selling restrictions and the legal and regulatory requirements each issue of Notes under the Transaction Documents, each distribution (electronically or otherwise) of any documents or information relating to the Issuer and/or the Notes and any and all invitations, offers, offer advertisements, publications and other documents, sales or deliveries of Notes; and
- (pp) if a Future Mortgage is to be created or has been created (as applicable), utilise the RR Expenses Facility in an amount equal to the respective expense until the available commitment thereunder is reduced to zero, and apply any advances drawn thereunder in accordance with the terms of the RR Expenses Facility.

21.5 The Issuer agrees that, without the prior written consent of the Trustee, it will not:

- (a) engage in any activity which is not reasonably incidental to any of the activities which the Transaction Documents provide or envisage;
- (b) whilst any of the Secured Obligations remain outstanding, declare or pay any dividend or make any other distribution to its shareholders except in accordance with the provisions of the Transaction Documents;
- (c) have any subsidiaries or any branch or agency or any place of business or permanent establishment in Germany;
- (d) have any employees, subsidiaries or premises or purchase, own, lease or otherwise acquire any real property (other than premises at its registered office in Luxembourg);
- (e) incur or permit to subsist any indebtedness in respect of borrowed money whatsoever or give any indemnity or assume any liability whatsoever, except as permitted pursuant to the Transaction Documents;

- (f) save as provided in this Agreement or the other Security Documents, dispose of any of its assets;
- (g) create or permit to subsist any mortgage, pledge, lien (unless arising by operation of law) or charge upon, or sell, transfer, assign, exchange or otherwise dispose of, the whole or any part of, its assets, present or future (including any uncalled capital) or its undertaking other than pursuant to the Transaction Documents;
- (h) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entirety to any other person;
- (i) permit the validity or effectiveness of this Agreement or any Security created hereby or by any other Security Document to be impaired or permit this Agreement or any other Security Document to be amended, hypothecated, subordinated, terminated or discharged, or permit any person to be released from any covenants or obligations with respect to this Agreement or any other Security Document or the other Transaction Documents, except as may be expressly permitted hereby or by the other Transaction Documents;
- (j) issue any further shares or alter any rights to the shares in existence on the date hereof;
- (k) open or have an interest in any account whatsoever with any bank or other financial institution, save where obliged to do so under the Transaction Documents;
- (l) purchase, subscribe for or otherwise acquire any shares (or other securities or any interest therein) in, or incorporate, any other company or agree to do any of the foregoing other than in accordance with the Transaction Documents;
- (m) amend or alter its Articles of Association;
- (n) issue securities to the public on a continuous basis within the meaning of Article 19 of the Luxembourg Securitisation Law;
- (o) take any action that would permit the first priority Security created pursuant to the Security Documents not to constitute a valid first priority security interest in the Security Assets;
- (p) consent to any variation of, or exercise any powers of consent or waiver pursuant to, the Transaction Documents;
- (q) acquire obligations or securities of its partners or shareholders;
- (r) commingle its assets with those of any other entity; or
- (s) have an "**establishment**" (as defined in the Council Regulation (EC) No. 1346/2000 on insolvency proceedings) outside of Luxembourg.

21.6

- (a) The Issuer undertakes to exercise its right of rescission (*Rücktritt vom Vertrag*) under clause 19 (*Exchange of Borrower Security Trustee*) of the Loan Receivables Purchase Agreement, if the Issuer is entitled to such right. The Issuer undertakes to notify the Trustee of, as applicable, its exercise of its right of rescission (*Rücktritt vom Vertrag*) or any replacement of NIBC Bank N.V. as Borrower Security Trustee in accordance with clause 19.1 of the Loan Receivables Purchase Agreement.
- (b) The Trustee shall request the Issuer to exercise its right of rescission (*Rücktritt vom Vertrag*) under clause 19 (*Exchange of Borrower Security Trustee*) of the Loan Receivables Purchase Agreement, if the Trustee has until the Calculation and Reporting Date falling in February 2011 not been notified of (i) the replacement of NIBC Bank N.V. in its capacity as Borrower Security Trustee by a different entity acting as Borrower Security Trustee in respect of the relevant Loans and (ii) the confirmation from the Rating Agency that the rating of the Rated Notes will not be adversely affected by such replacement.

- (c) Upon the occurrence of a Borrower Security Trustee Rescission Event, (i) the Issuer will procure that the relevant Loan Receivables and the relevant Loan Collateral will be transferred to the Seller and (ii) the Trustee shall, at the request and expense of the Issuer, execute and do all such acts and things as may be necessary to release such Loan Receivables and the relevant Loan Collateral from the security created by this Trust Agreement, the Issuer Deed of Charge and the Dutch Deed of Pledge, and the Trustee shall redeliver such Loan Receivables and the relevant Loan Collateral to the Issuer or to the order of the Issuer.

22. RELIANCE ON INFORMATION

- 22.1 The Trustee shall be entitled to rely upon (and shall have no liability to any person for any loss arising as a result thereof) a certificate, document, statement, notice and other communication reasonably believed by it to be genuine, of the Issuer (including, for the avoidance of doubt, its Directors and officers), the Cash Administrator, the Reporting Agent, the Servicer, the Special Servicer, the Liquidity Facility Provider, the RR Expenses Facility Provider, the Issuer Account Bank, the Issuer Reserve Account Bank, the Principal Paying Agent, the Interest Determination Agent, the Interest Rate Swap Counterparty and the Corporate Services Provider or any other relevant party in respect of every matter and circumstance for which a certificate is expressly provided for under this Agreement or the Terms and Conditions or the other Transaction Documents or reasonably believed by it to be genuine, as to any other fact or matter *prima facie* within the knowledge of such person as sufficient evidence thereof.
- 22.2 The Trustee is entitled to assume that any application of proceeds by the Cash Administrator in accordance with Condition 6.9 (*Payment of Interest*) and Condition 14 (*Payments of Principal*) to persons appearing in the order of payments set out in the Terms and Conditions has been correctly calculated and applied, and the Trustee shall have no liability to any Secured Party or other person in relation thereto.
- 22.3 The Trustee shall rely on the records of the relevant Clearing Systems in relation to any determination of the Outstanding Principal Amount of each Global Note. For this purpose, "records" means the records that each relevant Clearing System holds for its customers which reflect the amount of such customer's interest in the Notes.
- 22.4 Unless otherwise stated herein, the Trustee shall be under no obligation to monitor or supervise the functions of any other person under the conditions or any other agreement or document relating to the transactions herein and therein contemplated and shall be entitled, in the absence of actual knowledge of a breach of obligation, to assume that each such person is properly performing and complying with its obligations.

23. PRIORITIES AND ORDER OF INTERESTS

- 23.1 The Trustee shall, as regards all the powers, trusts, authorities, duties and discretions vested in it by this Agreement or the other Transaction Documents, except where expressly provided otherwise, have regard to the interests of both the Noteholders and the other Secured Parties, but if, in the Trustee's sole opinion, there is a conflict between their interests, it will have regard solely to the interests of the Noteholders and no other Secured Party shall have any claim against the Trustee for so doing.
- 23.2 Where, in the opinion of the Trustee there is a conflict between the interests of:
- (a) the Class A Noteholders;
 - (b) the Class B Noteholders; and
 - (c) the Class C Noteholders,
- the Trustee shall, to the extent permitted by applicable law, give priority to the interests of the Class A Noteholders whose interests shall prevail.
- 23.3 Where, in the opinion of the Trustee there is a conflict between the interests of:
- (a) the Class B Noteholders; and
 - (b) the Class C Noteholders,

the Trustee shall, to the extent permitted by applicable law, give priority to the interests of the Class B Noteholders whose interests shall prevail.

23.4 Whenever in this Agreement or the other Transaction Documents the Trustee is required in connection with any exercise of its powers, authorities, duties or discretions to have regard to the interests of the Noteholders or any Class of Noteholders, it shall have regard to the interests of each Class of Noteholders as a Class and, without prejudice to the generality of the foregoing, shall not be obliged to have regard to the consequences of such exercise for any individual Noteholder.

24. **NO INVESTIGATION**

24.1 Save as provided herein, the Trustee shall not be responsible for investigating any matter which is the subject of any statement, representation, warranty or covenant of any person contained in this Agreement, the other Transaction Documents, the Terms and Conditions, or any other agreement or document relating to the transactions herein or therein contemplated or for the execution, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence thereof.

24.2 The Trustee may accept, without investigation, requisition or objection, such right and title as the Issuer may have to any of the Security Assets and shall not be bound or concerned to examine and enquire into or be liable for any defect or failure in the right or title of the Issuer to all or any of the Security Assets unless such defect or failure was known to the Trustee.

24.3 Each Noteholder and each other Secured Party shall be solely responsible for making its own independent appraisal of, and investigation into, the financial condition, creditworthiness, affairs, status and nature of the Issuer, and the Trustee shall not at any time have any responsibility for the same to any Noteholder or any other Secured Party.

24.4 Unless the Trustee has become aware otherwise, the Trustee shall be entitled to assume that the Issuer has performed its obligations hereunder.

25. **NOTEHOLDERS' INSTRUCTIONS, CONSENTS AND DIRECTIONS**

25.1 The Trustee is entitled to request that the Issuer obtains separate majority resolutions of the Noteholders of each Class of Notes to seek the Noteholders':

- (a) in particular, without limitation, consent to the amendment of any existing Transaction Document (other than the Terms and Conditions and the Trust Agreement), the termination of existing Transaction Documents (other than the Terms and Conditions and the Trust Agreement) or the entering into any new Transaction Documents;
- (b) consent to any waiver of any breach of any Transaction Document;
- (c) consent to any other matter relating to the Transaction; and/or
- (d) directions to the Trustee and/or the Issuer (in particular following the service of an Enforcement Notice),

by way of separate majority resolutions of the Noteholders of each Class of Notes in accordance with the Terms and Conditions and the Debenture Act.

25.2 The Trustee shall only be bound to comply with any Resolutions with respect to the matters specified in Clause 25.1 above if such Resolutions have been cast by (i) the Noteholders of all Classes of Notes or (ii) the Noteholders of at least two (2) Classes of Notes.

25.3 The Trustee will not be responsible for having acted upon a Resolution in accordance with Clause 25.2 even though it may later be found that there was a defect in the constitution of the relevant Noteholders' Meeting or the convening of a Written Resolution or the passing of such Resolution.

25.4 If and to the extent that Noteholders of a Class of Notes have authorised the Common Representative of such Class of Notes in accordance with the Debenture Act to exercise any of their rights under the Terms and Conditions and this Agreement, a Resolution of such Class of Noteholders with respect of the relevant rights so conferred to the relevant Common Representative shall be substituted by a written

direction of such relevant Common Representative. The Common Representative shall provide to the Trustee a copy of the Resolution of the Noteholders of the relevant Class of Notes granting such authority to such Common Representative.

26. TRUSTEE'S RIGHTS, POWERS, DISCRETIONS AND UNDERTAKINGS

26.1 The Trustee may not exercise any or all of its rights, powers and discretions if and to the extent that such exercise would contravene any instruction, consent or direction given by the Noteholders or the relevant Common Representative in accordance with Clause 25 (*Noteholders' Instructions, Consents and Directions*), in particular Clause 25.2, hereof.

26.2 The Trustee may determine whether or not a default in the performance by the Issuer of any obligation under the provisions of this Agreement or contained in the Notes or any Transaction Document or other related document is capable of remedy and/or materially prejudicial to the interests of the Secured Parties and if the Trustee shall determine that any such default is, in its opinion, not capable of remedy and/or is materially prejudicial to the Secured Parties, such determination shall be conclusive and binding upon the Issuer, the Noteholders and the other Secured Parties.

26.3 The Trustee shall exercise the discretion granted to it under this Agreement and the other Transaction Documents only in accordance with this Agreement and the Transaction Documents and in consideration of the interests of all Secured Parties. The Trustee shall have regard to the interests of the Secured Parties in accordance with the order of interests as specified in Clause 23 (*Priorities and Order of Interests*).

26.4 The Trustee may consent to any amendment of a Transaction Document (other than the Terms and Conditions and the Trust Agreement) and, to any action of a Transaction Party and waive any breaches of a Transaction Party under a Transaction Document (other than the Terms and Conditions and the Trust Agreement) without the consent of the Noteholders **provided that** (i) such amendment, action or waiver is, in the sole opinion of the Trustee, not materially prejudicial to the interest of the Noteholders or the Noteholders of any Class and, in particular, does not constitute a waiver of any rights conferred to the Noteholders in respect of Restricted Matters or (ii) such amendment, action or waiver is, in the professional judgment of the Trustee, required to prevent any imminent (*unmittelbar bevorstehend*) shortfall in respect of the payment of interest and/or principal under any Note and provided further that, if any of the Rated Notes are outstanding, the Rating Agency has been notified of such amendment, action or waiver. Subject to the preceding sentence, the Trustee shall, unless directed otherwise by the Noteholders and subject to being indemnified, secured and/or pre-funded to its satisfaction, have full power to determine all questions and doubts arising in relation to any of the provisions of the Agreement and every such determination, whether made upon a question or actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and shall bind the Trustee and the Noteholders.

26.5 The Trustee shall act in accordance with any directions given to it by the Noteholders **provided that:**

- (a) the direction is given pursuant to Clause 25.2; and
- (b) it will be indemnified in accordance with Clause 29 (*Costs and Expenses*).

Without prejudice to this Clause 26.5, the Trustee shall be entitled to refrain from acting if such requirements for a direction are not met.

26.6 The Trustee shall not (unless required by law or ordered to do so by a court of competent jurisdiction) be required to disclose to any Noteholder or other Secured Party information subject to Confidentiality Restrictions or other information made available to the Trustee by the Issuer in connection with this Agreement and the other Transaction Documents, and no Noteholder or other Secured Party shall be entitled to take any action to obtain from the Trustee any such information.

26.7 The Trustee shall consent to any purchase of Additional Loan Receivables pursuant to Condition 8 (*Purchase of Additional Loan Receivables*) and any sale of Purchased Loan Receivables pursuant to Condition 9 (*Sale of Purchased Loan Receivables*) if it is satisfied that the conditions set out therein have been satisfied and, in its sole opinion, such purchase or sale is not materially prejudicial to the Secured Parties, in the order of interests as specified in Clause 23 (*Priorities and Order of Interests*).

- 26.8 Nothing in this Agreement shall prevent the Trustee:
- (a) from rendering services similar to those provided for in this Agreement to persons other than the Issuer;
 - (b) from carrying on its own business in the manner which it thinks fit; or
 - (c) from requesting directions from the Noteholders when the Trustee in its discretion deems appropriate.

26.9 The Trustee shall:

- (a) obtain and maintain all licences, approvals and authorisations which are necessary in connection with the execution and performance by it of its rights, duties and obligations under this Agreement and the other Transaction Documents to which it is expressed to be a party or under which it is a beneficiary **provided that** the Trustee shall not be under an obligation to obtain a license under the German Legal Services Act (*Rechtsdienstleistungsgesetz*) to the extent it delegates tasks that require such license according to Clause 26.8(b);
- (b) not (i) move its registered office to Germany, (ii) hold management meetings and/or board meetings in Germany (other than in the case of ad-hoc decisions of an exceptional nature), or (iii) store its books and records in Germany;
- (c) not:
 - (i) represent or purport to represent, or carry out business on behalf of, the Issuer in Germany on a permanent basis;
 - (ii) act out of a fixed place of business, a branch office, an office facility or an installation located in Germany in respect of its rights, duties and obligations under the Transaction Documents; or
 - (iii) exercise any management functions (including any factual management functions) on behalf of the Issuer in Germany,

provided that, for the purposes of this Clause 26.9(c), the performance by the Trustee of its obligations under the Transaction Documents is deemed not to contravene the covenants set out this Clause 26.8(c);

- (d) notify the shareholders of the Issuer as soon as no obligations of the Issuer under the Notes *vis-à-vis* the Noteholders are, to the Trustee's knowledge, outstanding anymore **provided that** the Issuer shall, at the request of the Trustee, notify the details of its shareholders to the Trustee;
- (e) promptly notify the Cash Administrator and the Reporting Agent (as applicable) with reasonable detail if it becomes aware of any circumstances which could reasonably be expected to lead to a claim on the part of the Issuer or the Trustee under the Cash Administration Agreement;
- (f) upon the proposed substitution of any Transaction Party or the delegation by any Transaction Party under any Transaction Document, the Trustee shall give its consent to such substitution or delegation in accordance with the provisions of the relevant Transaction Documents in its reasonable discretion and enter into agreements and execute such documents as the Trustee considers necessary for the effectiveness of the substitution or delegation, as applicable;
- (g) following the delivery of an Enforcement Notice, deliver such documents and information in its possession and such powers of attorney and authorisations to the Servicer and the Special Servicer as the Servicer and the Special Servicer may reasonably require for the purpose of performing their obligations under the Servicing Agreement;
- (h) promptly provide the verified Verity Notice to the Cash Administrator; and

- (i) procure that the rights granted under the mortgage mandates in respect of the Belgian Security Loan Receivables are exercised if so requested by the Servicer, Special Servicer or Issuer.

27. ADVISERS

- 27.1 The Trustee is authorised, in connection with the performance of its duties and exercise of its rights and discretions under the Transaction Documents, at its own discretion, to seek information, advice and opinions from legal counsel, financial consultants, accountants, banks and other experts (each, an "**Adviser**") at market prices, if appropriate, after obtaining several offers.
- 27.2 The Trustee may rely on such information and advice and may act upon such information, advice and/or opinion and whether or not liability therein is limited by reference to a monetary cap, methodology or otherwise without having to make its own investigation. The Trustee shall not be liable for any damages or losses caused by its acting in reliance on information or advice of such Advisers. The Trustee shall not be liable for any negligence and/or wilful default of such Advisers **provided that** the Trustee shall remain liable for the exercise of due care in the selection of any such Advisers.
- 27.3 The Trustee hereby assigns to the Issuer any rights which the Trustee may have against any such Adviser arising from its reliance on such Adviser's advice or information. For the avoidance of doubt, in the event that the Trustee can be held liable by the Issuer pursuant to Clause 27.2 above, the Trustee and the relevant Adviser shall be joint debtors (*Gesamtschuldner*) according to Section 421 of the German Civil Code (*Bürgerliches Gesetzbuch*).

28. AMENDMENTS

Without prejudice to Clause 26.4, this Agreement may not be amended or modified except with (i) the consent of the Noteholders pursuant to Clause 25 (*Noteholders' Instructions, Consents and Directions*) and (ii) the written consent of the parties hereto and, if any of the Rated Notes are outstanding, only if the Rating Agency has been notified of such amendment.

29. COSTS AND EXPENSES

- 29.1 The Issuer shall pay, or procure the payment of, remuneration to the Trustee for its services as trustee as from the date of this Agreement, such remuneration to be at such rate, at such times and in such manner as specified in a separate fee letter dated on or about the Closing Date between the Issuer and the Trustee. Such fee letter shall form an integral part of this Agreement.
- 29.2 The Issuer shall pay, or procure the payment of, an amount to the Trustee equal to the amount of any irrecoverable value added tax or similar tax chargeable in respect of its remuneration under this Agreement.
- 29.3 The Issuer shall pay or discharge or procure the payment or discharge of all costs, charges and expenses incurred by the Trustee in relation to the preparation and execution of, the exercise of its powers, rights and discretions and the performance of its duties under, and in any other manner in relation to this Agreement and the other Transaction Documents, including but not limited to the costs of Advisors and travelling expenses and any stamp, issue, registration, documentary and other taxes or duties paid or payable by the Trustee in connection with any action taken or contemplated by or on behalf of the Trustee for enforcing, or resolving any doubt concerning, or for any other purpose in relation to, this Agreement.
- 29.4 The Issuer shall indemnify the Trustee and its directors, officers, employees, agents and persons acting on its behalf against all losses, damages, costs, expenses (including without limitation properly incurred legal fees and an amount equal to any applicable irrecoverable value added tax), liabilities, penalties, claims and demands incurred by the Trustee by reason of the performance of the Trustee's obligations under this Agreement or the other Security Documents or, after the service of an Enforcement Notice, the other Transaction Documents:
 - (a) the taking, holding, protection or enforcement of the Security granted by the Issuer; or
 - (b) the exercise of any of the rights, powers, and discretions vested in the Trustee by this Agreement or by law.

- 29.5 The indemnity contained in Clause 29.4 shall not extend to any losses, damages, costs, expenses (including without limitation, properly incurred legal fees and an amount equal to any applicable irrecoverable value added tax), liabilities, penalties, claims and demands incurred by the Trustee to the extent that the same arise from any gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) by the Trustee.
- 29.6 Subject to Clauses 37 (*Limited Recourse*) and 38 (*No Liability, No Petition and Continuity*) the indemnity contained in Clause 29.4 shall survive the termination and expiry of this Agreement.
- 29.7 The Trustee shall only be obliged to perform its duties or exercise its rights and discretions under this Agreement if, and to the extent, it is convinced (on reasonable grounds) that its fees, costs, charges and expenses according to Clauses 29.1, 29.2 and 29.3 hereunder will be paid and it will be indemnified to its satisfaction (either by reimbursement of costs or any other way it deems appropriate) against any loss or liability pursuant to Clause 29.4. In the event that the Trustee refrains from the performance of any of its duties under this Agreement according to this Clause 29.7, it must notify the Issuer thereof and provide reasonable details for such decision to the Issuer in writing.

30. **STAMP DUTIES**

- 30.1 The Issuer will pay or procure the payment of all stamp duties, registration taxes, capital duties and other similar duties or taxes (if any) payable in Luxembourg or Germany in relation to:
- (a) the constitution and issue of the Notes;
 - (b) the initial delivery of the Notes;
 - (c) any action taken by the Trustee to enforce the provisions of the Notes, this Agreement, the Security or the other Transaction Documents;
 - (d) the execution of this Agreement or any of the other Transaction Documents; and
 - (e) the creation of the Security.
- 30.2 If the Trustee shall take any proceedings against the Issuer or any steps in respect of the Security in any jurisdiction and, if for the purpose of any such proceedings, this Agreement or any Notes or Transaction Documents are taken into any such jurisdiction and any stamp duties or other duties or taxes become payable thereon in any such jurisdiction, the Issuer will pay (or reimburse the person making payment of) such stamp duties or other duties or taxes (including penalties).

31. **TERMINATION AND REPLACEMENT**

- 31.1 On the date on which the Secured Obligations are paid in full, the trust relationship (*Treuhand*) created hereunder shall be terminated, whereupon the Issuer and the Trustee shall, subject to Clause 37.2, be released from their obligations hereunder but shall continue to be entitled to payments due to it under this Agreement and outstanding on such date.
- 31.2 Subject to Clause 31.5, the Trustee may resign from its office as Trustee at any time by giving ninety (90) Business Days prior notice to the Issuer and the other parties hereto (with a copy to the Rating Agency). The Trustee shall use all reasonable efforts to find a successor trustee. For the avoidance, of doubt, any termination right by the Trustee for good cause (*wichtiger Grund*) according to Section 626 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall remain unaffected.
- 31.3 Subject to Clause 31.4, the Issuer shall be authorised and obliged to terminate the appointment of the Trustee as Trustee under this Agreement (i) for good cause (*aus wichtigem Grund*) or (ii) after having been so instructed in writing by Noteholders pursuant to the Terms and Conditions.
- 31.4 In the case of insolvency, bankruptcy, winding up or liquidation of the Issuer, the Trustee shall be obliged to resign if so instructed in writing directly by the Noteholders pursuant to the Terms and Conditions.

- 31.5 Any resignation by the Trustee in accordance with Clause 31.2 and any termination of the appointment of the Trustee in accordance with Clause 31.3 shall become effective only upon:
- (a) the appointment by the Issuer (or, in case of Clause 31.4, the Trustee on behalf of the relevant Secured Parties) of a successor trustee:
 - (i) which is a bank, financial services institution or auditing firm of recognised standing; and
 - (ii) which meets the criteria of the Rating Agency that had assigned a rating to the Rated Notes prior to such resignation or replacement for maintaining such rating upon the appointment of such successor trustee; and
 - (b) the grant to such successor trustee of all authorities and powers granted to the Trustee hereunder; and
 - (c) the acceptance by such successor trustee of such appointment and of the rights and obligations of the Trustee under the Transaction Documents.
- 31.6 The costs incurred in connection with replacing the Trustee pursuant to this Clause 31 shall be borne by the Issuer. If as replacement pursuant to Clause 31.3 is due to the Trustee's gross negligence (*grobe Fahrlaessigkeit*) or wilful default (*Vorsatz*) as determined by a court of competent jurisdiction, the Issuer shall be entitled, without prejudice to any additional rights, to demand damages from the Trustee in the amount of such costs.
- 31.7 The appointment of a successor trustee in accordance with Clause 31.5 shall be notified to the holders of the Notes without delay in accordance with the Terms and Conditions and promptly notified in writing to the Servicer and the Corporate Services Provider by the Issuer or the successor trustee.
- 31.8 The appointment of a successor trustee in accordance with Clause 31.5 shall be promptly notified to the Rating Agency.
- 31.9 The Trustee shall provide the successor trustee with a reasonably detailed report regarding its activities within the framework of this Agreement.
- 31.10 Upon the effectiveness of any replacement of the Trustee pursuant to Clause 31.5 the Trustee shall be released from its obligations hereunder but shall continue to be entitled to payments due to it under this Agreement and outstanding as of the effective date of the replacement of the Trustee.

32. SUBSTITUTION OF THE ISSUER

- 32.1 The Trustee shall agree to the substitution, in place of the Issuer (or of any previous substitute hereunder) of another entity (the "**New Issuer**") as debtor in respect of all obligations arising under or in connection with the Notes and the Transaction Documents **provided that** the Noteholders have consented to such substitution by way of a Resolution and:
- (a) the New Issuer assumes all rights and duties of the Issuer in respect of the Notes and under the Transaction Documents and, the Security is, upon the Issuer's substitution, held by the Trustee to secure the obligations of the New Issuer under the Notes;
 - (b) the New Issuer has obtained all necessary authorisations and governmental approvals in the country in which it has its registered office and is in a position to fulfil all its obligations in respect of the Notes without discrimination against the Noteholders in their entirety and the New Issuer has delivered a written certificate to the Trustee to this effect;
 - (c) the New Issuer may pay in the currency required hereunder and without being obliged to deduct or withhold any taxes or other duties of whatever nature levied by the country in which the New Issuer has its domicile or tax residence from any payments due under the Notes and the substitution shall not result in any withholding or deduction of taxes on the amounts payable under the Notes which would not arise if there was no such substitution and the New Issuer has delivered a written certificate to the Trustee to this effect;

- (d) there shall have been delivered to the Trustee and the Principal Paying Agent one legal opinion for each jurisdiction affected by the substitution of a law firm of recognised standing to the effect that paragraphs (a) to (c) above have been satisfied and no additional expenses or legal disadvantages of any kind arise for the Noteholders from the substitution;
- (e) each Rating Agency has given a confirmation that the substitution shall not adversely affect its rating of the Rated Notes; and
- (f) the Trustee, the Issuer and the New Issuer enter into such agreements and execute such documents as the Issuer or the Trustee considers necessary for the effectiveness of the substitution.

Upon fulfilment of the above conditions, the New Issuer shall in every respect substitute the Issuer and the Issuer shall be released from all its obligations to the Noteholders as issuer of the Notes.

32.2 The New Issuer shall give notice of the substitution to the Noteholders pursuant to Condition 23 (*Forms of Notices*).

32.3 Upon the substitution, each reference to the Issuer in each of the Transaction Documents and the Terms and Conditions shall from then on be deemed to be a reference to the New Issuer and any reference to the country in which the Issuer has its registered office, domicile or residency for tax purposes, as relevant, shall from then on be deemed to be a reference to the country in which the New Issuer has its registered office, domicile or residency for tax purposes, as relevant.

33. **REMEDIES, WAIVERS, CONSENTS AND APPROVALS**

33.1 No failure to exercise, nor any delay in exercising, on the part of any party hereto, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

33.2 No claim by the Trustee for rescission, termination or damages against the Issuer or any other person under this Agreement or under law shall be subject to any right of the Issuer or such other person to (a) subsequent performance (*Nacherfüllung*) and/or (b) any grace period (*Fristsetzung*), unless expressly agreed by the Trustee.

34. **STANDARD BUSINESS TERMS**

The respective standard business terms and conditions of the Trustee shall not apply with respect to this Agreement or the other Transaction Documents or the transactions contemplated hereby or thereby.

35. **NOTICES**

35.1 All notices and communications under or in connection with this Agreement may be made by email, telephone, fax or letter, the latter posted or delivered by hand. Each notice or communication shall be given to the relevant party at the address or fax number and marked for the attention of the person(s) or department, such address or fax number notified in writing by that party to the other at least fifteen (15) calendar days in advance, **provided that** any communications with legal significance may not be sent via e-mail. The initial postal address, email address and fax number so designated by each party are set out on the signature page of this Agreement.

35.2 Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective when received (*zugegangen*), in particular:

- (a) if by way of telephone and/or email, upon subsequent receipt of a corresponding fax and/or a confirmation (such confirmation not to be unreasonably withheld) of receipt by the addressee of the relevant notice by email, fax or letter;
- (b) if by way of fax, when received in legible form; or
- (c) if by way of letter, when it has been left at the relevant address,

and, if a particular department or officer is specified as part of its address details provided on the signature page, if addressed to that department or officer, **provided that** any such document or communication which would otherwise take effect after 5:00 p.m. (Hamburg time) on any particular day shall not take effect until 10:00 a.m. (Hamburg time) on the immediately succeeding Business Day.

- 35.3 Any notice or other communication under or in connection with this Agreement shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.
- 35.4 Any notice required to be given to Noteholders under this Agreement shall be given in accordance with the Terms and Conditions.
- 35.5 Any notice given to the Issuer hereunder shall be copied to the Cash Administrator and to such other person as the Issuer may from time to time instruct in accordance with Clause 44 (*Disclosure of Information*).
- 35.6 The Issuer may act in accordance with any communication which may, from time to time be, or purport to be, given on behalf of any one or more of those persons whom the Issuer can reasonably believe on a summary examination of the relevant documents to be the authorised officers of the relevant party purporting to represent such relevant party, without further enquiry by the Issuer as to the authority or identity of the person making or purporting to make such communication and regardless of the circumstances prevailing at the time of such communication. The Issuer may treat any such communication as fully authorised by and binding upon the relevant party purporting to represent such relevant party and may (but need not) take such steps in connection with or in reliance upon such communication as the Issuer may in good faith consider appropriate.

36. **BENEFIT OF AGREEMENT AND ASSIGNMENT**

- 36.1 This Agreement shall be binding on and enure to the benefit of each party hereto and its successors in title (whether by way of assignment, transfer, accession, *Vertragsübernahme*, novation, universal succession or otherwise).
- 36.2 The Trustee may assign any or all or any of its rights or benefits under this Agreement to any successor trustee appointed pursuant to this Agreement, but only if it has given prior notification to the Rating Agency and if in consequence of such intended assignment the rating of the Rated Notes will not be adversely affected.
- 36.3 Save as provided for in Clause 36.2, no party may assign or transfer its rights, benefits, obligations or interests under this Agreement.

37. **LIMITED RECOURSE**

- 37.1 Notwithstanding anything to the contrary in this Agreement or in any other Transaction Document to which the Issuer is expressed to be a party, all amounts payable or expressed to be payable by the Issuer hereunder shall be recoverable solely out of and to the extent of the assets of the Issuer over which security is created by or pursuant to the Security Documents and any proceeds of realisation or enforcement thereof which the Cash Administrator is entitled to apply in accordance with the order of priority in the Cash Administration Agreement or, after the delivery of an Enforcement Notice, the Trustee is entitled to apply in accordance with the order of priority in this Agreement and each of the Secured Parties hereby agrees with the Issuer that they will look solely to such sums, assets and proceeds for the payment of all amounts payable or expressed to be payable to it by the Issuer under this Agreement, subject to Clause 37.2.
- 37.2 To the extent that the assets or proceeds are ultimately insufficient to satisfy the claims of the Secured Parties in full, then the Issuer shall not be liable for any shortfall arising and the Trustee and the Secured Parties shall not have any further claims against the Issuer. Such assets and proceeds shall be deemed to be "ultimately insufficient" at such time as the Trustee has certified in writing to the Secured Parties that no further assets of the Issuer are available and no further proceeds can be realised therefrom to satisfy any outstanding claims of the Trustee and the Secured Parties, and neither assets nor proceeds will be so available thereafter.

38. **NO LIABILITY, NO PETITION AND CONTINUITY**

38.1 No recourse under any obligation, covenant, or agreement of the Issuer contained in this Agreement shall be had against any shareholder, officer or director of the Issuer as such, by the enforcement of any assessment or by any proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement is a corporate obligation of the Issuer and no personal liability shall attach to or be incurred by the shareholders, officers or directors of the Issuer as such, or any of them, under or by reason of any of the obligations, covenants or agreements of the Issuer contained in this Agreement, or implied therefrom, and that any and all personal liability of every such shareholder, officer or director for breaches by the Issuer of any of such obligations, covenants or agreements, either at law or by statute or constitution, is hereby expressly waived by the Trustee and the Secured Parties as a condition of and consideration for the execution of this Agreement save for liability arising as a result of gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) on the part of such shareholder, officer, and/or director.

38.2 Until the expiry of two (2) years and one day after the last Note is redeemed in full, none of the parties hereto (other than the Trustee) nor any party on its behalf shall initiate or join any person in initiating any Insolvency Proceedings in relation to the Issuer **provided that** this Clause 38.2 shall not prevent any party hereto from taking any steps against the Issuer which do not amount to the initiation or the threat of initiation of any Insolvency Proceedings in relation to the Issuer or the initiation or threat of initiation of legal proceedings.

38.3 The parties hereto hereby waive all set-offs and counterclaims unless the relevant claim invoked for set-off or as a counterclaim is either undisputed between the parties or has been adjudicated by a court with *res judicata* (*rechtskräftig festgestellt*).

38.4 The terms of Clause 37 and Clause 38 shall survive termination of this Agreement.

39. **RIGHT OF INSPECTION**

39.1 The Issuer hereby undertakes to provide to the Trustee promptly upon request, all Records necessary or, in the opinion of the Trustee, desirable for perfecting and/or enforcing the Security.

39.2 The Issuer hereby authorises the Trustee, upon reasonable prior notice, during normal business hours, to inspect the Records in connection with the Security Assets or any part thereof or to have them inspected by a duly authorised representative of the Trustee.

39.3 If the Records in connection with the Security or any part thereof are stored by the Issuer or any other person in an electronic data processing system, upon the occurrence of a right of the Trustee to realise the Security pursuant to Clause 11 (*Enforcement*), the Issuer hereby irrevocably permits the Trustee or its authorised representatives unconditional access to such Records and the Issuer shall provide to the Trustee or its authorised representatives with access to software operators and such further assistance as may be required by the Trustee for the purpose of accessing such Records.

39.4 Each party hereto agrees to inform the other parties of any action taken or to be taken by it which might affect the collection or enforcement of the Security or any part thereof.

40. **FURTHER UNDERTAKINGS OF THE ISSUER**

The Issuer undertakes to inform the Trustee promptly upon becoming aware of any attachments (*Pfändung*) in respect of the Security or any part thereof or any other measures which may materially impair or jeopardise the Trustee's and/or any of the Secured Parties' rights relating thereto. In the event of it becoming aware of an attachment, the Issuer undertakes to forward to the Trustee without undue delay a copy of the attachment order, the garnishee order and all other documents necessary for a defence against the attachment. The Issuer shall inform the attaching creditor immediately about the Trustee's security interests.

41. **LIABILITY AND INDEMNIFICATION**

41.1 The Trustee shall not in any circumstances be liable to the Issuer, any Secured Party or any other person for any losses, liability, claims, damages or expenses arising out of any acts or omissions by it in the exercise of its rights, or the rights of the Secured Parties (or any of them) or the performance of

its obligations hereunder (including, without limitation, in connection with any direction contained in any Enforcement Notice) except in the case of any gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) on the part of the Trustee or wilful breach (*vorsätzlicher Vertragsbruch*) by the Trustee of any of its obligations under this Agreement or the other Security Documents or, after the service of an Enforcement Notice, the other Transaction Documents.

41.2 The Trustee shall be liable to the Issuer or any Secured Party for all losses, liabilities, claims, damages, costs and expenses arising out of any and all acts, omissions and breaches by it in the exercise of its rights or the performance of its obligations hereunder in the case of any gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) on the part of the Trustee or wilful breach (*vorsätzlicher Vertragsbruch*) by the Trustee of any of its obligations under this Agreement or the other Security Documents or, after the service of an Enforcement Notice, the other Transaction Documents.

41.3 Any person making a claim against the Trustee under this Agreement shall notify the Trustee in writing and offer and, if disputed, give evidence (*Beweis*) of the act or omission giving rise to such claim.

42. **PARTIAL INVALIDITY**

Without prejudice to any other provision hereof, if one or more provisions hereof is or becomes invalid, illegal or unenforceable in any respect in any jurisdiction or with respect to any party, or if any party becomes aware of any omission (*Vertragslücke*) hereto of any terms which were intended to be included in this Agreement, such invalidity, illegality, unenforceability in such jurisdiction or with respect to such party or parties or such omission (*Vertragslücke*) shall not, to the fullest extent permitted by applicable law, render invalid, illegal or unenforceable such provision or provisions in any other jurisdiction or with respect to any other party or parties hereto. Such invalid, illegal or unenforceable provision or such omission (*Vertragslücke*) shall be replaced by the parties with a provision which comes as close as reasonably possible to the commercial intentions of the invalid, illegal, unenforceable or omitted provision.

43. **ORDER OF ENFORCEMENT**

The Issuer hereby waives, to the extent permitted under applicable law, all rights it may otherwise have to require that the Security be enforced in any particular order or manner or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Security or any other encumbrance of any nature over any assets or revenues, which is capable of being applied in or towards discharge of any of the Secured Obligations or any other obligations the discharge of which is secured by any of the Security Documents, is so applied, whether upon receipt or recovery or at any time thereafter.

44. **DISCLOSURE OF INFORMATION**

None of the parties hereto shall, during the continuance of this Agreement or after its termination, disclose to any person, firm or company whatsoever (except with the authority of the other parties hereto) any information which that party has acquired under or in connection with this Agreement other than in compliance with the Data Protection Standards applicable to it and only:

- (a) to any party to any Transaction Document, the Rating Agency, and, so long as any of the Notes are admitted to the Luxembourg Stock Exchange, the Luxembourg Stock Exchange for inspection by the Noteholders and any central bank in connection with the Eurosystem monetary policy and intra-day credit operations by the Eurosystem;
- (b) in connection with any proceedings arising out of or in connection with any Transaction Document or the preservation or maintenance of its rights thereunder;
- (c) if required to do so by an order of a court of competent jurisdiction whether in pursuance of any procedure for discovering documents or otherwise;
- (d) pursuant to any law or regulation or requirement of any governmental agency in accordance with which that party is required or accustomed to act;
- (e) to any governmental, banking or taxation authority or competent jurisdiction but only upon receipt of a written request to impart such information;

- (f) to its auditors or legal or other professional advisers, or
- (g) in the case of the Trustee, to any third party to which the Trustee delegates its obligations pursuant to this Agreement,

provided that the foregoing restrictions shall not apply to:

- (i) employees or officers or agents or shareholders of the parties referred to in (a) above whose functions relate to this Agreement to the extent such employees, officers, agents and shareholders have agreed to be bound by this Clause 44; and
- (ii) information already known to a recipient or which is or becomes publicly available otherwise than in breach of this Clause 44.

45. **GOVERNING LAW**

45.1 This Agreement is governed by, and shall be construed in accordance with, the laws of the Federal Republic of Germany.

46. **JURISDICTION**

46.1 Each of the parties hereto irrevocably agrees that the courts of Frankfurt am Main shall have non-exclusive jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement or the Notes.

46.2 Each of the parties hereto irrevocably waives any objection which it might now or hereafter have to the courts referred to in Clause 46.1 being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Agreement or the Notes and agrees not to claim that any such court is not a convenient or appropriate forum.

46.3 No party shall be prevented from taking any proceeding or settle any dispute in any other courts with jurisdiction if required by law or where a Transaction Document provides for the jurisdiction of a court other than the courts of Frankfurt am Main. To the extent allowed by law, the parties hereto may take concurrent proceedings in any number of jurisdictions.

46.4 Promptly upon the request of a party hereto, the relevant other parties hereto (not having a valid address or process agent (*Zustellungsbevollmächtigter*) in Germany) shall each appoint a competent third party as its agent for service of process (*Zustellungsbevollmächtigter*) in relation to any proceeding before the German courts in connection with this Agreement.

47. **COUNTERPARTS**

This Agreement may be executed (including by telefax) in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

48. **LANGUAGE**

This Agreement is made in the English language and this English language version of this Agreement shall be binding on the parties hereto and shall prevail over any translation of this Agreement **provided that** in the case of any German translation of a word or phrase in the text of this Agreement, such German translation of such word or phrase shall prevail.

49. **ENTIRE AGREEMENT**

This Agreement (and any fee letters entered into between the parties from time to time in relation hereto) constitutes the entire agreement among the parties with respect to the subject matter of this Agreement superseding all prior oral or written understandings.

7. SUMMARY OF THE OTHER PRINCIPAL TRANSACTION DOCUMENTS

The following is a summary of certain provisions of the Transaction Documents relating to the Notes, and is qualified in its entirety by reference to the detailed provisions of the Transaction Documents.

Capitalised terms used in this Section shall bear the meaning ascribed thereto in Annex 1 to the Terms and Conditions, unless otherwise defined herein. For references to such capitalised terms, see "INDEX OF DEFINED TERMS".

THE LOAN RECEIVABLES PURCHASE AGREEMENT

The Purchaser, the Seller and the Trustee will enter into a loan receivables purchase agreement dated the Closing Date (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**Loan Receivables Purchase Agreement**"), whereby the Seller agrees to offer to sell, transfer and/or assign (as applicable) certain Eligible Loan Receivables (other than any RR Loan Receivables) and the related Loan Collateral (other than any RR Security) to the Purchaser and the Purchaser agrees to accept such offer, upon the terms and subject to the conditions thereof.

Offer for Purchase

Pursuant to the Loan Receivables Purchase Agreement, the Seller will agree that it shall on the Closing Date and, thereafter, in respect of any Payment Date on which Offered Loan Receivables are to be purchased prior to the Substitution Period End Date and/or the Final Prefunding Date (each such day a "**Purchase Date**") offer to the Purchaser (i) to sell certain Eligible Loan Receivables and the relevant Loan Collateral and to assign and/or transfer (as applicable) the Offered Loan Receivables (other than any RR Loan Receivables) and the relevant Loan Collateral (other than RR Security) and (ii) to grant the Transfer Claims in respect of the RR Assets related to the Offered Loan Receivables (each an "**Offer**"), by delivering to the Purchaser the Offer and Offered Loan Receivables List not later than 9:00 a.m. (Luxembourg time) on the Closing Date, and after the Closing Date, (i) in respect of any Substitution Loan Receivables, prior to the Substitution Period End Date, and (ii) in respect of any Prefunding Loan Receivables, before the Final Prefunding Date, in each case, not later than 9:00 a.m. (Luxembourg time) five (5) Business Days prior to each Purchase Date.

The Seller may not deliver any Offer and Offered Loan Receivables List to the Purchaser and the Purchaser shall not purchase any Offered Loan Receivables at any time, *inter alia*, if (a) an Amortisation Event has occurred; (b) an Event of Default is continuing; (c) a Potential Amortisation Event is continuing or would result from the purchase by the Purchaser of such Offered Loan Receivables; (d) such Offer and Offered Loan Receivables List does not fulfil the requirements applicable thereto; or (e) in the case of any Substitution Loan Receivables, after the Substitution Period End Date or, in the case of any Prefunding Loan Receivables, after the Final Prefunding Date.

Eligibility Criteria, Substitution Criteria and Prefunding Criteria

In order for Loan Receivables to be eligible for sale to the Purchaser, each such Loan Receivable is required to satisfy (i) the Eligibility Criteria, (ii) in respect of any sale of Loan Receivables after the Closing Date which are Substitution Loan Receivables, the Substitution Criteria, and (iii) in respect of any sale of Loan Receivables after the Closing Date which are Prefunding Loan Receivables, the Prefunding Criteria.

Acceptance of Offer

The Purchaser will accept an Offer and purchase all Offered Loan Receivables listed in the relevant Offer and Offered Loan Receivables List, subject to the terms of the Loan Receivables Purchase Agreement, on the Closing Date and, thereafter, on each Purchase Date in respect of which an Offer and Offered Loan Receivables List is delivered to the Purchaser, subject to, *inter alia*, the following conditions being met:

- (a) the Substitution Criteria have been satisfied or the Prefunding Criteria have been satisfied (as applicable);
- (b) the respective offer satisfies the requirements under the Loan Receivables Purchase Agreement;
- (c) no Event of Default or Amortisation Event is continuing or would occur as a result of such purchase;
- (d) the Issuer has received the prior written consent of the Trustee and a confirmation from the Rating Agency that the then ratings of the Rated Notes will not be downgraded as a result of the purchase;

- (e) the Issuer has entered into, or will enter into, an Interest Rate Swap Transaction in respect of each Offered Loan Receivable; and
- (f) the Issuer has received all documents and notices, information and/or opinions required to be delivered to it or requested by it in respect of each such Offered Loan Receivable and the related Loan Collateral and the Seller has complied with all its obligations to transfer such Offered Loan Receivable and related Loan Collateral to the Issuer, in each case, pursuant to the Loan Receivables Purchase Agreement.

The Purchaser will effect acceptance of an Offer and purchase all Offered Loan Receivables listed in the relevant Offer and Offered Loan Receivables List delivered to it by delivery of an acceptance letter **provided that** if the Seller receives the Initial Purchase Price prior to such acceptance letter, then the Offer shall be deemed to be accepted by payment on the respective Purchase Date, in respect of the Initial Loan Receivables, of the Initial Purchase Price and, in respect of any other Loan Receivable, of the Purchase Price less any set-offs (as applicable).

Transfer

Upon acceptance by the Purchaser of an Offer and payment of the Initial Purchase Price or Purchase Price (as applicable), the Offered Loan Receivables (other than any RR Loan Receivables) and the relevant Loan Collateral (other than any RR Security) will be assigned and/or transferred (as applicable) to the Issuer as follows:

- (a) all Offered Loan Receivables (other than any RR Loan Receivables) will be transferred and/or assigned (as applicable) either under the Loan Receivables Purchase Agreement or under separate transfer documents in accordance with applicable law;
- (b) all claims of the Seller against (a) the Borrower Security Trustees holding the beneficial interest in the Loan Collateral (other than Accessory Loan Collateral and any RR Security) and (b) any Obligor under or in connection with the Loan Collateral (other than Accessory Loan Collateral and any RR Security) in relation to each Offered Loan Receivable will be assigned and/or transferred (as applicable) in accordance with applicable law; and
- (c) all Accessory Loan Collateral will be transferred by operation of law (other than any RR Security).

Each RR Asset listed in an Offer and Offered Loan Receivables List will become subject to a Transfer Claim on the Purchase Date on which the Offered Loan Receivable to which it relates is transferred to the Purchaser. Upon the occurrence of a Transfer Event, the Purchaser may, by exercising its Transfer Claim, request that the Seller transfer such RR Assets to the Purchaser whereupon the Seller shall forthwith transfer such RR Assets to the Purchaser.

If any Purchased Loan Receivable is not sold or assigned or transferred (as applicable) for any reason whatsoever, the Seller will be obliged, without undue delay and at its own expense, to do all such further acts and things and execute or sign any further deeds, documents, notices and/or confirmations as may be necessary, or as the Purchaser or the Trustee may reasonably request, to give full effect to the sale and assignment and/or transfer (as applicable) to the Purchaser of the Purchased Loan Receivables and the related Loan Collateral (including, without limitation, the establishment of a Transfer Claim in respect of any RR Asset).

The Seller will indemnify the Purchaser against loss or expense incurred by the Purchaser as a result of any failure of the Seller to assign or transfer (as applicable) any Offered Loan Receivable (other than any RR Loan Receivables) or the related Loan Collateral (other than any RR Security) or to establish a Transfer Claim in respect of any RR Assets. Until any such absolute assignment or transfer (as applicable) or establishment of such Transfer Claim (as applicable) is fully effected and legally valid and binding, the Seller shall hold each such Offered Loan Receivable and the related Loan Collateral (which by failure of its transfer and/or assignment (as applicable), and contrary to the intentions of the Loan Receivables Purchase Agreement, shall legally remain the property of the Seller as a German law trustee (*Treuhänder*) or, to the extent that such a trustee relationship is not recognised by any applicable law, as agent) for the account of the Purchaser.

The Seller will register in the Refinancing Register each RR Asset listed in an Offer and Offered Loan Receivables List on the Closing Date or on the Purchase Date thereof.

The Initial Loan Receivables from loans made to KAGs are not, as of the Closing Date, secured by any mortgages. Instead, Loans granted to KAGs substantially rely on claims for reimbursement

(*Aufwendungserstzanspruch*) as security. Typically, no further security is created in respect of Loans made to KAGs on or about the date of the relevant loan agreement. Instead the relevant KAG typically grants the right to request the creation of further security upon a default (a "**Security Creation Undertaking**"). The security to be granted under a Security Creation Undertaking normally comprises the creation of a mortgage, the assignment of lease receivables and the assignment of insurance claims. If a Future Mortgage is to be created for the purpose of enforcing a Mortgage Undertaking, the Mortgage Undertaking will be re-transferred to the Seller and the Seller undertakes to register the relevant Future Mortgage in the Refinancing Register upon creation of such Future Mortgage.

Verity Amount

The Seller and the Issuer have agreed in the Loan Receivables Purchase Agreement that the Issuer will (i) establish a Verity Account with the Issuer Reserve Account Bank which will be pledged to the Seller and (ii) fund such account with the Verity Amount. The Verity Amount will be available to either pay Verity Issuer Payment Amounts to the Seller in accordance with the Loan Receivables Purchase Agreement following a Verity Issuer Payment Event or to compensate the Issuer for losses incurred due to legal defects in the enforceability of the Verity Loan Receivables. Until the occurrence of a Verity Issuer Payment Event in relation to all or part of the Verity Loan Receivables, the amount standing to the credit of the Verity Account shall secure the Seller's right under the Loan Receivables Purchase Agreement to have the Verity Amount deposited with the Issuer Reserve Account Bank and pledged to the Seller. A second ranking pledge over the Verity Account shall secure the Secured Obligations of the Issuer.

Upon the occurrence of an IRAB Transfer Event, the amounts standing to the credit of the Verity Account will be transferred to the Replacement Verity Account. HSH Nordbank will register its respective repayment claim *vis-a-vis* the Replacement Reserve Account Bank in respect of the Replacement Verity Account in its Refinancing Register in favour of the Issuer and pledge the Replacement Verity Account in favour of the Issuer.

On the Payment Date following the occurrence of a Verity Issuer Payment Event, HSH Nordbank may procure the withdrawal from the Verity Account or the Replacement Verity Account (as applicable) the Verity Issuer Payment Amount that is attributable to the relevant Verity Loan Receivable.

On the Payment Date on which all of the Class A Notes have been redeemed in full, any funds standing to the credit of the Verity Account or Replacement Verity Account and not required as a Verity Seller Amount on such Payment Date, will be credited to such account of the Seller as notified by the Seller to the Issuer.

Representations and Warranties

The Seller will make certain representations and give certain warranties to the Purchaser on the date of the Loan Receivables Purchase Agreement and the Purchase Date of each Additional Loan Receivable. In particular, the Seller will represent and warrant in each Offer and Offered Loan Receivables List that each Loan Receivable listed therein is an Eligible Loan Receivable and, in relation to Substitution Loan Receivables, that the Substitution Criteria are satisfied and, in relation to Prefunding Loan Receivables, that the Prefunding Criteria are satisfied.

Notice to Borrowers

The Seller will, within fifteen (15) Business Days of the Closing Date and the relevant Purchase Date, deliver to the relevant Borrowers under the Purchased Loan Receivables (other than any RR Asset), a Notice of Sale informing them of the sale and assignment and/or transfer (as applicable) of the relevant Purchased Loan Receivable if:

- (a) a notification is required under any Finance Document relating to an Offered Loan Receivable;
- (b) a set-off risk *vis-à-vis* a Borrowers exists; or
- (c) the notification of a Borrower is required in order to create security over an Offered Loan Receivable or any relevant Loan Collateral by the Issuer for the benefit of the Trustee.

The Purchaser or, after the service of an Enforcement Notice, the Trustee, are entitled to instruct the Borrowers to make all payments in respect of Purchased Loan Receivables to the Issuer Post-Notification Account or, after the service of an Enforcement Notice, such other account as may from time to time be specified by the Trustee, for good cause (*wichtiger Grund*), including any Borrower Payment Notification Event in accordance with the terms of the Servicing Agreement and the Trust Agreement.

Set-Off

The Purchaser will be entitled (but not obliged) to set-off, at any time, any amount due and payable by it to the Seller against any amount then held by the Seller, the Servicer or the Special Servicer to the order, or otherwise for the benefit, of the Purchaser or then due and payable to the Purchaser by the Seller, the Servicer or the Special Servicer under the Loan Receivables Purchase Agreement or the Servicing Agreement.

Deemed Collections

The Seller will be deemed to have received a Collection (each, a "**Deemed Collection**") at any time in an amount equal to:

- (a) the Initial Purchase Price plus any Verity Issuer Payment Amount in respect of the Initial Loan Receivables or the Purchase Price in respect of any other Loan Receivable plus accrued interest thereon from the relevant Cut-off Date therefor if:
 - (i) any representation or warranty in respect of such Offered Loan Receivable (including a Purchased Loan Receivable) proves to have been incorrect when made (including, without limitation, if such Offered Loan Receivable (including a Purchased Loan Receivable) proves not to have been an Eligible Loan Receivable or the Substitution Criteria or the Prefunding Criteria (as applicable) have not been satisfied, in each case, on the Purchase Date thereof);
 - (ii) such Purchased Loan Receivable is extended, amended or otherwise modified other than in accordance with the Servicing Agreement; or
 - (iii) the payment obligation of a Borrower under a Purchased Loan Receivable has been satisfied, in whole or in part, by way of set-off; and
- (b) the amounts received by the Seller in respect of any Loan Receivable which is purported to be sold to the Purchaser that have been collected in whole or in part following the Cut-off Date immediately preceding the Purchase Date thereof but prior to the Purchase Date thereof.

Upon the receipt of a Deemed Collection, the Seller will identify in respect of such Deemed Collection, the Principal Collection and the Interest Collection thereof and inform the Purchaser, the Cash Administrator, the Reporting Agent and the Trustee of its determination and pay the aggregate of such Deemed Collection to the respective Issuer Operating Account.

Reimbursement of the Seller by the Purchaser

The Purchaser will be required to reimburse the Seller for any payments made by the Seller to the Purchaser in relation to:

- (a) any tax credit, relief, remission or repayment received by the Purchaser on account of any tax or additional amount previously paid by the Seller to the Purchaser in satisfaction of the indemnification, reimbursement or gross-up obligations on the part of the Seller under the Loan Receivables Purchase Agreement; or
- (b) any Deemed Collection paid by the Seller in respect of a Disputed Loan Receivable which is subsequently determined by a competent court with *res judicata* (*rechtskräftig festgestellt*), to be an enforceable Purchased Loan Receivable, whereupon the Seller and Purchaser shall arrange for the transfer or registration in the Refinancing Register, as applicable, of the (former) Disputed Loan Receivable for the benefit of the Purchaser.

Clean-Up Call

For purposes of discharging the Purchaser's obligations to its creditors and finalisation of the Transaction (and without constituting a repurchase obligation on the part of the Seller), the Seller shall be entitled to repurchase all outstanding Purchased Loan Receivables and the related Loan Collateral from the Purchaser (but without constituting an obligation on the part of the Purchaser to accept such offer of the Seller) (the "**Repurchase Loan Receivables**"), in the event that the Aggregate Outstanding Loan Principal Amount of the Purchased Loan Receivables represents less than ten per cent. (10%) of the Aggregate Outstanding Loan Principal Amount of the Purchased Loan Receivables as at the Closing Date (the "**Clean-up Call**").

Any repurchase by the Seller of the Repurchase Loan Receivables and the related Loan Collateral shall be subject to the following requirements:

- (a) the proceeds distributable as a result of such purchase will be at least equal to the then Aggregate Outstanding Loan Principal Amount (after deduction from such Aggregate Outstanding Loan Principal Amount, of any Loan Losses (to the extent Verity Seller Amounts reducing such Loan Losses have not been paid) to be allocated to the Notes or any of them) on the proposed date of redemption of the Notes, together with all interest accrued thereon, from (and including) the Payment Date immediately preceding the written notice of the Seller of its intention to repurchase to (but excluding) the Payment Date immediately following such notice and all obligations of the Purchaser ranking in priority thereto in the Interest Priority of Payments;
- (b) agreement between the Seller and the Purchaser on the repurchase price (the "**Repurchase Price**") payable by the Seller for the Repurchase Loan Receivables and the related Loan Collateral which does not exceed the then current value of such Purchased Loan Receivables;
- (c) the prior written consent to such repurchase by the Trustee; and
- (d) reimbursement by the Seller of the Purchaser's costs and expenses in connection with the repurchase.

The Purchaser will, upon receipt of the Repurchase Price, sell, assign and/or transfer and/or delete in the Refinancing Register the Repurchase Loan Receivables and the related Loan Collateral for the benefit of the Seller.

Termination

The Loan Receivables Purchase Agreement will continue until the earlier of the Final Maturity Date or the discharge of all Secured Obligations.

The Loan Receivables Purchase Agreement is governed by the laws of Germany.

THE SERVICING AGREEMENT

Pursuant to a servicing agreement between the Issuer, the Trustee, the Servicer, the Special Servicer, the Reporting Agent and the Cash Administrator (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**Servicing Agreement**"), HSH Nordbank will be appointed to service or specially service, as applicable, the Purchased Loan Receivables and the Loan Collateral relating thereto on behalf of the Issuer. Each of the Servicer and the Special Servicer will agree with the Issuer and the Trustee that in performing the services to be performed under the Servicing Agreement it will do so in accordance with any and all applicable laws, the terms of the Servicing Agreement, the relevant Finance Documents and any relevant Intercreditor Agreements, the Credit and Collection Policies and in accordance with the "**Servicing Standard**", being the standard that aims to maximise the recovery of funds taking into account:

- (a) the likelihood of recovery of amounts due in respect of that Purchased Loan Receivable;
- (b) the timing of recovery;
- (c) the costs of recovery on a net present value basis;
- (d) the interests of the Issuer in respect of the Purchased Loan Receivable; and
- (e) the standard of care the Servicer or, as the case may be, the Special Servicer applies to its own dealings (*diligentia quam in suis*) and shall, notwithstanding any higher standard of care provided pursuant to the Servicing Agreement, give at least the time and attention a prudent merchant would exercise (*Sorgfalt eines ordentlichen Kaufmanns*) in the performance of the Services,

without regard to (A) any relationship that the Servicer or, as the case may be, the Special Servicer or any affiliate thereof may have with any of the Obligor or any party to the Cash Administration Agreement; (B) the ownership of any Note by the Servicer or, as the case may be, the Special Servicer, or any affiliate thereof; (C) the obligation of the Servicer or, as the case may be, the Special Servicer, or any affiliate thereof to make out-of-pocket expenditures; (D) the right of the Servicer or, as the case may be, the Special Servicer or any affiliate thereof, to receive reimbursement of costs, or any compensation payable by or to it under the Cash

Administration Agreement and (E) the ownership, servicing or management of other securities, loans or properties not included in or securing, as the case may be, the Purchased Loan Receivable.

The Servicer will perform the day-to-day servicing of the Purchased Loan Receivables and exercise the rights of the Issuer under the Finance Documents. Following the occurrence of a Servicer Transfer Event in respect of any Purchased Loan Receivable, the Special Servicer will commence special servicing of that Purchased Loan Receivable. The Servicer and the Special Servicer will continue to service other loans and securities in addition to the Purchased Loan Receivables under the Finance Documents.

Servicing of the Purchased Loan Receivables

Servicing procedures will include monitoring compliance with and administering the options available to the Obligors in respect of the Purchased Loan Receivables. Each of the Servicer and (where applicable) the Special Servicer will take all measures it deems necessary in accordance with the Servicing Standard in its due professional discretion to administer and collect amounts due in respect of the Purchased Loan Receivables and in exercising discretions under the Servicing Agreement (subject to the terms of the Servicing Agreement relating to the exercise of such discretions).

Receipt of Collections

All amounts of interest, covenanted amortisation and other principal repayments or prepayments and all fees (including prepayment fees), expenses and other amounts (such as break costs) paid by each Obligor or from the Seller in the case of Deemed Collections will initially be paid into the Servicer Collection Accounts.

The Servicer and the Special Servicer will procure that all amounts received by it on behalf of the Issuer under or in connection with the Loan Receivables Purchase Agreement or the Servicing Agreement will be transferred from the Servicer Collection Accounts into the relevant Issuer Operating Account no later than one Business Days prior to each Payment Date in an efficient and timely manner.

Notice of Payment to Borrowers

In order not to prejudice the orderly conduct of business between the Seller and the Borrowers and in compliance with the Data Protection Standards, the Issuer or, after the service of an Enforcement Notice, the Trustee, shall only be entitled to instruct such Borrowers to make all payments in respect of such Loan Receivables to the Issuer Post-Notification Account or, after the service of an Enforcement Notice, such other account as may from time to time be specified by the Trustee, for good cause (*wichtiger Grund*), including any Borrower Payment Notification Event.

Upon the occurrence of a Borrower Payment Notification Event, the Issuer shall, without undue delay, open the Issuer Post-Notification Account and the Issuer (or after the service of an Enforcement Notice, the Trustee) may request the delivery of a Notice of Payment to each Borrower under each Purchased Loan Receivable by:

- (a) the Servicer;
- (b) if the appointment of the Servicer has been terminated, a Substitute Servicer, or
- (c) the Trustee if, in its professional judgment, the delivery of the Notices of Payment is necessary or desirable to protect the interests of the Secured Parties and the Servicer is incapable of delivering, or has not delivered such notice within three (3) Business Days after the written request by the Issuer,

in respect of (a) and (b), not later than two (2) Business Days after becoming aware of the occurrence of such Borrower Payment Notification Event and, in respect of (c), not later than two (2) Business Days after becoming aware that the Servicer is incapable of delivering, or has not delivered, such notice within three (3) Business Days after the request by the Issuer (a copy of which has been provided to the Trustee) and instruct such Obligor to make all payments in respect of such Purchased Loan Receivable to the Issuer Post-Notification Account or, after the service of an Enforcement Notice, such other account as may from time to time be specified by the Trustee.

Appointment of the Special Servicer

The Servicer will initially be responsible for the servicing and administration of the Purchased Loan Receivables. However, if any Servicer Transfer Event occurs with respect to a Purchased Loan Receivable and is continuing, then the relevant Purchased Loan Receivable will become a "**Specially Serviced Loan Receivable**". Upon any a Purchased Loan Receivable becoming a Specially Serviced Loan Receivable, actions in respect of such Purchased Loan Receivable will be undertaken by the Special Servicer except where otherwise provided.

After any Purchased Loan Receivable has become a Specially Serviced Loan Receivable, the Special Servicer will transfer such servicing functions back to the Servicer if and when a Servicer Transfer Event is no longer continuing with respect to that Purchased Loan Receivable, at which time the relevant Purchased Loan Receivable will be a "**Corrected Loan Receivable**". A Servicer Transfer Event will cease to exist:

- (a) with respect to the circumstances described in item (a) and (b) in the definition of Servicer Transfer Event, once the Obligor has made one timely quarterly payment in full;
- (b) with respect to the circumstances described in item (c) in the definition of Servicer Transfer Event once such proceedings are terminated (other than where such termination has resulted in the Liquidation of the relevant Obligor);
- (c) with respect to the circumstances described in item (d) in the definition of Servicer Transfer Event once such circumstances cease to exist in the good faith and reasonable judgement of the Special Servicer;
- (d) with respect to the circumstances described in item (e) in the definition of Servicer Transfer Event once the relevant Obligor ceases to claim an inability to pay its debts or suspend the payment of obligations or the termination of any assignment for the benefit of its creditors; or
- (e) with respect to the circumstances described in item (f) in the definition of Servicer Transfer Event once such default is, in the good faith and reasonable judgement of the Special Servicer, cured,

(each a "**Correction Event**").

Portfolio Report

The Servicer will agree to deliver the Portfolio Report to the Issuer, the Cash Administrator, the Reporting Agent and the Trustee no later than 6:00 p.m. (Luxembourg time) on the Calculation and Reporting Date immediately following the Relevant Collection Period . Each such Portfolio Report is required to include the information required under Condition 21(c) and (d) of the Terms and Conditions. To the extent that the Trustee identifies matters in the Portfolio Report to be dealt with by the Servicer for its verification, the Servicer is obliged to use all reasonable endeavours to deal with such matters. As long as HSH Nordbank is acting in its capacity as Servicer and Special Servicer, the Portfolio Report will not be verified separately by the Trustee.

The Special Servicer will produce such information as is in its possession or readily available to the Special Servicer to assist the Servicer in the preparation of such reports. In addition, the Servicer and/or, if any Purchased Loan Receivable becomes a Specially Serviced Loan Receivable, the Special Servicer, shall undertake, at the expense of the Issuer, an annual review in respect of the Borrower. The review may include an inspection of Related Properties or any other assets comprising the Loan Collateral and will include consideration of the quality of the cash flow arising from the Related Properties or other assets (as applicable) and a compliance check of each Borrower's covenants under the Finance Documents.

Verity Notice

On the Calculation and Reporting Date immediately following a Collection Period during which a Verity Issuer Payment Event and/or a Verity Seller Payment Event occurred, the Servicer will provide the appropriate Verity Notice to the Trustee for verification. To the extent that the Trustee identifies matters in the Verity Notice to be dealt with by the Servicer or the Special Servicer for its verification, the Servicer or the Special Servicer (as applicable) is obliged to use all reasonable endeavours to deal with such matters.

Enforcement of the Purchased Loan Receivables

If an event of default has occurred in relation to any Purchased Loan Receivable the Servicer or, as applicable, the Special Servicer will be authorised to take such action as may be reasonably required to collect all amounts owed in respect of such Purchased Loan Receivable (subject to the terms of the Servicing Agreement relating to the exercise of its discretions) to maximise recoveries available to Noteholders on a net present value basis. The Special Servicer will attend such meetings, prepare such documents and perform such other acts in connection

with the enforcement or workout of the Specially Serviced Loan Receivable and the relevant Loan Collateral so as to maximise recoveries available to Noteholders on a net present value basis.

Amendments to the Finance Documents and Intercreditor Agreements

Neither the Servicer nor the Special Servicer will be permitted to consent to or effect (whether by way of the exercise of a discretion, right, the grant of any modification, waiver, amendments and consents to any Finance Document or Intercreditor Agreement), on behalf of the Issuer, any variation in the terms and conditions applicable to the Purchased Loan Receivables in respect of the interest basis, the interest rate, the margin, the interest calculation basis, the Loan Maturity Date (including, for the avoidance of doubt, extending the Loan Maturity Date), the interest payment dates and/or the amount or frequency of principal repayments, except:

- (a) as required by law;
- (b) as required by and subject to the conditions of any Loan Agreement;
- (c) to cure any ambiguity or inconsistency or to correct or supplement any provision;
- (d) in relation to the Loan Maturity Date, to bring such date forward to the loan payment date following such request (providing reasonable notice is given) or to extend such date by a period of not more than twenty-four (24) months after the scheduled Loan Maturity Date, **provided that** such date is no later than thirty-six (36) months prior to the Final Maturity Date;
- (e) in relation to the frequency of principal payments, to increase such frequency (up to a maximum frequency of one principal payment per quarter) or to decrease such frequency (down to a minimum of one principal payment per year); or
- (f) in relation to principal repayments, to increase the amount of any principal repayments.

However, the Servicer and the Special Servicer may agree alternative arrangements with the Issuer.

Fees

On each Payment Date, the Servicer and the Special Servicer will be entitled to receive from the Issuer the Servicing Fee. The Servicing Agreement will also provide for the Servicer and the Special Servicer to be reimbursed by the Issuer for all out-of-pocket expenses and charges properly incurred in the performance of their services under the Servicing Agreement. On each Payment Date the Issuer will pay to the Servicer all amounts due to the Servicer and the Special Servicer subject to the Interest Priority of Payments or the Enforcement Priority of Payments (as applicable). The Servicer and the Special Servicer shall agree the division of the Servicing Fee between them.

Delegation and Termination

Neither the Servicer nor the Special Servicer shall be entitled to sub-contract or delegate to a third party the performance of any of its obligations under the Servicing Agreement without: (a) prior written consent of the Issuer and written confirmation by the Rating Agency that the ratings then assigned to the Rated Notes are not affected thereby; or (b) after the service of an Enforcement Notice, without prior written consent of the Trustee, **provided that** such third party (being designated by the Servicer or, as the case may be, the Special Servicer) has been registered under the German Act on Legal Services (*Rechtsdienstleistungsgesetz*) if such registration should be required pursuant to the German Act on Legal Services (*Rechtsdienstleistungsgesetz*) for the performance of the servicing sub contracted or delegated to such third party.

The Servicer and the Special Servicer shall be entitled to sub-contract or delegate to a third party the performance of any or all of its obligations under this Agreement without the written consent of the Issuer or the Trustee or confirmation by the Rating Agency **provided that** such third party is an affiliate or legal successor of the Servicer or the Special Servicer which, for the avoidance of doubt, shall include any entity which has been established or has emerged in connection with a reorganisation of HSH Nordbank.

The Servicer or, as the case may be, the Special Servicer will remain primarily responsible and fully liable to the Issuer to the same extent and under the same terms as if it was servicing the Purchased Loan Receivables and the relevant Loan Collateral.

The Trustee or the Issuer (with the prior written consent of the Trustee) may terminate the Servicer's or Special Servicer's appointment under the Servicing Agreement upon the occurrence of a termination event in respect of that entity, including, among other things, a default in the payment on the due date of any payment to be made

by the Servicer or Special Servicer, respectively, under the Servicing Agreement, or, in certain circumstances, a default in performance of any of its other material covenants or obligations under the Servicing Agreement, or the occurrence of certain insolvency related events in relation to it.

In addition, the Issuer may (with the prior written consent of the Trustee) terminate the appointment of the Servicer and the Special Servicer at any time on at least five (5) days' written notice to the Servicer and the Special Servicer specifying such termination of appointment and the date from which it shall become effective.

Each of the Servicer and the Special Servicer may terminate its appointment upon not less than three (3) months' notice to each of the Issuer, the Trustee and the Servicer or the Special Servicer (whichever is not purporting to give notice) **provided that** a qualified Substitute Servicer or, as the case may be, Substitute Special Servicer, shall have been appointed and agreed to be bound by the Servicing Agreement, the Trust Agreement and the Issuer Deed of Charge and written confirmation has been received from the Rating Agency that any such substitution will not result in the then current rating of the Rated Notes being adversely affected.

Acquisition and Disposal of Loan Receivables

Pursuant to the Servicing Agreement, the Servicer agrees to act on behalf of the Issuer with respect to the disposal of any Purchased Loan Receivables pursuant to Condition 9 (*Sale of Purchased Loan Receivables*) and the purchase of Additional Loan Receivables pursuant to Condition 8 (*Purchase of Additional Loan Receivables*) and Condition 14 (*Payments of Principal*) using Net Disposal Proceeds from the disposal of Purchased Loan Receivables in accordance with Condition 9 (*Sale of Purchased Loan Receivables*) and funds from the Prefunding Account for the Prefunding Loan Receivables in accordance with Condition 7 (*The Prefunding Reserve*). The Servicer further agrees to assist the Issuer with negotiating appropriate swap confirmations in relation to such Substitution Loan Receivables or Prefunding Loan Receivables. The Issuer may consult with the Servicer in determining the purchase price applicable to a disposal of any Purchased Loan Receivable, and the Servicer shall confirm to the Trustee whether the purchase price of any Purchased Loan Receivables reflects the outstanding Principal Amount of such Purchased Loan Receivable or its fair market value.

The Servicer will provide a list of the current addresses of the Borrowers to the Trustee and update such list if necessary on each Payment Date.

Directive 2003/6/EC (Market Abuse) (and implementing measures)

The Servicer and the Special Servicer will acknowledge that the Issuer, as an issuer of financial instruments that are admitted to trading on a regulated market, is under an obligation to disclose to the public, without delay, inside information relating to the Notes within the meaning of Directive 2003/6/EC (Market Abuse) (the "**Market Abuse Directive**") (and implementing measures). However, the Servicer and the Special Servicer are not responsible for ensuring that the Issuer complies with its obligation under the Market Abuse Directive (and implementing measures). In the event that the Servicer or the Special Servicer becomes aware of Relevant Information (as defined below) concerning any Purchased Loan Receivable or a Related Property it will promptly:

- (a) prepare a summary (the "**Relevant Information Summary**") that concisely describes the Relevant Information;
- (b) provide the Issuer with the Relevant Information Summary for execution by the Issuer;
- (c) file the executed Relevant Information Summary with the relevant Regulatory Information Service (as defined below) (unless the Issuer directs the Servicer not to file such summary);
- (d) within one Business Day following the date of the disclosure to the Regulatory Information Service, post any information which is disclosed to a Regulatory Information Service for a period of not less than six (6) months;
- (e) provide the Reporting Agent with the Relevant Information Summary for publication on behalf of the Issuer as part of the Investor Report; and
- (f) disclose such information on Bloomberg L.P. (or such other financial markets publisher as the Issuer may from time to time direct) **provided that** such disclosure would not breach any applicable law or any provision of the relevant Finance Documents,

provided that the Servicer and the Special Servicer shall not be required to take the actions described above if the Market Abuse Directive would permit it to delay the disclosure of the Relevant Information.

"Relevant Information" means information relating to any Purchased Loan Receivable or a Related Property that the Servicer or the Special Servicer reasonably determines is likely to have a material impact on the value of a Purchased Loan Receivable or a Related Property and which is not (to the Servicer or the Special Servicer's knowledge) already publicly available information, including but not limited to the following matters:

- (a) prepayment of more than ten (10) per cent. of the relevant Purchased Loan Receivable, or receipt of an irrevocable notice from an Obligor that it wishes to pay more than ten (10) per cent. of a Purchased Loan Receivable;
- (b) material default with respect to any Purchased Loan Receivable;
- (c) environmental hazard at a property;
- (d) material buildings insurance claims made in respect of a property;
- (e) factors affecting the area surrounding a property representing more than ten (10) per cent. of the market value of all Related Properties securing a Purchased Loan Receivable that, in the Servicer's or Special Servicer's opinion, would have a material adverse impact on such property;
- (f) material reductions in the value of a Related Property of which the Servicer or Special Servicer is aware, based on an updated valuation;
- (g) any substitution of a property;
- (h) a change of ownership or control of an Obligor;
- (i) the acquisition by the Issuer of any Additional Loan Receivables or disposal of any Purchased Loan Receivables;
- (j) any Purchased Loan Receivable becoming a Specially Serviced Loan Receivable or a Corrected Loan Receivable; and
- (k) the determination of a Loan Loss in respect of any Purchased Loan Receivable.

A **"Regulatory Information Service"** means a regulatory information service that is provided by or approved for use by the regulated market on which the relevant financial instruments are admitted to trading or in respect of which a request for admission to trading on such regulated market has been made.

Each of the Issuer, the Cash Administrator and the Trustee will use its best endeavours to procure that any Facility Agent and the Borrower Security Trustees, provide the Servicer and the Special Servicer with all information within its possession or control and which it is at law or by regulation permitted to disclose and which is requested by the Servicer or the Special Servicer for the purpose of complying with the requirements summarised above.

ECB Regulation (EC) No 24/2009 (ECB/2008/30)

Pursuant to ECB Regulation (EC) No 24/2009 (ECB/2008/30) (the **"ECB Regulation"**), certain special purpose entities established in the Euro-zone and engaged in securitisation (such as the Issuer) may be required to register with their relevant national central bank and report, on a quarterly basis, data on end-of quarter outstanding amounts, financial transactions and write-offs/write-downs on their assets and liabilities.

The Servicer has agreed, on behalf of the Issuer, to prepare and file (or procure the preparation and filing of) such notices and reports with the Luxembourg Central Bank to ensure compliance by the Issuer with its obligations under the ECB Regulation and any relevant implementing measure in Luxembourg. The Issuer, the Reporting Agent and the Cash Administrator will agree to provide the Servicer with any assistance and information reasonably available to them which the Servicer requires to ensure such compliance.

The Servicing Agreement will be governed by German law.

THE INTEREST RATE SWAP AGREEMENT

Interest Rate Swap Agreement

Under an Interest Rate Swap Agreement documented by the 1992 ISDA Master Agreement (including the schedule and the credit support annex thereto) dated the Closing Date between the Issuer, the Trustee and the Interest Rate Swap Counterparty and related confirmations (the "**Interest Rate Swap Agreement**"), the Issuer is required to pay to the Interest Rate Swap Counterparty no later than 10:30 a.m. (London time) on each Payment Date until (and including) the Interest Rate Swap Termination Date and prior to the early termination of the Interest Rate Swap Agreement, the Issuer Payments calculated by reference to the interest amounts received by the Issuer in respect of the relevant Purchased Loan Receivables as set forth in the Interest Rate Swap Agreement.

The Interest Rate Swap Counterparty is required to pay to the Issuer on each Payment Date the respective Floating Payments calculated by reference to 3-month EURIBOR on the Aggregate Outstanding Loan Principal Amount in respect of the Purchased Loan Receivables as set forth in the Interest Rate Swap Agreement as at the relevant Collection Period End Date until the Interest Rate Swap Termination Date or early termination of the Interest Rate Swap Agreement.

For the avoidance of doubt, on any Purchase Date the parties may enter into new swap confirmations (i) to mitigate interest rate mismatches between the interest payments received by the Issuer under the Purchased Loan Receivables in respect of which interest is payable at a floating rate of interest with a determination date that is different to the Interest Determination Date in respect of the Notes (other than the Class C Notes) and (ii) in relation to the relevant Additional Loan Receivables, substantially in the form of the swap confirmations under the Interest Rate Swap Agreement entered into on the Closing Date.

Early Termination

The Interest Rate Swap Agreement may be terminated early if, among other things, (a) there is a failure by the Issuer to make any payment when due, (b) an Insolvency Event occurs in respect of the Issuer, (c) the Trustee serves an Enforcement Notice on the Issuer, (d) it becomes unlawful for either the Issuer or the Interest Rate Swap Counterparty to perform its obligations thereunder, or (e) at the option of the Interest Rate Swap Provider, a replacement Interest Rate Swap Provider has been appointed.

It may further be terminated if applicable Events of Default or Termination Events (as defined in the Interest Rate Swap Agreement) occur with respect to the Issuer or the Interest Rate Swap Counterparty.

Upon any such early termination of the Interest Rate Swap Agreement, the Issuer or the Interest Rate Swap Counterparty may be liable to make an early termination payment to the other. Such early termination payment will be calculated on the basis of quotations obtained in accordance with the Interest Rate Swap Agreement.

Interest Rate Swap Collateral

Pursuant to the Interest Rate Swap Agreement, the Interest Rate Swap Counterparty may transfer Interest Rate Swap Collateral into the Interest Rate Swap Collateral Reserve Account pursuant to the Interest Rate Swap Agreement which, to the extent not applied by the Issuer (or the Cash Administrator on its behalf) towards the obligations of the Interest Rate Swap Counterparty, is required to be returned by the Issuer to the Interest Rate Swap Counterparty or such credit support provider, *inter alia*, upon enforcement of the Security.

Within fourteen (14) days of the occurrence of an IRAB Transfer Event, the Issuer Reserve Account Bank is required to transfer the credit balances in the Interest Rate Swap Collateral Reserve Account to the reserve account opened by HSH Nordbank on or before the Closing Date in its own name with the Replacement Reserve Account Bank (the "**Interest Rate Swap Collateral Replacement Reserve Account**"). HSH Nordbank undertakes to enter the Interest Rate Swap Collateral Replacement Reserve Account into the Refinancing Register for the benefit of the Issuer.

The Cash Administrator will invest (as instructed by the Issuer and on behalf of the Issuer) cash amounts standing to the credit of the Interest Rate Swap Collateral Reserve Account in Authorised Investments which will be liquidated if such amounts are needed.

Non-compliance with Rating Agency Swap Criteria

If the Interest Rate Swap Counterparty no longer complies with the rating requirements as set forth in the Interest Rate Swap Agreement, the Interest Rate Swap Counterparty is required to endeavour, at its own cost and within a specified time period, to (a) transfer all of its rights and obligations with respect to the Interest Rate

Swap Agreement to a replacement third party with the required ratings, or (b) procure another person to become a guarantor in respect of its obligations under the Interest Rate Swap Agreement, and/or (c) if required or permitted pursuant to the terms of the Interest Rate Swap Agreement, deliver collateral to the Issuer pursuant to the ISDA credit support annex to the Interest Rate Swap Agreement in support of its obligations under the Interest Rate Swap Agreement, and each of (a) to (c) above in accordance with the applicable Rating Agency Swap Criteria as reflected in the Interest Rate Swap Agreement.

As at the date of this Prospectus, the Rating Agency Swap Criteria require, *inter alia*, that the Interest Rate Swap Counterparty (or its guarantor who unconditionally and irrevocably guarantees all present and future obligations of the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement) has a short-term, unsecured and unsubordinated debt obligation rating of at least F1 and a long-term, unsecured and unsubordinated debt obligation rating of at least A from Fitch, or if no short-term rating from Fitch exists, a long-term, unsecured and unsubordinated debt obligation rating of at least A from Fitch.

Gross-up

If the Interest Rate Swap Counterparty is required to make a withholding or deduction for, or on account of, tax on payments to be made by it under the Interest Rate Swap Agreement, the Interest Rate Swap Counterparty is obliged to pay to the Issuer such additional amount as is necessary to ensure that the net amount actually received by the Issuer will equal the full amount that the Issuer would have received had no such withholding or deduction been required. The Issuer, however, is under no obligation to pay additional amounts to the Interest Rate Swap Counterparty in the event that a withholding or deduction is required by law.

Transfer

Provided that it has given prior written notice of five (5) days to the Trustee and received the prior written consent of the Trustee, the Interest Rate Swap Counterparty may transfer all its interest and obligations under the Interest Rate Swap Agreement to any other entity subject to the conditions for such transfer as set forth in the Interest Rate Swap Agreement.

The Interest Rate Swap Agreement is governed by English law.

THE AGENCY AGREEMENT

Pursuant to an agency agreement between the Principal Paying Agent, the Interest Determination Agent, the Issuer and the Trustee dated the Closing Date (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**Agency Agreement**"), the Issuer will appoint the Agents to make certain calculations, determinations and authentications, to effect payments of interest and principal under the Notes and maintain certain records. The Agents will not be under any fiduciary duty or other obligation towards any person other than the Issuer, the Trustee and the other Agents.

Authentication, Delivery and Effectuation of the Notes

The Issuer authorises and instructs the Principal Paying Agent (i) to authenticate the Global Notes delivered to it and (ii) where relevant, to transmit such Global Notes electronically to the Common Safekeeper and to give effectuation instructions in respect of such Global Notes following its authentication thereof. The Issuer further authorises and instructs the Principal Paying Agent to destroy each Global Note retained by it following its receipt of confirmation from the relevant Common Safekeeper that the relevant Global Note has been effectuated.

Payments

In order to provide for the payment of principal and interest in respect of the Notes on each Payment Date, the Issuer will pay to the Principal Paying Agent, on the relevant Payment Date, an amount equal to the amount of interest and/or principal falling due in respect of the Notes on such Payment Date. The Principal Paying Agent will make payments of principal and interest in respect of the Notes through its Specified Office. If any Event of Default occurs, the Agents will, if so required by notice from the Trustee act thereafter, until otherwise instructed by the Trustee, as the agents of the Trustee in relation to payments and calculations to be made by or on behalf of the Trustee under the Trust Agreement and thereafter hold all sums, documents and records held by them in respect of the Notes on behalf of the Trustee and/or deliver up all sums, documents and records to the Trustee.

Duties of the Agents

The Principal Paying Agent is required to, *inter alia*, maintain records of all Permanent Global Notes and arrange the publications of notices to the Noteholders. The Interest Determination Agent is required to, *inter*

alia, maintain records of the quotations obtained and all rates determined by it and make such records available for inspection upon reasonable notice by the Issuer, the Principal Paying Agent and the Trustee.

Indemnity

The Issuer will indemnify each Agent against any loss or expense which it incurs, otherwise than by reason of such Agent's gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) arising out of its acting as an agent of the Issuer in relation to any of the Notes.

Each Agent will severally indemnify the Issuer against any loss or expense which it incurs as a result of the gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) of such Agent.

Changes in Agents

Any Agent may resign its appointment upon not less than thirty (30) Business Days' notice to the Issuer **provided that**, if such resignation would otherwise take effect within thirty (30) Business Days of any Payment Date, it will not take effect until the fifteenth (15th) Business Day following such date and such resignation will not take effect until a successor has been duly appointed and notice of such appointment has been given to the Noteholders.

The Issuer may (with the prior written approval of the Trustee) revoke the appointment of any Agent **provided that** such revocation will not take effect until a successor has been duly appointed and notice of such appointment has been given to the Noteholders. Any replacement Agent must be an Eligible Bank or must be otherwise acceptable to the Issuer, the Trustee and the Rating Agency. The Issuer will, upon its becoming aware that any Agent has ceased to be an Eligible Bank, notify the Trustee of such fact and make arrangements acceptable to the Issuer and the Trustee to appoint a replacement Agent.

The appointment of any Agent will terminate upon the occurrence of certain events, including, *inter alia*, if (a) such Agent becomes incapable of acting or (b) an Insolvency Event occurs in respect of the Agent.

Fees and Expenses

The Issuer will pay to the Principal Paying Agent for the account of the Agents such fees as have been agreed between the Issuer and the Principal Paying Agent from time to time in respect of the services of the Agents and will reimburse the Agents for all reasonable expenses properly incurred in connection with the respective Agent's services.

The Agency Agreement is governed by the laws of Germany.

THE ISSUER DEED OF CHARGE

Pursuant to a deed of charge between the Issuer and the Trustee dated the Closing Date (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**Issuer Deed of Charge**"), the Issuer, with full title guarantee, in favour of the Trustee for the benefit of the Secured Parties, will:

- (a) assign absolutely the Benefit of each English Loan Receivable which is from time to time a Purchased Loan Receivable (other than any English Loan Receivable that is an RR Asset) save that the Issuer shall not assign or transfer and shall instead hold on trust for the Seller as the beneficial owner thereof any amount of interest or other sum (other than principal) due to be paid or accrued in respect of any period ending before the 29 January 2010 and the amount of any principal due to be paid prior to (but excluding) the Closing Date pursuant to or in respect of the English Loan Receivables sold by the Seller to the Issuer pursuant to the terms of the Loan Receivables Purchase Agreement;
- (b) assign absolutely the Benefit of the English Loan Collateral and the property, rights and assets constituting and comprised in the English Loan Collateral relating to Loan Receivables which are from time to time Purchased Loan Receivables (other than English Loan Collateral which is comprised in the RR Assets);
- (c) charge absolutely by way of first fixed charge the Benefit of each of the Issuer Operating Accounts and the RR Expenses Account and all sums of money which may now be or hereafter are from time to time standing to the credit of each of the Issuer Operating Accounts and the RR Expenses Account;
- (d) assign absolutely the Benefit in, under and to the Issuer Account Agreement;

- (e) assign absolutely the Benefit in, under and to the Interest Rate Swap Agreement (subject to the netting mechanism expressly contained in the Interest Rate Swap Agreement);
- (f) assign absolutely the Benefit in, under and to the HSH Deed of Charge; and
- (g) charge by way of first floating charge, the whole of its undertaking and all its property, assets and rights whatsoever and wheresoever, present and future, including the Benefit of each Authorised Investment (but excluding the Issuer Profit and Capital Account),

(together the "**Issuer English Security**" and the assets comprised therein, the "**Issuer English Security Assets**").

The Issuer will undertake to perform all acts and provide all documents, at its own expense, which may be reasonably necessary or desirable to: (i) obtain the full benefits of, perfect or more effectively establish the security constituted or intended to be constituted by the Issuer Deed of Charge; or (ii) establish, maintain, protect, preserve or enforce the same; or (iii) exercise the rights and powers of the Trustee. The Issuer will also take such other actions as the Trustee may deem necessary or desirable under applicable law to perfect, transfer or enforce the security and to ensure that the security interests created under the Issuer Deed of Charge are not negatively affected.

The Trustee will authorise the Issuer to enforce and collect the Issuer English Security Assets and exercise any rights and apply all monies collected, in accordance with the provisions of the Transaction Documents. The Trustee may revoke such authorisation after delivery of an Enforcement Notice and arrange for the enforcement, collection and exercise of the Issuer English Security Assets for and on behalf of the Secured Parties. The Trustee may take all reasonable measures to realise all or part of the Issuer English Security Assets to the extent necessary to satisfy any outstanding Secured Obligations by enforcing, collecting and exercising all or part of the Issuer English Security Assets pursuant to the provisions of the Trust Agreement and the Issuer Deed of Charge and will apply the proceeds of such realisation in the order of the Enforcement Priority of Payments.

The Trustee will re-assign to the Issuer, or to a third person if so required by law, the remaining relevant Issuer English Security Assets upon the complete and irrevocable satisfaction of all Secured Obligations and termination of the Transaction Documents.

The Issuer Deed of Charge is governed by English law.

THE SUBSCRIPTION AGREEMENT

Pursuant to a subscription agreement between the Issuer and HSH Nordbank dated the Closing Date (the "**Subscription Agreement**"), the Lead Manager has agreed to subscribe and pay for the Notes on the Closing Date at the issue price upon the terms and subject to the conditions thereof.

Issue of the Notes

The Notes will be issued by the Issuer on the Closing Date.

Closing

The closing of the issue will take place on the Closing Date, whereupon:

- (a) the relevant Common Safekeeper will effectuate the Permanent Global Notes, if relevant, in accordance with the relevant authorisation by the Principal Paying Agent and the Issuer which has been transmitted electronically in advance to the relevant Common Safekeeper; and
- (b) HSH Nordbank, in its capacity as Lead Manager and for the account of the Lead Manager will pay or cause to be paid to, or to the order of, the Issuer, the subscription monies for the Notes to such account as the Issuer has designated to HSH Nordbank. Delivery of all Global Notes representing the Notes, duly executed on behalf of the Issuer, shall be made free of payment to the relevant Common Safekeeper to the order of HSH Nordbank in its capacity as Lead Manager.

The Lead Manager will only be under an obligation to subscribe and pay for the Notes if, *inter alia*:

- (a) HSH Nordbank (in its capacity as Lead Manager) receives on the Closing Date the relevant legal opinions and a closing certificate dated the Closing Date, addressed to the Lead Manager and signed by a duly authorised signatory on behalf of the Issuer in substantially the agreed form;

- (b) the Trust Agreement and all other Transaction Documents are executed on the Closing Date by or on behalf of all parties thereto in substantially the agreed form;
- (c) the representations and warranties given by the Issuer are true and correct on the date of the Subscription Agreement;
- (d) a duly executed or conformed copy of the authorisation is delivered electronically from the Issuer to the relevant Common Safekeeper to effectuate the Permanent Global Notes representing the Notes on behalf of the Issuer; and
- (e) HSH Nordbank (in its capacity as Lead Manager) receives confirmation on or before the Closing Date that the Notes have been admitted to the Luxembourg Stock Exchange.

Selling Restrictions

The Lead Manager will undertake to the Issuer that it will comply with all applicable laws and regulations in each country and jurisdiction in which it purchases, offers, sells or delivers the Notes, and in particular, that it will act in accordance with the selling restrictions, as set out in "SUBSCRIPTION AND SALE".

Indemnity

The Issuer will indemnify the Lead Manager for any loss or expense which it may incur arising out of any inaccuracy or alleged inaccuracy of any representation or warranty given by the Issuer in the Preliminary Prospectus or the Prospectus (other than the Excluded Information) or in the Subscription Agreement (on the date of the Subscription Agreement) or any gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) by the Issuer.

Termination

HSH Nordbank (in its capacity as Lead Manager) may give a termination notice to the Issuer at any time prior to the payment of the net proceeds of the issue of the Notes on the Closing Date if:

- (a) any representation and warranty by the Issuer proves to be untrue or incorrect on the date of the Subscription Agreement or on any date on which it is deemed to be repeated;
- (b) the Issuer fails to perform any of its obligations under the Subscription Agreement;
- (c) any of the conditions for closing are not satisfied or waived by HSH Nordbank (in its capacity as Lead Manager) on the Closing Date; or
- (d) since the date of the Subscription Agreement there has been, in the opinion of HSH Nordbank (in its capacity as Lead Manager), such a change in national or international financial, political or economic conditions or currency exchange rates or exchange controls as would in its view be likely to prejudice materially the success of the offering and distribution of the Notes or dealings in the Notes in the secondary market and is continuing for fifteen (15) days.

The Subscription Agreement is governed by the laws of Germany.

See "SUBSCRIPTION AND SALE" below.

THE CASH ADMINISTRATION AGREEMENT

Pursuant to a cash administration agreement between, the Issuer, the Servicer, the Special Servicer, the Issuer Reserve Account Bank, the RR Expenses Facility Provider, the Liquidity Facility Provider, the Reporting Agent, the Interest Rate Swap Counterparty, the Cash Administrator, the Issuer Account Bank, the Replacement Reserve Account Bank, the Principal Paying Agent, the Interest Determination Agent, the Corporate Services Provider and the Trustee dated the Closing Date (the "**Cash Administration Agreement**"), the Issuer will appoint (i) Bank of America, National Association as its agent to perform certain duties and obligations which will include, *inter alia*, the preparation of Cash Administration Reports and the procurement of all relevant payments, Collections and Authorised Investments into the respective Issuer Accounts and Replacement Reserve Accounts (the "**Cash Administrator's Services**") and (ii) HSH Nordbank as its agent to perform certain duties and obligations which will include, *inter alia*, the preparation of the Investor Report (the "**Reporting Agent's Services**").

Reporting Duties

The Cash Administrator is required to prepare and deliver a draft Cash Administration Report in respect of the Relevant Collection Period to the Reporting Agent and to the Trustee for its verification no later than 6:00 p.m. (Luxembourg time) nine (9) Reporting Business Days before each Payment Date. The Trustee is required to verify each Cash Administration Report and to notify the Cash Administrator of any matters which it requires the Cash Administrator to deal with. Once the Cash Administrator has taken all steps required of it to the satisfaction of the Trustee, the Trustee will deliver its Verification Notice pursuant to the Trust Agreement. The Cash Administrator is obliged to deliver the Cash Administration Report in verified form to the Issuer, the Servicer, the Principal Paying Agent, the Reporting Agent and the Trustee no later than four (4) Reporting Business Days before the relevant Payment Date. As long as HSH Nordbank is acting in its capacity as Servicer and Special Servicer, the Cash Administration Report will not be verified separately by the Trustee.

On the basis of the draft Portfolio Report delivered by the Servicer on each Calculation and Reporting Date and the draft Cash Administration Report delivered by the Cash Administrator nine (9) Reporting Business Days before each Payment Date, the Reporting Agent is required to prepare and deliver the related Investor Report for verification by the Trustee no later than 6:00 p.m. (Luxembourg time) seven (7) Reporting Business Days before such Payment Date. The Trustee will verify each Investor Report delivered to it and will deliver its Verification Notice pursuant to the Trust Agreement four (4) Reporting Business Days before such Payment Date. The Reporting Agent is obliged to deliver the verified Investor Report to the Issuer, the Trustee, the Cash Administrator, the Principal Paying Agent and the Rating Agency no later than 2:00 p.m. (Luxembourg time) two (2) Reporting Business Days prior to such Payment Date, and such Investor Report shall also be made available to Noteholders at the Specified Office of the Principal Paying Agent (and on the website www.etrustee.net) no later than 4:00 p.m. (Luxembourg time) on the Payment Date.

Application of Funds

No later than 10:30 a.m. (London time) on each Payment Date until (and including) the Interest Rate Swap Termination Date and prior to the early termination of the Interest Rate Swap Agreement prior to the Interest Rate Swap Termination Date, the Cash Administrator shall procure that the Issuer Payments are paid to the Interest Rate Swap Counterparty under the Interest Rate Swap Agreement.

On each Payment Date prior to the delivery of an Enforcement Notice, the Available Interest Distribution Amount (calculated on the immediately preceding Calculation and Reporting Date in respect of the Relevant Collection Period) will be applied by the Cash Administrator (on behalf of the Issuer) in making the payments set out in the Interest Priority of Payments.

On any Payment Date prior to the delivery of an Enforcement Notice, the Available Principal Distribution Amount (calculated on the immediately preceding Calculation and Reporting Date in respect of the Relevant Collection Period) will be applied by the Cash Administrator (on behalf of the Issuer) in making the payments set out in the Principal Priority of Payments.

Authorised Investments

On each Business Day up to two (2) Business Days prior to a Payment Date, the Cash Administrator may invest (as instructed by the Issuer and on behalf of the Issuer) the amount standing to the credit of the Issuer Interest Account, the Issuer Principal Account, the RR Expenses Account, the Liquidity Accounts, the RR Expenses Stand-By I Account, the RR Expenses Stand-By II Account and the Interest Rate Swap Collateral Accounts in Authorised Investments. Although it is not expected by the Issuer that there will be any funds standing to the credit of the Issuer Interest Account or the Issuer Principal Account for such purpose.

"**Authorised Investments**" means each investment of any amount standing to the credit of any Issuer Operating Account, any Issuer Reserve Account (other than the Verity Account) and any Replacement Reserve Account (other than the Replacement Verity Account) made by the Cash Administrator (on behalf of the Issuer) in cash deposited with a financial institution or in any euro denominated, senior, unsubordinated debt security, investment, commercial paper or other debt instrument, such institution or debt instrument, as applicable, having at least a minimum short-term rating of F1 by Fitch or, in the event that no such short-term rating is available, a minimum long-term rating of AAA by Fitch maturing no later than two (2) Business Days prior to the immediately following Payment Date **provided that** such investment may not consist, in whole or in part, actually or potentially, of credit linked notes or similar claims resulting from the transfer of credit risk by means of credit derivatives or tranches of asset-backed securities.

The Issuer Reserve Accounts and the Replacement Reserve Accounts

Following an IRAB Transfer Event, any amount standing to the credit of the Issuer Reserve Accounts shall be credited to the relevant Replacement Reserve Account with the Replacement Reserve Account Bank or, if the Replacement Reserve Account Bank ceases to be an Eligible Bank, in accordance with the HSH Account Agreement to a bank which is an Eligible Bank.

On each Payment Date, the Cash Administrator shall transfer an amount equal to any interest accrued on amounts standing to the credit of the Issuer Reserve Account (if any) and the Replacement Reserve Accounts in respect of the immediately preceding Collection Period to the Issuer Interest Account.

Prefunding Account

On the Closing Date the Issuer will apply €235,000,000 of the proceeds of the issue of the Notes to establish a reserve (the "**Prefunding Reserve**") as a reserve for the future purchase of certain Loan Receivables by crediting such amount to the Prefunding Account in which the Issuer will record amounts deposited in and withdrawn from the Prefunding Reserve.

On each Payment Date, the Cash Administrator shall transfer an amount equal to any interest accrued on amounts standing to the credit of the Prefunding Account in respect of the immediately preceding Collection Period, to the Issuer Interest Account.

Upon the occurrence of a Prefunding Event and the notification of the Cash Administrator thereof by the Issuer, amounts equal to the purchase price for the Prefunding Loan Receivables (but not exceeding the Prefunding Reserve) shall be transferred from the Prefunding Account to the relevant Euro account of the Seller.

On the Payment Date after the Prefunding Step-Down Date, any amount of principal standing to the credit of the Prefunding Account above €117,500,000, and on the Final Prefunding Date, all amounts of principal standing to the credit of the Prefunding Account, shall be transferred to the Issuer Principal Account and all amounts of interest standing to the credit of the Prefunding Account shall be transferred to the Issuer Interest Account for application on such Payment Date towards redemption of the Notes and payment of accrued interest thereon under Condition 12 (*Amortisation*) and Condition 6.9 (*Payment of Interest*).

Verity Account

On the Closing Date the Issuer will pay €304,094,000 of the proceeds of the sale of the Initial Loan Receivables into the Verity Account.

On the Payment Date, the Cash Administrator shall transfer an amount equal to any interest accrued on amounts standing to the credit of the Verity Account, to the Issuer Interest Account.

On the Payment Date following a Collection Period during which a Verity Issuer Payment Event occurred and the notification of the Cash Administrator thereof by the Trustee in the form of a verified Verity Notice, HSH Nordbank may procure the withdrawal from the Verity Account or the Replacement Verity Account (as applicable) amounts equal to such portion of the Verity Amount specified in accordance with the Loan Receivables Purchase Agreement in respect of the relevant Verity Loan Receivables.

On the Payment Date following a Collection Period during which a Verity Seller Payment Event occurred and the notification of the Cash Administrator thereof by the Trustee in the form of a verified Verity Notice, an amount equal to the relevant Verity Seller Amount shall be transferred to the Issuer Principal Account in immediately available funds.

Termination and Appointment of Substitute Cash Administrator or Substitute Reporting Agent

The Issuer (with the consent of the Trustee) or the Trustee may, by notice in writing, terminate the appointment of the Cash Administrator or the Reporting Agent, following the occurrence of certain termination events, including, *inter alia*, (i) material default by the Cash Administrator or the Reporting Agent of their respective undertakings and obligations under the Cash Administration Agreement, which the Issuer considers to be materially prejudicial to the interests of the Secured Parties and which, if remediable, remains unremedied for thirty (30) days following written notice from the Issuer to such effect or (ii) delivery of an Enforcement Notice where the Trustee is of the opinion that the continued provision by the Cash Administrator or the Reporting Agent (as applicable) of their respective services under the Cash Administration Agreement is materially prejudicial to the interests of the Secured Parties.

In addition, the Issuer may (with the prior written consent of the Trustee) terminate the appointment of the Cash Administrator or the Reporting Agent at any time on at least five (5) days' written notice to the Cash Administrator or the Reporting Agent (as applicable) specifying such termination of appointment and the date when it shall become effective.

The Issuer will (with the consent of the Trustee), at any time following the removal of the Cash Administrator or the Reporting Agent, appoint a substitute Cash Administrator or substitute Reporting Agent (as applicable).

No termination of the appointment of the Cash Administrator or the Reporting Agent by the Issuer will become effective until a substitute Cash Administrator or a substitute Reporting Agent (as applicable) has been appointed **provided that** the Issuer's right to terminate the Cash Administration Agreement for good cause (*wichtiger Grund*) shall remain unaffected.

Neither the Cash Administrator nor the Reporting Agent may delegate or sub-contract all or any of its rights, authorities and/or discretions and/or performance of its obligations under the Cash Administration Agreement and/or under any of the other Transaction Documents.

The Cash Administration and Reporting Agent Fees and Expenses

The Issuer will agree to pay the Cash Administrator and the Reporting Agent such fees as have been agreed in the fee letters between the Issuer and the Cash Administrator and between the Issuer and the Reporting Agent and reimburse the Cash Administrator and the Reporting Agent (as applicable) for all expenses properly incurred by the Cash Administrator and the Reporting Agent (as applicable) in connection with the provision of the Cash Administrator's Services and the Reporting Agent's Services.

Indemnity

The Issuer will indemnify the Cash Administrator and the Reporting Agent (as applicable) against all losses incurred by it by reason of the Cash Administration Agreement or the performance of the Cash Administrator's Services or the Reporting Agent's Services (other than as a consequence of the gross negligence (*grobe Fahrlässigkeit*) or wilful default (*Vorsatz*) of the Cash Administrator or the Reporting Agent (as applicable) or any of their directors, officers, employees or agents (as applicable), as the case may be).

The Cash Administration Agreement will be governed by German law.

THE ISSUER ACCOUNT AGREEMENT

Pursuant to an account agreement between the Issuer, the Issuer Account Bank, the Cash Administrator and the Trustee dated the Closing Date (the "**Issuer Account Agreement**"), the Issuer Account Bank will confirm that the Issuer Interest Account, the Issuer Principal Account and the RR Expenses Account have been established with the Issuer Account Bank. The Issuer Account Bank will comply with any direction of the Cash Administrator in respect of the Issuer Interest Account, the Issuer Principal Account and the RR Expenses Account.

Change of Issuer Account Bank

Upon the occurrence of an Issuer Account Bank Termination Event, the Cash Administrator will use reasonable endeavours to assist the Issuer to make certain arrangements, for example to appoint a replacement account bank within five (5) days. Any such replacement account bank must be an Eligible Bank.

In addition, the Issuer (with the prior written consent of the Trustee) may terminate the appointment of the Issuer Account Bank at any time on at least five (5) days' written notice to the Issuer Account Bank specifying such termination of appointment and the date when it shall become effective.

No termination of the appointment of the Issuer Account Bank will become effective until such replacement account bank has agreed to be bound by substantially the same terms as the Issuer Account Agreement.

The Issuer Account Agreement will be governed by English law.

THE ISSUER RESERVE ACCOUNT AGREEMENT

Pursuant to an account agreement between the Issuer, the Issuer Reserve Account Bank, the Cash Administrator, the Trustee, the Seller and the Replacement Reserve Account Bank dated the Closing Date (the "**Issuer Reserve Account Agreement**"), the Issuer will confirm that each of the Prefunding Account and the Issuer Reserve Accounts have been established in the name of the Issuer with the Issuer Reserve Account Bank. The Issuer

Reserve Account Bank will, until the delivery of an Enforcement Notice, comply with any direction of the Cash Administrator in respect of the Prefunding Account and the Issuer Reserve Accounts.

Change of Issuer Reserve Account Bank

Upon the occurrence of an IRAB Transfer Event the Cash Administrator will, within fourteen (14) days:

- (a) in respect of the Prefunding Account, either:
 - (i) if the Issuer Reserve Account Bank has notified the Cash Administrator within seven (7) days from the occurrence of an IRAB Transfer Event that it will exercise its option to transfer the amount standing to the credit of the Prefunding Account to the Issuer Principal Account transfer all amounts standing to the credit of the Prefunding Account to the Issuer Principal Account; or
 - (ii) if the Issuer Reserve Account Bank has not notified the Cash Administrator within seven (7) days from the occurrence of an IRAB Transfer Event that it will exercise such option, appoint a replacement account bank; and
- (b) in respect of the Issuer Reserve Accounts, transfer the amounts standing to the credit of the Issuer Reserve Accounts to the Replacement Reserve Accounts.

Any replacement account bank in respect of the Prefunding Account must be an Eligible Bank and be otherwise acceptable to the Issuer, the Trustee and the Rating Agency. The appointment of a replacement Issuer Reserve Account Bank in respect of the Prefunding Account will not become effective until (i) such replacement account bank has agreed to be bound by the terms and conditions of the Issuer Reserve Account Agreement in respect of the Prefunding Account, (ii) the Prefunding Account has been duly opened with such replacement account bank, (iii) transfers of the credit balance from the Prefunding Account has been made to the new Prefunding Account, and (iv) the new Prefunding Account has been effectively pledged, charged or otherwise secured in favour of the Trustee for the benefit of the Secured Parties as provided in the Trust Agreement **provided that** the parties' right to terminate the Issuer Reserve Account Agreement for good cause (*wichtiger Grund*) shall remain unaffected.

The Issuer Reserve Account Agreement will be governed by German law.

THE HSH ACCOUNT AGREEMENT

Pursuant to an account agreement between, *inter alia*, HSH Nordbank and Bank of America, National Association acting through its London branch (the "**Replacement Reserve Account Bank**"), the Replacement Reserve Account Bank will confirm that the Class A Stand-By II Account, the Class B Stand-By II Account, the RR Expenses Stand-By II Account, the Verity Replacement Account and the Interest Rate Swap Collateral Replacement Reserve Account have been established with the Replacement Reserve Account Bank. The Replacement Reserve Account Bank will comply with any direction of the Cash Administrator in respect of the Class A Stand-By II Account, the Class B Stand-By II Account, the RR Expenses Stand-By II Account, the Verity Replacement Account and the Interest Rate Swap Collateral Replacement Reserve Account.

Any interest accrued on the Class A Stand-By II Account, the Class B Stand-By II Account, the RR Expenses Stand-By II Account, the Verity Replacement Account and the Interest Rate Swap Collateral Replacement Reserve Account in respect of the Relevant Collection Period will be due to the Issuer on the immediately following Payment Date.

Change of Replacement Reserve Account Bank

If the Replacement Reserve Account Bank ceases to be an Eligible Bank, the Cash Administrator will use reasonable endeavours to assist HSH Nordbank to make certain arrangements, for example to appoint a replacement account bank within five (5) days. Any such replacement account bank must be an Eligible Bank.

In addition, HSH Nordbank (with the prior written consent of the Trustee) may terminate the appointment of the Replacement Reserve Account Bank at any time on at least five (5) days' written notice to the Replacement Reserve Account Bank.

No termination of the appointment of the Replacement Reserve Account Bank will become effective until such replacement account bank has agreed to be bound by substantially the same terms as the HSH Account Agreement.

The HSH Account Agreement will be governed by English law.

THE LIQUIDITY FACILITY AGREEMENT

On the Closing Date, the Issuer will enter into the Liquidity Facility Agreement whereby the Liquidity Facility Provider will provide to the Issuer three hundred and sixty-four (364) day revolving Liquidity Facilities with:

- (a) in respect of the Class A Liquidity Facility, a "**Class A Liquidity Facility Commitment**" equal to €15,000,000; and
- (b) in respect of the Class B Liquidity Facility, a "**Class B Liquidity Facility Commitment**" equal to €5,000,000.

The Class A Liquidity Facility

The Issuer (or the Cash Administrator on behalf of the Issuer) will make and apply a liquidity drawing under the Class A Liquidity Facility to fund any shortfalls in the Available Interest Distribution Amount to pay on the relevant Payment Date:

- (a) such of the Issuer's expenses referred to in items (a) to (h) (inclusive) of the Interest Priority of Payments; and
- (b) interest on the Class A Notes,

in each case, as determined from time to time by the Cash Administrator on or after the Calculation and Reporting Date immediately preceding the relevant Payment Date **provided that** the Servicer has notified the Cash Administrator that such shortfall would occur solely as a result of interest accrued under a Purchased Loan Receivable that is not a Specially Serviced Loan Receivable as at the relevant Collection Period End Date immediately preceding such Calculation and Reporting Date (a "**Class A Liquidity Drawing**").

The Class A Liquidity Drawing cannot exceed the unutilised Class A Liquidity Facility Commitment at the time of the drawing.

The Liquidity Facility Agreement will provide that if the Liquidity Facility Provider: (a) does not have short term, unsecured, unguaranteed and unsubordinated debt obligations rated at least F1 by the Rating Agency or long term, unsecured, unguaranteed and unsubordinated debt obligations rated at least A by the Rating Agency (the "**Class A LFP Requisite Rating**"), and the Liquidity Facility Provider has not:

- (i) transferred the rights and obligations of the Liquidity Facility Provider under the Class A Liquidity Facility by assumption of contract (*Vertragsübernahme*) to a bank or financial institution which is a Qualifying Bank with the Class A LFP Requisite Rating (a "**Class A Liquidity Transfer**"); or
- (ii) made arrangements for the Issuer to enter into a replacement liquidity facility with a Qualifying Bank having the Class A LFP Requisite Rating; or
- (iii) obtained a guarantee of, or a co-obligor on, the obligations of the Liquidity Facility Provider under the Class A Liquidity Facility from a third party having the Class A LFP Requisite Rating; or
- (iv) taken such other actions as the Liquidity Facility Provider may agree with the Rating Agency; or

(b) refuses to extend the commitment period of the Class A Liquidity Facility and a Class A Liquidity Transfer has not been completed, the Issuer (or the Cash Administrator on its behalf) will require the Liquidity Facility Provider to pay into a designated bank account of the Issuer maintained with the Issuer Reserve Account Bank (the "**Class A Stand-By I Account**") an amount equal to its undrawn Class A Liquidity Facility Commitment under the Liquidity Facility Agreement (a "**Class A Stand-By Drawing**"). Amounts standing to the credit of the Class A Stand-By I Account will be available to the Issuer for the Class A Liquidity Drawings (if applicable).

Within fourteen (14) days of the occurrence of an IRAB Transfer Event, the Issuer Reserve Account Bank is required to transfer the credit balances in the Class A Stand-By I Account into the reserve account opened by HSH Nordbank on or before the Closing Date in its own name with Bank of America, National Association (the

"**Class A Stand-By II Account**"). HSH Nordbank undertakes that it will register and hold its claims under or in respect of the Class A Stand-By II Account in the Refinancing Register for the benefit of the Issuer on the Closing Date.

The Class B Liquidity Facility

The Issuer (or the Cash Administrator on behalf of the Issuer) will make and apply a liquidity drawing under the Liquidity Facility to fund any shortfalls in the Available Interest Distribution Amount to pay on the relevant Payment Date: (i) such of the Issuer's expenses referred to in items (j) to (l) (inclusive) of the Interest Priority of Payments and (ii) interest on the Class B Notes, in each case, as determined from time to time by the Cash Administrator on or after the Calculation and Reporting Date immediately preceding the relevant Payment Date **provided that** the Servicer has notified the Cash Administrator that such shortfall would solely occur as a result of interest accrued under a Purchased Loan Receivable that is not a Specially Serviced Loan Receivable as at the relevant Collection Period End Date immediately preceding such Calculation and Reporting Date (a "**Class B Liquidity Drawing**"). The Class B Liquidity Drawing cannot exceed the unutilised Class B Liquidity Facility Commitment at the time of the drawing.

It will further be a condition to the making of any Class B Liquidity Drawing that, if a Class A Liquidity Drawing is to be made on same day as the Class B Liquidity Drawing, an amount equal to the amount sufficient to enable the Issuer to fund in full any shortfall in the Available Interest Distribution Amount to pay on such Payment Date (i) such of the Issuer's expenses referred to in items (a) to (h) (inclusive) of the Interest Priority of Payments and (ii) interest on the Class A Notes will be paid to the Issuer on such day.

The Liquidity Facility Agreement will provide that if the Liquidity Facility Provider: (a) does not have short term, unsecured, unguaranteed and unsubordinated debt obligations rated at least F2 by the Rating Agency (the "**Class B LFP Requisite Rating**") and the Class B Liquidity Facility Provider has not:

- (i) transferred the rights and obligations of the Class B Liquidity Facility Provider under the Liquidity Facility Agreement by assumption of contract (*Vertragsübernahme*) to a bank or financial institution which is a Qualifying Bank with the Class B LFP Requisite Rating (a "**Class B Liquidity Transfer**"); or
- (ii) made arrangements for the Issuer to enter into a replacement liquidity facility with a Qualifying Bank having the Class B LFP Requisite Rating; or
- (iii) obtained a guarantee of, or a co-obligor on, the obligations of the Liquidity Facility Provider under the Class B Liquidity Facility from a third party having the Class B LFP Requisite Rating; or
- (iv) taken such other actions as the Liquidity Facility Provider may agree with the Rating Agency; or

(b) refuses to extend the commitment period of the Class B Liquidity Facility and a Class B Liquidity Transfer has not been completed, the Issuer (or the Cash Administrator on its behalf) will require the Liquidity Facility Provider to pay into a designated bank account of the Issuer maintained with the Issuer Reserve Account Bank (the "**Class B Stand-By I Account**") an amount equal to its undrawn Class B Liquidity Facility Commitment under the Liquidity Facility Agreement (a "**Class B Stand-By Drawing**" and together with the Class A Stand-By Drawing, a "**Stand-By Drawing**"). Amounts standing to the credit of the Class B Stand-By I Account will be available to the Issuer for the Class B Liquidity Drawings (if applicable).

Within fourteen (14) days of the occurrence of an IRAB Transfer Event, the Issuer Reserve Account Bank is required to transfer the credit balances in the Class B Stand-By I Account into the reserve account opened by HSH Nordbank on or before the Closing Date in its own name with Bank of America, National Association (the "**Class B Stand-By II Account**"). HSH Nordbank undertakes that it will register and hold its claims under or in respect of the Class A Stand-By II Account in the Refinancing Register for the benefit of the Issuer on the Closing Date.

Extension of Facilities

The Issuer (or the Cash Administrator on its behalf) may request that the Liquidity Facilities be extended for a further period of up to three hundred and sixty four (364) days by delivering a request to the Liquidity Facility Provider no more than fifteen (15) days, and not less than eleven (11) days, prior the termination date of the Liquidity Facilities. The Liquidity Facility Provider is not obliged to agree to such extension requests. A failure

by the Liquidity Facility Provider to agree to such an extension request on or before the tenth (10th) day prior to the termination date of the Liquidity Facilities is deemed to be an extension refusal. In the event of an extension refusal, if the Issuer is unable to arrange a transfer of the Liquidity Facility Provider's rights and obligations by way of assumption of contract (*Vertragsübernahme*) to another bank or financial institution which is a Qualifying Bank having the Class A LFP Requisite Rating or Class B LFP Requisite Rating (as applicable) in accordance with the Liquidity Facility Agreement three (3) Business Days before the Liquidity Facility termination date, then the Issuer may:

- (i) request the Liquidity Facility Provider to transfer all of its rights and obligations under the Liquidity Facility Agreement to a new Liquidity Facility Provider and the Liquidity Facility Provider will be obliged to comply with such request and meet its own costs and the costs of the Issuer and the Trustee incurred in connection with such transfer; and/or
- (ii) request a Stand-By Drawing (as described above) in an amount equal to the relevant unutilised Liquidity Facility Commitment at such time and pay such amount into the relevant Stand-By I Account.

Immediately following such Stand-By Drawing of the relevant unutilised Liquidity Facility Commitment, the relevant Liquidity Facility Commitment will be cancelled from such date and the Liquidity Facility Provider will notify the Issuer and the Trustee of such cancellation.

Repayment of Drawings

Each Liquidity Drawing will be repayable on the first Payment Date following the relevant Payment Date of their utilisation in accordance with the Interest Priority of Payments or the Enforcement Priority of Payments (as applicable). Subject to the conditions in the Liquidity Facility Agreement, any such Liquidity Drawing which is due and payable on the relevant Payment Date may be re-borrowed by drawing a new Liquidity Drawing and netting the amount due to be drawn down in respect of the new Liquidity Drawing and the amount due and payable under the outstanding Liquidity Drawing. No amounts may be so re-borrowed if they relate to a Purchased Loan Receivable which, since the relevant Liquidity Drawing was made, has become a Specially Serviced Loan Receivable. In such cases, the amounts relating to such Specially Serviced Loan Receivables will be repayable in full on the immediately following Payment Date. This procedure will be repeated on each subsequent Payment Date before the Final Maturity Date, up to the amount of the relevant Liquidity Facility Commitment, until all amounts outstanding are paid and/or repaid.

Each Stand-By Drawing (including, for the avoidance of doubt, any outstanding Liquidity Drawings made by withdrawal from any Stand-By Account) shall be repayable to the Liquidity Facility Provider on the earlier of:

- (a) in respect of a Class A Stand-By Drawing, if the event resulting in the making of the Class A Stand-By Drawing was the Liquidity Facility Provider ceasing to have the Class A LFP Requisite Rating, on the first Payment Date falling after the date on which the Liquidity Facility Provider has given notice to the Issuer, the Cash Administrator and the Trustee that the Liquidity Facility Provider has been upgraded to the Class A LFP Requisite Rating (the "**Class A Upgrade Date**") **provided that**, in each case (1) the relevant repayment date falls prior to the Liquidity Facility Termination Date and (2) the Liquidity Facility Provider has the Class A LFP Requisite Rating on such repayment date;
- (b) in respect of a Class B Stand-By Drawing, if the event resulting in the making of the Class B Stand-By Drawing was the Liquidity Facility Provider ceasing to have the Class B LFP Requisite Rating, on the first Payment Date falling after the date on which the Liquidity Facility Provider has given notice to the Issuer, the Cash Administrator and the Trustee that the Liquidity Facility Provider has been upgraded to the Class B LFP Requisite Rating (the "**Class B Upgrade Date**") **provided that**, in each case (1) the relevant repayment date falls prior to the Liquidity Facility Termination Date and (2) the Liquidity Facility Provider has the Class B LFP Requisite Rating on such repayment date;
- (c) the Final Maturity Date; or
- (d) the delivery of an Enforcement Notice.

All payments due to the Liquidity Facility Provider under the Class A Liquidity Facility (other than in respect of any Liquidity Subordinated Amounts) will rank ahead of payments of interest and repayments of principal on the Notes. All payments due to the Liquidity Facility Provider under the Class B Liquidity Facility (other than

in respect of any Liquidity Subordinated Amounts) will rank ahead of payments of interest and repayments of principal on the Class B Notes.

Liquidity Facility Events of Default

Following the occurrence of certain events of default in relation to the Issuer, *inter alia*:

- (a) non-payment by the Issuer of amounts due under the Liquidity Facility Agreement which continues unremedied; or
- (b) the Issuer becomes Insolvent,

the Liquidity Facility Provider may declare that any undrawn portion of the Liquidity Facility Commitments shall be cancelled, whereupon the Liquidity Facility Commitments will be reduced to zero and/or declare that all or part of any amounts outstanding under the Liquidity Facility Agreement will become immediately due and payable.

Interest

Liquidity Drawings will bear interest payable to the Liquidity Facility Provider at a per annum rate equal to the sum of EURIBOR and the relevant Liquidity Facility Margin.

The Cash Administrator will invest (as instructed by the Issuer and on behalf of the Issuer) amounts standing to the credit of the relevant Liquidity Accounts which will be liquidated if such amounts are needed to fund a Liquidity Drawing.

The Liquidity Facility Agreement is governed by German law.

THE RR EXPENSES FACILITY AGREEMENT

On the Closing Date, the Issuer will enter into the RR Expenses Facility Agreement with, *inter alios*, the RR Expenses Facility Provider, the Cash Administrator and the Trustee whereby the RR Expenses Facility Provider will provide to the Issuer an expenses facility to allow it to make a drawing (the "**RR Expenses Drawing**") to fund the payment of certain RR Asset Expenses (the "**RR Expenses Facility**").

Any RR Expenses Drawings under the RR Expenses Facility are to be transferred to the RR Expenses Account and applied towards payment of the RR Asset Expenses, the reimbursement of any RR Asset Expenses incurred by the Servicer or the Special Servicer and the costs and expenses required for the creation of Future Mortgages.

"**RR Asset Expenses**" means any expenses, costs, fees or charges (collectively, "expenses") incurred in connection with (a) the transfer of any RR Assets to the Issuer; and (b) the creation of mortgage(s) on any of the Related Properties if and to the extent such expenses relate to Purchased Loan Receivables and, if and to the extent the relevant Loan Agreements are syndicated loans, such portions of such loans ranking *pari passu* with the respective Purchased Loan Receivable pursuant to the relevant syndication agreement which are not allocated to the Seller (or upon transfer, the Issuer).

The "**RR Expenses Facility Commitment**" shall be an amount equal to €11,000,000.

The RR Expenses Facility Agreement will provide that if the RR Expenses Facility Provider does not have short term, unsecured, unguaranteed and unsubordinated debt obligations rated at least F1 by the Rating Agency or long term, unsecured, unguaranteed and unsubordinated debt obligations rated at least A by the Rating Agency (the "**RREF Requisite Rating**") and the RR Expenses Facility Provider has not:

- (a) transferred the rights and obligations of the RR Expenses Facility Provider under the RR Expenses Facility Agreement by way of assumption of contract (*Vertragsübernahme*) to a bank or financial institution which is a Qualifying Bank with the RREF Requisite Rating (a "**RR Expenses Facility Transfer**"); or
- (b) made arrangements for the Issuer to enter into a replacement expenses facility with a Qualifying Bank having the RREF Requisite Rating; or
- (c) obtained a guarantee of, or a co-obligor on, the obligations of the RR Expenses Facility Provider under the RR Expenses Facility Agreement from a third party having the RREF Requisite Rating; or

- (d) taken such other actions as the RR Expenses Facility Provider may agree with the Rating Agency,

the Issuer (or the Cash Administrator on its behalf) may require the RR Expenses Facility Provider to pay into a designated bank account of the Issuer maintained with the Issuer Reserve Account Bank (the "**RR Expenses Stand-By I Account**") an amount equal to its unutilised RR Expenses Facility Commitment (the "**RR Expenses Stand-By Drawing**").

Within fourteen (14) days after the occurrence of an IRAB Transfer Event, the Issuer Reserve Account Bank is required to transfer the credit balances in the RR Expenses Stand-By I Account into the reserve account opened by it on or before the Closing Date in its own name with Bank of America, National Association (the "**RR Expenses Stand-By II Account**"). The RR Expenses Facility Provider undertakes that it will register and hold its claims under or in respect of the RR Expenses Stand-By II Account in the Refinancing Register for the benefit of the Issuer on the Closing Date.

Extension of RR Expenses Facility

The Issuer (or the Cash Administrator on its behalf) may request that the RR Expenses Facility be extended for a further period of up to three hundred and sixty-four (364) days by delivering a request to the RR Expenses Facility Provider no more than fifteen (15) days, and not less than eleven (11) days, prior to the termination date of the RR Expenses Facility. The RR Expenses Facility Provider is not obliged to agree to such extension requests. A failure by the RR Expenses Facility Provider to agree to such an extension request on or before the tenth (10th) day prior to the termination of the RR Expenses Facility Agreement is deemed to be an extension refusal. In the event of an extension refusal, if the Issuer is unable to arrange a transfer of the RR Expenses Facility Provider's rights and obligations by way of assumption of contract (*Vertragsübernahme*) to another bank or financial institution which is a Qualifying Bank with the RREF Requisite Rating in accordance with the RR Expenses Facility Agreement three (3) Business Days before the RR Expenses Facility termination date, then the Issuer may:

- (a) request the RR Expenses Facility Provider to transfer all of its rights and obligations under the RR Expenses Facility Agreement to a new RR Expenses Facility Provider and the RR Expenses Facility Provider will be obliged to comply with such request and meet its own costs and the costs of the Issuer and the Trustee incurred in connection with such transfer; and/or
- (b) request a RR Expenses Stand-By Drawing (as described above) in an amount equal to the relevant unutilised RR Expenses Facility Commitment at such time and pay such amount into the RR Expenses Stand-By I Account. Immediately following such RR Expenses Stand-By Drawing of the relevant unutilised RR Expenses Facility Commitment, the RR Expenses Facility Commitment will be cancelled from such date and the RR Expenses Facility Provider will notify the Issuer and the Trustee of such cancellation.

Repayment of Drawings

Each RR Expenses Drawing will be repayable on the first Payment Date following the date on which such RR Expenses Drawing was made in accordance with the Interest Priority of Payments or the Enforcement Priority of Payments (as applicable). Subject to the conditions in the RR Expenses Facility Agreement, any such RR Expenses Drawing which is due and payable on the relevant Payment Date may be re-borrowed by drawing a new RR Expenses Drawing and netting the amount due to be drawn down in respect of the new RR Expenses Drawing and the amount due and payable under the outstanding RR Expenses Drawing. This procedure will be repeated on each subsequent Payment Date before the Final Maturity Date, up to the amount of the relevant RR Expenses Facility Commitment, until all amounts outstanding are paid and/or repaid.

Each RR Expenses Stand-By Drawing (including, for the avoidance of doubt, any outstanding RR Expenses Drawings) shall be repayable to the RR Expenses Facility Provider on the earlier of:

- (a) if the event resulting in the making of the RR Expenses Stand-By Drawing was the RR Expenses Facility Provider ceasing to have the RREF Requisite Rating, on the first Payment Date after the date on which the RR Expenses Facility Provider has given notice to the Issuer, the Cash Administrator and the Trustee that the RR Expenses Facility Provider has been upgraded to the RREF Requisite Rating (the "**RREF Upgrade Date**") **provided that** (1) the relevant repayment date falls prior to the RR Expenses Facility Termination Date and (2) the RR Expenses Facility Provider has the RREF Requisite Rating on such repayment date;
- (b) the Final Maturity Date; or

- (c) the delivery of an Enforcement Notice.

All payments due to the RR Expenses Facility Provider under the RR Expenses Facility (other than in respect of any RR Asset Expenses Subordinated Amounts) will rank ahead of payments of interest and repayments of principal on the Class B Notes.

RR Expenses Facility Events of Default

Following the occurrence of certain events of default in relation to the Issuer, *inter alia*:

- (a) non-payment by the Issuer of amounts due under the RR Expenses Facility Agreement which continues unremedied; or
- (b) the Issuer becomes Insolvent,

the RR Expenses Facility Provider may declare that any undrawn portion of the RR Expenses Facility Commitment shall be cancelled, whereupon the RR Expenses Facility Commitment will be reduced to zero and/or declare that all or part of any amounts outstanding under the RR Expenses Facility Agreement will become immediately due and payable.

Interest

RR Expenses Drawings will bear interest payable to the RR Expenses Facility Provider at a per annum rate equal to the sum of EURIBOR and the RR Expenses Facility Margin.

The Cash Administrator will invest (as instructed by the Issuer and on behalf of the Issuer) amounts standing to the credit of the RR Expenses Account which will be liquidated if such amounts are needed to fund an RR Expenses Stand-By Drawing.

The RR Expenses Facility Agreement is governed by German law.

THE DUTCH DEED OF PLEDGE

Pursuant to a Dutch deed of pledge between the Issuer and the Trustee dated the Closing Date (as amended, supplemented or superseded from time to time) (the "**Dutch Deed of Pledge**"), the Issuer will grant a right of pledge over the Dutch Loan Receivable (the "**Dutch Pledge**"). The Issuer and the Trustee agree that the Issuer will owe to the Trustee amounts equal to the amounts at any time due by the Issuer to the Secured Parties under or in connection with the Transaction Documents (the "**Dutch Parallel Debt**"). The Dutch Pledge will secure the Dutch Parallel Debt.

The Dutch Deed of Pledge is governed by Dutch law.

THE ISSUER PLEDGE AGREEMENT

Pursuant to a pledge agreement between the Issuer and the Seller dated the Closing Date (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**Issuer Pledge Agreement**"), the Issuer will pledge (*verpfänden*) pursuant to Sections 1204, 1273 and 1279 of the German Civil Code (*Bürgerliches Gesetzbuch*) to the Seller as security for the Seller's right under the Loan Receivables Purchase Agreement to have the Verity Amount deposited in the Verity Account with the Issuer Reserve Account Bank for the purposes of satisfying any Verity Issuer Payment Amount and to receive such Verity Issuer Payment Amounts in accordance with the Loan Receivables Purchase Agreement all of its present and future, conditional and unconditional claims and rights arising out of and in connection with the Verity Account and all monies standing to the credit thereof. The pledge in favour of the Seller will rank senior to the Pledge over the Verity Account granted by the Issuer to the Trustee under the Trust Agreement.

Upon the occurrence of a Verity Issuer Payment Event, the Seller will be entitled to procure the withdrawal from the Verity Account of the Verity Issuer Payment Amount that is attributable to the relevant Verity Loan Receivable in accordance with the provisions of the Loan Receivables Purchase Agreement.

The Issuer Pledge Agreement is governed by German law.

THE HSH DEED OF CHARGE

Pursuant to a deed of charge between HSH Nordbank, the Issuer and the Trustee dated the Closing Date (as amended, supplemented or superseded from time to time in accordance with the terms thereof and the Terms and Conditions) (the "**HSH Deed of Charge**"), HSH Nordbank, with full title guarantee, in favour of the Issuer will charge absolutely the Benefit in, under and to each of the Replacement Reserve Accounts and all sums of money which may now be or hereafter are from time to time standing to the credit of the Replacement Reserve Accounts and assign absolutely the Benefit in, under and to the HSH Account Agreement. Such charge will secure the obligations of HSH Nordbank vis-à-vis the Issuer

HSH Nordbank will undertake to perform all acts and provide all documents, at its own expense, which may be reasonably necessary or desirable to: (i) obtain the full benefits of, perfect or more effectively establish the security constituted or intended to be constituted by the HSH Deed of Charge; or (ii) establish, maintain, protect, preserve or enforce the same; or (iii) exercise the rights and powers of the Issuer. HSH Nordbank will also take such other actions as the Issuer may deem necessary or desirable under applicable law to perfect, transfer and/or enforce the security and to ensure that the security interests created under the HSH Deed of Charge are not negatively affected.

The HSH Deed of Charge will be governed by English law.

8. USE OF PROCEEDS

On the Closing Date, the Issuer will apply the proceeds of the issue of the Notes (a) towards the purchase of the Initial Portfolio by payment of €652,006,000 towards the purchase price therefor, (b) to fund a prefunding reserve of €235,000,000 (the "**Prefunding Reserve**") for application towards the payment of the purchase price of further Loan Receivables to be purchased from the Seller after the Closing Date subject, *inter alia*, to having sufficient funds for the purpose and certain prefunding criteria as described herein having been met and (c) a verity amount of €304,094,000 (the "**Verity Amount**") for payment from time to time to the Seller upon delivery by the Seller to the Issuer of satisfactory legal opinions as to the enforceability of certain Loan Receivables and/or Loan Collateral in the Initial Portfolio or application towards payment of principal on the Class A Notes as described herein.

9. THE INITIAL PORTFOLIO

The loan portfolio will initially consist of Loan Receivables which meet the Eligibility Criteria (each an "Eligible Loan Receivable") arising from commercial mortgage loans granted by HSH Nordbank.

"Loan Receivables" means, whether agreed to in writing or otherwise, any and all present and future indebtedness owed to the Seller by an Obligor and any unconditional, irrevocable obligation of an Obligor (whether as principal, surety or otherwise and whether present or future, contingent or otherwise) (including, for the avoidance of doubt, all interest) for the payment of monies, including the repayment of borrowed money, to the Seller under a Loan Agreement (other than any such obligation that is in the form of, or represented by, a bond, note, certificated debt security or other debt security), which are offered to the Issuer by the Seller from time to time and "Loan Receivable" means any of them. For the avoidance of doubt, Loan Receivables may also include Partial Loans.

Commercial Real Estate Loans

The Initial Loans will be Commercial Real Estate Loans granted to two groups of Borrowers. A first group of Loans (the "SPV Loans") has been granted to special purpose vehicles while a second group of Loans has been granted to KAGs acting on behalf of a Fund (the "Fund Loans"). Special purpose vehicles are established for the purpose of acquiring the relevant property or properties or an interest in another special purpose vehicle which holds the relevant property. Such special purpose vehicles typically have limited or no assets other than the property or properties.

The Initial Loans have been granted in respect of office, retail, multifamily, residential and other properties located in the Federal Republic of Germany, The Netherlands, France, Spain and Belgium. The Initial Loans have either been granted by HSH Nordbank or by other banks in which case, HSH Nordbank has acquired an interest in the relevant Loan by way of syndication.

SPV Loans are typically directly secured by a mortgage. In some cases only a part of the amount outstanding under the relevant Loan is secured by a mortgage. Fund Loans are secured by a security assignment of the reimbursement claim of the KAG against the relevant Fund. As a result the ability of a KAG to make payments on a Fund Loan depends on the performance of the entire assets held by the relevant KAG. In addition, the KAGs (however, not all of the KAGs) have granted an undertaking to grant, subject to certain conditions (typically a default), a mortgage over the property in respect of which the Loan has been granted.

Generally, the Obligors under a Commercial Real Estate Loan are not required to make any (or any significant) repayment of principal prior to the maturity date of the relevant Loan.

The Finance Documents in relation to an SPV Loan will typically set out certain covenants such as restricting the Obligor's activities, their capacity to incur further indebtedness or grant any additional security over any of their assets, setting out requirements in relation to maintenance and insurance of the properties, the application of the proceeds of any disposal or the requirement to maintain appropriate hedge arrangements. Financial covenants may be specified in relation to the loan to value ratio of the property and the interest cover ratio. Failure to comply with these covenants may give the lender (or any Borrower Security Trustee on its behalf) the right to require prepayment of the loan and enforce any Loan Collateral. The Finance Documents relating to Fund Loans typically only include certain of the covenants included in the Finance Documents for SPV Loans.

In respect of certain Initial Loans additional indebtedness may exist. Such additional indebtedness may be subordinated by way of a subordination agreement or by way of an intercreditor agreement. In other cases, additional indebtedness may exist which ranks *pari passu* with claims due to the Seller.

Initial Loan Receivables - Stratification Tables

Set out below are stratification tables containing key information as at 1 April 2009 relating to the portfolio of Initial Loan Receivables (and the relevant Loan Collateral) to be acquired by the Issuer on the Closing Date.

Loan Level Stratifications	
Number of Loans	17
Current Loan Pool Balance (EUR)*	956,086,187.66

Property Level Strats at Origination Date	
Number of Properties	226
Original Whole Loan Balances (EUR)	2,522,657,038
Original Property Market Valuation (EUR)	3,436,079,000
Original WA LTV	76.44 %
Lettable Area (sq M)	1,155,685
Number of Lettable Units**	5,549
Gross Rent at Origination (EUR)	171,093,736
ERV (EUR)	164,097,433

* Only includes balances of loan receivables transferred to Plato No. 1 S.A. on the Closing Date

** Includes 74 parking places

Property Distribution Type

Property Type	Gross Rent (EUR)	Gross Rent %	ERV (EUR)	ERV %	Lettable Area	Lettable Area %
Office	60,512,411	77.50%	35,879,608	55.40%	317,550	48.86%
Multifamily	8,344,281	10.69%	10,709,652	16.54%	168,844	25.98%
Retail Warehouse	8,317,800	10.65%	7,990,278	12.34%	158,243	24.35%
Other	901,655	1.15%	10,189,885	15.73%	5,337	0.82%
Total	78,076,147	100%	64,769,422	100%	649,973	100%

Top 10 Tenants by Gross Rent

No.	Gross Rent (EUR)	% of Total
1	13,538,930	17.34%
2	12,631,464	16.18%
3	7,981,325	10.22%
4	6,700,000	8.58%
5	3,664,121	4.69%
6	2,574,074	3.30%
7	2,266,165	2.90%
8	2,059,992	2.64%
9	1,954,344	2.50%

No.	Gross Rent (EUR)	% of Total
10	1,827,055	2.34%
Total	55,197,470	70.70%

Geographical Distribution

Property Region	Market Value (EUR)	% of Total	Gross Rent (EUR)	% of Total
Spain	302,445,000	21%	12,631,464	16%
France	291,740,000	21%	16,120,366	21%
Belgium	324,500,000	23%	17,660,984	23%
Netherlands	320,299,463	23%	19,911,887	26%
Germany	180,117,000	13%	11,751,446	15%
Total	1,419,101,463	100%	78,076,147	100%

Years to Expiry from Initial Cut-off Date (excluding multifamily units)

Years to Expiry	Gross Rent (EUR)	% of Total	Lettable Area (sqm)	% of Total
0,0 yrs	243,740	0.3%	17,767	3.7%
0,1 to 1,0 yrs	3,863,338	5.5%	19,173	4.0%
1,1 to 2,0 yrs	4,438,812	6.4%	24,246	5.0%
2,1 to 3,0 yrs	1,182,271	1.7%	6,752	1.4%
3,1 to 4,0 yrs	3,835,988	5.5%	49,654	10.3%
4,1 to 5,0 yrs	986,406	1.4%	5,659	1.2%
5,1 to 6,0 yrs	5,282,099	7.6%	27,651	5.7%
6,1 to 7,0 yrs	11,288,893	16.2%	151,701	31.5%
7,1 to 8,0 yrs	3,045,081	4.4%	12,722	2.6%
8,1 to 9,0 yrs	10,215,458	14.6%	40,651	8.4%
9,1 to 10,0 yrs	2,276,492	3.3%	35,605	7.4%
10,1 to 15,0 yrs	10,019,930	14.4%	45,160	9.4%
15,1 to 20,0 yrs	338,633	0.5%	2,142	0.4%
20,1 yrs +	12,754,042	18.3%	42,246	8.8%
Total	69,771,183	100.0%	481,129	100.0%

Pool LTV Profile (Whole Loan Balances and Values at Origination of Initial Loan Receivables)

LTV Range	Count	% of Total	Original Loan Balance (EUR)	% of Total
40 to 49%	6	35%	172,472,000	7%
50 to 59%	2	12%	45,750,000	2%
60 to 69%	3	18%	122,979,835	5%
70 to 79%	2	12%	276,000,000	11%
80 to 85% *	4	24%	338,884,353	13%
Total	17	100%	956,086,188	38%

* Maximum LTV Range = 84.4%

10. CREDIT AND COLLECTION POLICIES

The following is a summary of the standard Credit and Collection Policies to be applied in the context of the Purchased Loan Receivables.

All Purchased Loan Receivables will be serviced in accordance with the Credit and Collection Policies subject to the Servicing Standard.

Structured Research

Business Unit (BU) Real Estate's structured research capabilities support two primary efforts: "market research on demand" and "market risk monitoring", which are individually and co-operatively outlined below.

In general the structured research provides input for the real estate division in terms of investment strategy, portfolio management, as well as credit application and credit monitoring. The input for market statements and risk monitoring is based upon our own market expertise, third party input from professional external research providers with local expertise (e.g. Reis Inc., Real Capital Analytics for US markets) as well as in-house specialist know-how from the economic research department, the international and national branches credit analysts and appraisers. Under the leadership of the real estate research the network of experts is coordinated. All members are in close contact and provide additional cross-support through information exchange, market inputs and cross-analysis.

Market Risk Monitoring

Since 2002 an own market risk monitoring has been implemented for more than 40 core markets in Europe and the US. A core market is defined as a specific asset/region combination with a significant stake of the HSH's real estate credit portfolio, and includes the Property Jurisdictions (Germany, Belgium, England, Spain and The Netherlands). The market risk is monitored/recalculated bi-annually and incorporated in a rental market risk score and an investment market risk score. Both scores are based upon individually designed econometric models developed by HSH and the following assumptions: The market risk in real estate financing is expressed in the ability to repay a loan, in particular subject to the likelihood of finding a new lessee for the property or of its resale. For the bank as a lender, the size of cash flow and likelihood of default are decisive. A set of real estate market time series parameters is defined to represent a specific market segment e.g. "office market". Indicators such as "new supply", "occupancy level", "net absorption", "rent", "cap rate", "market liquidity", "risk free premium" and spreads as well as macroeconomic fundamentals are the determining factors and are projected over a forecast horizon of 3 years. The better these factors perform and the lower the volatility is, the more favourable is the risk situation. For a better comparison of regions and asset classes the scores are put into five scorebands ranging from "low risk" to "high risk". The pre-calculated risk is discussed with the above-mentioned in-house experts and if necessary adjusted in a market conference.

In addition to the econometric models, the market research provides a supplementary market analysis report with background information for a better understanding of the market movements and projections.

Post-market conference conclusions form the backbone of HSH Nordbank's real estate strategy.

The market risk scores are incorporated in credit approval, credit monitoring and portfolio management. The latter uses variations of the market risk score parameters to model different market situations such as real case expectations and worst case expectations. The scenario analysis is a standard ex post and ex ante analysis within the portfolio management to calculate the impact of different scenarios on HSH's credit portfolio and collaterals.

Market Research on Demand

For non-core markets research also provides reports and, if a set of data is available, also a market risk score as described for the monitoring process. Nevertheless, these markets are not included in the monitoring process.

Market research on demand also covers profound analysis of emerging markets which are subject to approval of new business sectors. This covers new asset classes (e.g. senior housing) as well as countries (e.g. Turkey) and special topics e.g. analysing financial market and real estate market interdependencies.

Syndicated loans (HSH Nordbank as participant)

HSH Nordbank's criteria for co-operation with its syndicate partners include suitability of the transaction (region, property type, pricing, and structure) as well as past performance of the arranger in syndicated loans.

HSH Nordbank applies the same credit criteria for syndicated loans as for directly originated loans.

In the event of an insolvency/failure to pay of the borrower of a syndicated loan, a leadership role is assumed by the lead arranger. The lead arranger manages the negotiation and foreclosure process and cooperates with the syndicate members during the process.

HSH Nordbank's work out specialists are involved in resolving any sub- or non-performing loan situation and in managing the work out process. Depending on the syndicated loan agreement, HSH Nordbank will make use of its veto, control or information rights, subject, in the case of the Purchased Loan Receivables, to the Servicing Standard.

Marketing

Based on HSH Nordbank's general strategy, a detailed market strategy is prepared in combination with HSH Nordbank's structured research program, which strives for a balanced loan portfolio and risk profile. It is the responsibility of the BU Origination Real Estate ("**ORE**") to identify target customers within and outside existing clientele relationships. These are, amongst others, real estate funds/trusts and developers, institutional investors, high net worth individuals/families as well as financial institutions.

Currently, the BU uses four primary, direct marketing channels to target potential clients:

- existing customer relationships,
- referrals from existing clients,
- using RSM's and the bank's network, and

- structured research.

Furthermore, the BU works with selected market partners (e.g. real estate investment banks and mortgage brokers) with the goal of securing loan requests from quality prospects.

The BU markets its products through numerous memberships. In Germany, the BU has a well-visited booth at the annual EXPO-Real conference.⁷ In Europe, the BU is annually represented at MIPIM, one of the most important European real estate conferences.⁸

Furthermore, the BU's relationship managers regularly take part in panels organised by customers and other market participants, such as legal counsels, associated banks and appraisers.

In addition to the aforementioned fora, relationship managers regularly meet with customers/clients to inform them of BU Real Estate's products/services and to learn of additional needs or other pertinent issues. These open discussions are often combined with roadshows promoting new credit and/or capital market products or relating to current issues within real estate investment. To supplement expertise, relationship managers are often accompanied by the respective specialist (e.g. credit analyst).

The BU's structured research program is another element of the marketing and pre-sales process. This information combined with press monitoring, speaking with relevant market participants, leveraging existing contacts and scrutinizing real estate journals, gives relationship managers access to information about customer/market strategies and current business plans. Relationship managers are then expected to follow-up with existing and potential customers in order to directly address current wants/needs.

Upon learning of a client's interest in a particular transaction, the relationship manager should preliminarily ascertain customer-to-transaction fit and feasibility. Often, the relationship manager can provide the client with supplementary, pertinent information regarding the transaction as well as an indication of the BU's interest (or not) at an early stage in the process. When possible, subject to information constraints, etc., the relationship manager may also provide preliminary structuring details and pricing data.

Information Exchange and Discussion

As detailed above, the origination of property financing in Europe is undertaken by relationship managers in many different places throughout Europe, who are responsible for the entire customer relationship. The relationship managers are based either in head office, one of the branches or in representative offices. Most of the due diligence and risk analysis, however, is the responsibility of the credit analyst within the headquarters in Germany or for the relevant markets of the credit analyst in the branches (Scandinavia and UK business)

The BU's relationship managers initiate the credit process by compiling applicable loan and relevant property information. When relationship

⁷ See also: www.exporeal.net

⁸ For further information, see www.mipim.com

managers in cooperation with credit analysts ascertain that a credit application meets preliminary requirements with regard to property quality and borrower creditworthiness, the official application process begins. Introductory information is then forwarded to and discussed with the relevant credit analyst in the Head Office or the relevant branch. From inception through completion, the credit approval process is shaped by co-operation between the relationship manager and the credit analyst (the "**Deal Team**").

Requisite information includes, inter alia:

- Customer history, track record and creditworthiness;
- Property history and specifics;
- Tenant information;
- Market information;
- Call reports on client meetings; and
- A customer/client needs analysis.

Due Diligence

The goal of the due diligence process is to collect sufficient information regarding all relevant factors that could influence the project's profitability and/or value of the property or the expected exit/refinancing of the loan and disseminate it to relevant parties. Examples of requisite information include but are not limited to:

- Macro and microeconomic conditions;
- Country Risk;
- Location, including environmental issues;
- Infrastructure;
- Quality and (alternative) use(s) of property;
- Equipment;
- legal structure/issues of borrower(s)
- sponsor(s)
- Quality and background of borrower, tenants, and management;
- Maturity of leases and break options;
- Mandatory maintenance expenses; and
- Remaining useful economic life of the property.

Risk analysis

The relationship manager, the credit analyst and/or the internal appraiser typically inspect each individual property. The Deal Team or its individual members tour the market and meet personally with clients as well as with other significant transaction participants, such as appraisers, leasing and sales brokers, etc.

Detailed product standards have been developed for each individual core

asset class.

The risk analysis takes into account all information collected in the Due Diligence process (as defined above).

Two important ratios included in the risk analysis are the LTV and DSCR.

1. LTV

The sponsor's equity is a major factor as certain loan-to-value ("**LTV**") ratios may not be exceeded.⁹ Hurdle LTV rates in continental Europe are typically around 70 to 80 percent. Higher LTV ratios require special provisions (e.g., additional collateral or accelerated capital amortisation). In order to assess the individual location and evaluate the value of the collateral, the property is appraised either by certified external or internal appraisers, acceptable to and mandated by the BU. If external appraisers are mandated BU Credit Risk Management (described below) is required to review all valuations.

2. DSCR

Property cash flows are also analysed on the basis of regional and asset class aspects. The business case of the customer is evaluated and an own bank case is modelled. Projections are based on assumptions with regard to market rents, vacancies, renewal probabilities, economic expectations, supply and demand characteristics, etc. Cash flow projections are sensitised in various scenarios to determine break-even situations and verify or refine the loan structure.

Structuring

It is the responsibility of the credit analyst to tailor the terms and conditions of each individual transaction to match customer needs while simultaneously mitigating credit risks to an acceptable level based on the results achieved in the due diligence/risk analysis process.

Financial engineering is employed with the goal of mitigating transaction risk and may utilise all or some of the following mechanisms:

- **LTV limitations**, to reduce debt service and/or limit the funded credit amount. Alternatively, this type of contractual protection can also be achieved by net worth covenants, which stipulate either early borrower trigger pre-payments or guarantees to be provided by sponsors.
- **Debt Service Coverage Ratio ("**DSCR**") covenants**,¹⁰ such as cash flow sweep mechanisms of property cash flows and/or escrow agreements to ensure availability of funds for future

⁹ This "loan-to-value" ratio, or "LTV" as it is commonly referred to, is the ratio of the loan amount (i.e., amount financed plus any amount committed) to the Property Value (as defined in the Information Memorandum). LTV considerations are important in the credit decision process, for example: interest/spread pricing, repossession liquidity, additional collateral/security requirements, etc.

¹⁰ The DSCR, which is defined in the Information Memorandum, is calculated as annual gross revenue, less annual operating expenses divided by annual debt service. This ratio serves as a benchmark for decisions about new debt and the management of debt. Covenants or provisions regulating DSCR (i.e., that adequate pro-forma cash flows exist to service debt) are used as an important tool in the real estate market to help assay potential debt servicing problems. These covenants, as defined in loan documentation, are triggers used to channel other property cash flows / borrower resources into discrete accounts/escrows that are used to ensure future debt service payments.

debt service payments, leasing commissions, necessary property improvements and other capital expenditures;

- **Interest rate hedges** to limit interest costs/exposures;
- **Limited debt service guarantees** from sponsors or other guarantors, which may offer additional servicing comfort in some transactions;
- **Loan term limitations** to mitigate risks arising from significant lease roll-overs; etc.

Credit Protocol

The BU's multi-step credit approval process begins after completion of the risk analysis and structuring elements, the Deal Team is responsible for producing a credit protocol, which is based upon a Bank template and designed to determine whether the transaction meets the BU's quality standards. This internally-generated document requires, at least, the following items:

- Details of the loan terms and conditions (e.g., structure, collateral, etc.);
- A Market Risk Score and a market summary including a synopsis of the local supply and demand situation;
- Information from the property appraisal (including property description, appraisal value, LTV and DSCR calculations, cash flow and scenario analysis, etc.);
- An internal rating;
- The rental situation (i.e., tenant creditworthiness, current rent, projected rental value, maturity of leases including break options, etc.); and
- Borrower details (i.e., borrower creditworthiness).

Subsequent to the aforementioned credit protocol compilation, the transaction will be proposed by the Deal Team together with the Head of the Analysis Unit. Subject to positive votes the credit protocol is then forwarded to the appropriate competence level for the first vote

If approved, the credit protocol is then forwarded to the previously mentioned, separate and independent BU Credit Risk Management for its second vote.

It is important to note that BU Credit Risk Management's credit analyst is expected to assess risks independently from the market unit, form an own opinion and subsequently communicate a credit recommendation (the "second vote").

Approval / Rejection

If the transaction is supported by BU Credit Risk Management, the credit protocol with the second vote is presented to the board of directors at HSH Nordbank or the respective competence level for an ultimate credit decision in accordance with internal approval guidelines. There are five competency levels within HSH Nordbank utilised to approve loans. The competence level depends upon:

- Economic equity employed (depending on rating, collateral and

maturity of the loan),

- Loan amount,
- Total exposure to the borrowers' group of companies,

In case BU Credit Risk Management does not support an application the applicable competence level for the transaction increases by one notch.

According to internal guidelines loans or group exposures exceeding specified limits must be presented to the Risk Committee of HSH Nordbank's Supervisory Board, either for informational purposes or to obtain credit consent.

Process Summary

Relationship Manager ("RSM"): Relationship managers develop and manage a large portfolio of diverse and complex banking relationships for BU Real Estate. The relationship manager acts as a consultant to clients and a resource to the BU in developing and retaining business and is expected to have excellent product and operational knowledge, superior corporate finance expertise and outstanding negotiating and closing skills. Relationship managers are responsible for maintaining customer contact, monitor markets and customer businesses and for regular reports on the overall customer relationship to management. In addition, relationship managers are responsible for exploring customers' needs for (additional) bank products / services, and have significant input with regard to transaction structure.

Credit analyst ("CA"): Credit analysts are primarily involved with risk analysis and monitoring. It is their responsibility to analyse customer creditworthiness, management skills, etc., to rate each new customer and transaction and to complete board applications for new transactions. In addition, they structure transactions in co-operation with relationship managers and validate loan documentation. For existing loans, a credit analyst is required to annually review and monitor (inter alia review of collateral values, risk re-rating ,etc.) customers and/or transactions and to work closely with the watch list / restructuring group in work outs. It includes coordination, management of all parties involved (RSM, appraiser, notary, lawyer, CRM, loan management, collateral management ...).

BU Credit Risk Management ("CRM"): A separate and independent department reporting to another board member, BU Credit Risk Management is responsible for examining all rating results and any other relevant information prior to loan approval and during the life of the loan. Larger or more complex transactions require early involvement of the CRM team.

Closing / Transaction Documentation

Prior to definitive approval, a pre-contract agreement is often finalised in the form of a term sheet, subject to satisfactory loan documentation, due diligence and credit approval. All foreign legal documents are prepared on the basis of the bank standard documentation if the loan documentation is based on German law. In case where foreign law applies HSH Nordbank cooperates with external attorneys from recognised law firms which are on the legal panel of HSH Nordbank.

Examples of essential transaction documentation include:

Loan- and collateral documentation

Insurance coverage: The bank requires appropriate insurance coverage for the projects being financed. Rights from insurance contracts are pledged to the bank and the pledge being made transparent to the insurance companies.

Legal opinions are required for agreements governed by foreign law. Legal opinions confirming the validity and enforceability of HSH Nordbank's rights are to be cross-checked by BU Legal. The same applies to agreements made under German law with foreign partners. Legal opinions must be prepared by law firms either mandated by HSH Nordbank or by customers' counsels. In any case they are cross-checked by BU Legal to verify that these documents comply with HSH Nordbank's requirements.

Reports on title are essential to obtain a confirmation on the legal status of the property in order to secure a valid mortgage registration.

Conditions precedent to each loan drawdown, which are agreed upon in the loan documentation, are designed to ensure that all requirements have been fulfilled as stipulated. The Bank's operational manual defines the scope of internal checks & reviews prior to loan disbursement.

CP documents usually include: property valuation reports, insurance documents, lease contracts, legal opinions, corporate documents, in some cases also environmental due diligence reports.

Interest Rate Maintenance / Refinancing

The loan administration team is responsible for maintaining historical loan information, interpolating current data and monitoring account performance within HSH Nordbank's IT system. In addition, the team is responsible for the refinancing of loans and for initiating all internal processes in co-ordination with the credit analyst and the customer.

Property Appraisers

According to market standard for the international business, recognised external real estate appraisers such as Cushman & Wakefield, CB Richard Ellis, HVS International (Hotels), DTZ, Savills and Jones Lang LaSalle are appointed depending on the property type. These external valuations are double checked by internal valuers.

If the property is located in Germany valuations are typically established by the banks internal appraisers.

Services provided include, but are not limited to:

- Physically identifying and inspecting both the interior and exterior of the property, as well as its environs; identify and consider those characteristics that may have a legal, economic or physical impact on the subject;
- Examining the micro and macro market environment with respect to physical and economic factors relevant to the valuation process, researching available data and various other resources and/or interviewing regional and/or local market participants;
- Conducting regional and/or local research with respect to

applicable tax data, zoning requirements, flood zone status, demographics, income and expense data, and comparable listing, sale and rental information;

- Analysing data gathered through the use of appropriate and accepted appraisal methodologies to arrive at a probable value indication via each applicable approach to value; and
- Correlating and reconciling results into a reasoned value determination.

Post-Closing Supervision

In conjunction with post-closing reporting requirements Borrowers are required to provide the BU with various information, e.g. its annual reports. In addition and in relation to the incorporated risk of the transaction annual or quarterly property management reports are requested by BU Real Estate. On the basis of this information and in addition to internal portfolio/market monitoring procedures, loan ratios and ongoing borrower creditworthiness are periodically reviewed and assessed.

Valuations are double checked annually and at least every three years a new appraisal has to be produced (either in- or externally) on behalf of the bank.

Portfolio Monitoring

BU Real Estate is required to monitor the quality of individual loans as well as the entire portfolio on a regular basis and to periodically report on various aspects regarding the performance to senior management. Furthermore, BU Real Estate also co-ordinates the implementation of key systems used in identifying loans requiring greater and detailed attention.

For these reasons BU Real Estate has introduced its "PortfolioView" and "Scenariotool".

Both tools are analytical tools which use the central data base of the bank.

The "PortfolioView" is utilised in assessing real estate portfolio risk by employing various risk criteria, which cover asset class and financial structure, as well as internal rating data and other risk variables. Regular reports are generated, with two primary objectives:

- Ascertaining that exposure development is in line with the strategic planning for the monitored segment, and
- Assessing whether exposure development is compatible with the Market Risk Score.

The "Scenariotool" shows the main risk criteria LTV and DSCR on a single property basis for a defined asset class and regional portfolio. In a second step it uses the input from our market research team to create a future outlook over the defined portfolio.

Diagnostics / Workout Process

Established loan supervision procedures monitor post-closing developments of each loan transaction, domestic as well as international, helping the BU to identify potential problems. All loans within the BU Real Estate portfolio are to be monitored by relationship managers, credit analysts and loan managers. Along with relationship managers,

who are required to constantly re-evaluate properties, market conditions and other client investments to identify existing or potential credit situations, credit analysts and loan managers are responsible for monitoring loan payments and reporting on these activities. Loan managers within credit administration manage the day-to-day business. Loan manager functions include monitoring accounts, payments, repayment schedules, limits, covenants, etc. These managers are required to maintain IT-systems, observe all administrative standards and serve as reporting partner for other departments/BUs.

Problem loan identification

Frequently, potential problem loans are detected by a relationship manager and/or a credit analyst (optimally, the original Deal Team) and placed on a watch list or targeted for further remedial action in a restructuring phase, as the case may be.

Customer loans that are impacted by adverse economic conditions, become subject to liquidity constraints, etc. may be identified for workout procedures by the Deal Team, as described above, or 'flagged' using an IT-supported warning system (Credit loss database CLD) as outlined below.

The BU Group Risk Management has to be informed of the classification as an intensive case by the Market BU and it is entitled to obtain information in addition to this from the respective Market BU concerning further progress of the intensive cases.

Watch list flags

Loans triggering any of the watch list flags are placed on the watch list. Mortgages evidencing any one of the seven restructuring flags are immediately placed on the restructuring list.

Compulsory criteria:

- An HSH Nordbank internal credit rating of 10 or worse (object rating of 12 or higher).

Non-compulsory criteria, amongst others:

- Indications of a strategic crisis of the Borrower;
- Increasing short-term overdrafts not existing for longer than 90 continuous days;
- covenant breaches;
- HSH Nordbank HSH Nordbank internal credit rating decreases about more than 2 notches;
- Non compliance with §18 KWG;
- Sales/tenancy rates more than 15% behind schedule; and/or
- The object is not profitable enough / DSCR < 1.

Restructuring flags

Classification as a restructuring case is to be made if the exposure experiences a significant risk deterioration which makes it necessary to treat it as a restructuring case.

Compulsory criteria, amongst others:

- An HSH Nordbank internal credit rating of 13 or worse (object rating of 15 or higher);
- The borrower/bearer of economic risk (TWR) is threatened with over-indebtedness and/or applicable insolvency law; and/or
- The default criterion of "unlikeliness to pay" is met.

Non-compulsory criteria, amongst others:

- Vacancy greater than 40%;
- Disregard of fundamental covenants;
- Investment/construction cost overrun > 25% over planning without secure finance; and/or
- Income/turnover/rental losses > 25% expected in the next 12 months without the possibility of full compensation.

Problem loan remediation

HSH Nordbank has both business level and bank level experts to deal with credit problems, from temporary difficulties to complex turnaround situations. The workout process of watch list, restructuring and insolvency loans is detailed below:

Business level (BU Real Estate): Initially through the aforementioned loan monitoring procedures, a relationship manager and/or credit analyst with the assistance of loan managers identifies loans with potential problems and subsequently assists clients with the goal of solving short term problems before they become long term ones. Under this watch list scenario, a so-called 'hand-holding' phase is initiated. The goals when placing a loan on the watch list are multifaceted, including officially informing the Global Head of BU Real Estate Investors, intensifying the customer contact, increasing loan surveillance/observation by the BU, and consulting with and obtaining advice/assistance from business level workout specialists. The credit analyst remains responsible for watch list loans for quality control and remedial loan management purposes and retains this responsibility until the loan is either taken off the watch list to the performing portfolio or transferred into the restructuring phase.

Under-performing loans identified in the credit monitoring process are initially placed on a watch list as a pre-emptive measure to allow for close monitoring by the relationship manager and credit analyst as well as by the unit head. Direct and ongoing contact to property managers often allows for a rapid problem resolution. Those needing a more long-term rehabilitation effort are re-categorized as restructuring loans. Watch list loans which re-perform are placed to the portfolio and monitored along with other performing loans.

Business level (BU Group Risk Management): Should a loan be placed directly into the restructuring phase or be relegated from the watch list to the restructuring phase, additional criteria apply. At this level, loans are micro-managed by restructuring- or workout-specialists within BU Group Risk Management to avoid default. These loans are re-valued under current market conditions and restructured. After a credit condition review process, the specialist drafts a plan in close co-

operation with the customer in order to identify the problem source(s) and to outline remedial actions along with a time line.

The goal when placing a loan into the restructuring phase is to involve the BU Group's internal specialists with the objective of developing and implementing a recovery plan and related reporting criteria to monitor progress. Although the credit analyst of BU Real Estate does not withdraw from the process, an appointed specialist assumes responsibility for the loan.

Resolutions may include: finding additional investors, improving the management of cash flows, loan restructuring, security enhancements, or a multitude of other potential solutions. At times, payments of principal may be deferred for a pre-determined time period. Additionally, it may be determined that it is necessary to change the building management, leasing agent, ownership structure, etc., in order to rejuvenate the loan/property.

Successfully restructured loans are subsequently returned to the performing portfolio; but, as with all other loans, are further monitored.

Should a borrower become insolvent, responsibility for foreclosure, liquidation, sale, etc. is assumed by a team of liquidation specialists within BU Group Risk Management. This team works with BU Legal as well as external attorneys, appraisers, brokers, consultants, etc. to negotiate with third parties, simultaneously keeping the insolvent customer in mind, to make the most of an arduous liquidation process.

As a last measure, buildings are repossessed and sold. For buildings in less liquid markets, prior knowledge and understanding of markets and market participants facilitate a successful sale of the property.

Management support

Management support from BU Real Estate includes, *inter alia*:

- Portfolio monitoring and reporting specialists;
- Controlling within the department;
- Rating and risk analysis.

Loss reserves

The monitoring process in responsibility of Group Risk Management and a watch list/restructuring assignment are parts of a larger intra-Bank credit diagnostics procedure in which loans are reviewed to identify those with above average risk. The goal is to separate riskier loans using mandatory credit review structures and processes at a very early stage to minimise loss provisions and accruals.

11. THE ISSUER

General

The Issuer was incorporated under the laws of Luxembourg as a public limited liability company (*société anonyme*) on 16 July 2009 under the name Plato No. 1 S.A. for an unlimited duration and is registered with the Luxembourg Register of Trade and Companies under number B147322. The Issuer is a securitisation company (*société de titrisation*) within the meaning of and governed by the Luxembourg Securitisation Law.

The issued share capital of the Issuer is €31,000 held by Stichting Herkaten, a foundation (*Stichting*) established under the laws of The Netherlands, having its registered office (*statutaire zetel*) at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands, registered with the Amsterdam Chamber of Commerce (*Handelsregister van de Kamer van Koophandel voor Amsterdam*) under number 34345858 (holding 310 shares of a par value of €100 each) (the "**Shareholder**").

The Issuer's registered office is situated at 7, Val Ste Croix, L-1371 Luxembourg and the telephone number of the Issuer is +352 22 11 90 704.

Principal Activities

The corporate object of the Issuer is to carry out one or several securitisation operations governed by and under the Luxembourg Securitisation Law.

The Issuer may enter into any transactions by which it acquires or assumes, directly or indirectly or through another entity, risks relating to receivables, other assets or liabilities of third parties or inherent to all or part of the activities carried out by third parties. The acquisition or assumption of such risks by the Issuer will be financed by the issuance of securities by itself or by another securitisation entity the value or return of which depend on the risks acquired or assumed by the Issuer. Without prejudice to the generality of the foregoing, the Issuer may in particular:

- (a) subscribe or acquire in any other appropriate manner any securities, loans, or financial instruments (in the widest sense of the word) issued by international institutions or organisations, sovereign states, public and private companies;
- (b) sell, transfer, assign, charge or otherwise dispose of its assets in such manner and for such compensation as the board of directors, or any person appointed for such purpose shall approve at such time;
- (c) in the furtherance of its object, manage, apply or otherwise use all of its assets, securities or other financial instruments, and provide, within the limits of article 61(3) of the Luxembourg Securitisation Law, for any kind of guarantees and security rights, by way of mortgage, pledge, charge or other means over the assets and rights held by the Issuer;
- (d) in the context of the management of its assets, enter into securities lending transactions and repo agreements;
- (e) enter into and perform derivatives transactions (including, but not limited to, swaps, futures, forwards and options) and any similar transactions;
- (f) lend or raise funds, issue bonds, notes or any other form of debt instruments (including by way of participation interest) or equity securities the return or value of which shall depend on the risks acquired or assumed by the Issuer; and
- (g) enter into loan agreements as borrower within the scope of the Luxembourg Securitisation Law, in particular, in order to fund the acquisition or assumption of risks (i.e. prior to the issuance of the securities or, more generally, where the Issuer acts as acquisition entity), to comply with any payment or other obligation it has under any of its securities or any agreement entered into within the context of its activities.

The Issuer may take any measure to safeguard its rights and make any transactions whatsoever which are directly or indirectly connected with or useful for its purposes and which are able to promote their accomplishment or development.

The Issuer's constitutional documents have been published in the "*Mémorial C, Recueil des Sociétés et Associations*" number 1562 dated 13 August 2009, page 74957.

The Issuer has no prior operating experience other than in connection with the acquisition of the Loan Receivables, the issuance of the Notes and the arrangements with respect thereto.

The Issuer will not issue securities to the public on a continuous basis within the meaning of Article 19 of the Luxembourg Securitisation Law and thus is not and will not be authorised or supervised by the *Commission de Surveillance du Secteur Financier*.

Capitalisation of the Issuer

The following table sets forth the capitalisation of the Issuer as at the date of this Prospectus adjusted for the issue of the Shares and the Notes:

Indebtedness

Class A Notes	€700,000,000
Class B Notes	€30,000,000
Class C Notes	€461,100,000

Share Capital

Issued Shares (310 of €100)	€31,000
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Total Capitalisation	€31,000
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Independent Auditor and Financial Year

The Issuer's independent auditors (*réviseurs d'entreprises*) are KPMG Audit S.à.r.l., a member of the *Institut des Réviseurs d'Entreprises*, who have been appointed by the board of directors of the Issuer by a resolution dated 22 October 2009 in accordance with Article 48 of the Luxembourg Securitisation Law. The Issuer's fiscal year starts on 1 January and ends on 31 December each year, except for the first fiscal year that starts on the date of incorporation of the Issuer and ends on 31 December 2009. Save as disclosed above, as of the Closing Date, the Issuer has no loan capital outstanding, has not created shares which have not been allotted and has no term loans and no other borrowings or indebtedness in the nature of borrowings nor any contingent liabilities or guarantees. The Issuer will not have any material assets other than the Initial Loan Receivables.

Business

The Issuer's activities will principally be the issue of the Notes, the purchase of Eligible Loan Receivables, entering into the Transaction Documents and all documents and agreements relating thereto, the exercise of related rights and powers and other activities reasonably incidental thereto.

Taxation

The Issuer is subject to the tax laws of Luxembourg on income and net wealth and does not have any special tax status. It is, therefore, in principle entitled to the benefits of tax treaties concluded between the Grand Duchy of Luxembourg and other countries.

Directors

The directors of the Issuer as at the date of this Prospectus are as follows:

Name	Occupation	Business Address
Alexis Kamarowsky	Companies Director	7, Val Ste Croix, L-1371 Luxembourg
Federigo Cannizzaro di Belmontino	Companies Director	7, Val Ste Croix, L-1371 Luxembourg
Jean-Marc Debaty	Companies Director	7, Val Ste Croix, L-1371 Luxembourg

Description of Directors

Alexis Kamarowsky is a professional in the domiciliation business and acts as director of several securitisation companies in Luxembourg. He holds a degree in Law.

Federigo Cannizzaro di Belmontino is a professional in the domiciliation business and acts as director of several securitisation companies in Luxembourg. He holds a degree in Law.

Jean-Marc Debaty is a professional in the domiciliation business and acts as director of several securitisation companies in Luxembourg. He holds a degree in Business Administration.

Accounts

The Issuer has not prepared any audited financial statements prior to the Closing Date. The Issuer's first set of audited financial statements for the year ended 31 December 2009 will be prepared subsequent to the Closing Date.

Corporate Services

Under a corporate services agreement dated 16 July 2009 between the Issuer, the Corporate Services Provider and the sole shareholder of the Issuer (as from time to time renewed, extended, varied, amended, supplemented, modified, superseded or restated, the "**Corporate Services Agreement**"), Structured Finance Management (Luxembourg) S.A. has been appointed corporate services provider of the Issuer. Under the terms of the Corporate Services Agreement, the Corporate Services Provider will provide management, domiciliation and accounting services to the Issuer and be responsible for carrying out the day-to-day administrative activities of the Issuer, including providing secretarial, clerical, administrative and related services to the Issuer and maintaining the books and records of the Issuer in accordance with applicable laws and regulations of Luxembourg.

The Corporate Services Agreement contains provisions for the indemnification of the Corporate Services Provider.

Pursuant to the Corporate Services Agreement, the Corporate Services Provider is entitled to be paid certain fees in respect of the services to be provided by it thereunder.

The Corporate Services Agreement is governed by the laws of Luxembourg.

Employees

The Issuer has no employees.

Financial Information

Since the date of incorporation of the Issuer, the Issuer has not traded, no profits or losses have been made or incurred and no fees have been paid. Set out below is a balance sheet of the Issuer as at 1 February 2010. No statutory financial statements of the Issuer have been drawn up and audited for any period since its incorporation. The Directors have prepared financial statements of the Issuer for the purpose of supporting the financial information in respect of the Issuer disclosed in this Prospectus.

The balance sheet of the Issuer as at 1 February 2010 was as follows:

BALANCE SHEET

	1 February 2010
	EUR ('000)
CURRENT ASSETS	
Other prepaid amounts	9
Cash at bank	25
	<hr/>
	34
	<hr/> <hr/>

CAPITAL AND RESERVES

Subscribed share capital	31
Loss for the period	-24
Total Equity	<hr/> 7 <hr/>

CURRENT LIABILITIES

Creditors	19
Accrued Fees	8
	<hr/> 27 <hr/>
Total	<hr/> 34 <hr/>

PROFIT AND LOSS ACCOUNT

For the period from 16
July 2009 to 1 February
2010

EUR ('000)

INCOME	0
CHARGES	
Other operating charges	24
	<hr/> 24 <hr/>

NOTES TO THE FINANCIAL INFORMATION

General Information

The company is a Luxembourg public limited liability company incorporated in Luxembourg on 16 July 2009 under the legal form of "*Société Anonyme*" having its corporate office at 7, Val Ste. Croix, L-1371 Luxembourg, Grand Duchy of Luxembourg. The company is registered at the *Registre du Commerce et Sociétés* of Luxembourg City under B 0147322.

The accounting period of the company begins January 1st and terminates on December 31st, except for the first period of activity which begins on 16 July 2010, date of incorporation, and terminates on 31 December 2009.

The purpose of the Company is to act as acquisition and /or issuing entity in the context of one or several securitisation operations governed by and under the Law of 22 March 2004 on securitisations ("**Securitisation Law**"). The Company may enter into transactions by which it acquires or assumes, directly or indirectly or through another entity, risks relating to receivables, other assets or liabilities of third parties or inherent to all or part of the activities carried out by third parties. The acquisition or assumption of such risks by the Company will be financed by the issuance of securities by itself or by another securitisation entity the value or return of which depend on the risks acquired or assumed by the Company.

Accounting policies

Basis of preparation

The financial information has been prepared under the historical cost convention. The accounts are prepared in accordance with applicable Luxembourg General Accepted Accounting Principles.

a) Other prepaid amounts

Other prepaid amounts consist of administrative expenses related to a subsequent financial period. They are recorded at nominal value.

b) Creditors

This amount corresponds to costs in relation with the incorporation and domiciliation of the company.

Subscribed capital

EUR ('000)

310 Ordinary shares of €100 each

31

Allotted, called up and fully paid

The Issuer has entered into a number of contracts in connection with the issue of the Notes and for no other purpose other than in relation to the provision of administrative, secretarial, legal, audit and tax services to it.

Financial Year

The financial year of the Issuer is the calendar year and ends each 31 December.

Accounts

The Issuer will prepare annual audited and non-consolidated accounts. The first annual accounts will be prepared in respect of the period from the date of its incorporation to 31 December 2009. The Issuer will not prepare an interim financial statement.

Material Contracts

Apart from the Transaction Documents to which it is a party, the Issuer has not entered into any material contracts other than in the ordinary course of its business.

No Material Adverse Change

Since the date of the Issuer's incorporation, there has been no material adverse change, or any development reasonably likely to involve any material adverse change, in the condition (financial or otherwise) or general affairs of the Issuer.

Auditor's Report

The following is the text of a report received by the Directors of the Issuer from KPMG Audit S.à.r.l., the independent auditors to the Issuer:

To the Shareholder of

Plato No. 1 S.A.
7, Val Ste Croix
L-1371 Luxembourg

Report of the Réviseur d'Entreprises

Following our appointment by the Board of Directors of the Issuer by a resolution dated 22 October 2009 as independent auditor, we have been engaged to audit the accompanying financial information of Plato No. 1 S.A. (the "**Company**"). The financial information have been prepared for inclusion in the Prospectus to be dated 2 February 2010 of Plato No. 1 S.A.

The financial information set out below is based on the audited financial accounts of the Company for the period ended 1 February 2010 to which no adjustments were considered necessary.

Plato No. 1 S.A. was incorporated on 16 July 2009.

This financial information is the responsibility of the Board of Directors of the Company. Plato No. 1 S.A. and certain other parties (as set out in the Prospectus) are responsible for the content of the Prospectus to be dated 2 February 2010 in which this report is included.

Our responsibility is to express an opinion on the financial information based on our audit. We conducted our audit in accordance with International Standards on Auditing as adopted by the *Institut des Réviseurs d'Entreprises*. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial information is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial information. The procedures selected depend on the judgement of the *Réviseur d'Entreprises*, including the assessment of the risk of material misstatement of the financial information, whether due to fraud or error. In making those risk assessments, the *Réviseur d'Entreprises* considers internal control relevant to the entity's preparation and fair presentation of the financial information in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Board of Directors, as well as evaluating the overall presentation of the financial information.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

In our opinion, the attached financial information give a true and fair view of the financial position of Plato No. 1 S.A. as of 1 February 2010 for the purposes of the Prospectus to be dated 2 February 2010, in accordance with Luxembourg legal and regulatory requirements relating to the preparation of the annual accounts.

Luxembourg, 1 February 2010 KPMG Audit S.à r.l.
Réviseurs d'Entreprises
T. Feld

12. HSH NORDBANK AG

Summary relating to HSH Nordbank AG

Legal and Commercial Name

The legal name is HSH Nordbank AG and it does business under the name of "**HSH Nordbank AG**" or under its trade name "**HSH Nordbank**".

Place of Registration of HSH Nordbank AG and Registration Number

HSH Nordbank AG is entered into the Commercial Register (*Handelsregister*) of Hamburg under HRB 87366 and in the Commercial Register of Kiel under HRB 6127.

Date of Formation

HSH Nordbank AG was formed on 2 June 2003. For accounting and tax purposes, the incorporation took effect retroactively as of 1 January 2003. HSH Nordbank AG was established through the merger of Hamburgische Landesbank – Girozentrale – ("**Hamburg LB**") and Landesbank Schleswig-Holstein Girozentrale ("**LB Kiel**"). Hamburg LB was founded in 1938 as an institution under public law. LB Kiel was founded in 1917 as an institution under public law.

Registered Office and Legal Form

HSH Nordbank AG is organised under the laws of Germany in the form of a German stock corporation (*Aktiengesellschaft*) and has twin headquarters in the cities of Hamburg (Gerhart-Hauptmann-Platz 50, D-20095 Hamburg, Federal Republic of Germany, telephone: +49 (0)40 3333 0, facsimile: +49 (0)40 3333-340 01, Internet: www.hsh-nordbank.de) and Kiel (Martensdamm 6, D-24103 Kiel, Federal Republic of Germany, telephone: +49 (0)431 900-01, facsimile: +49 (0)431 900-340 01, Internet: www.hsh-nordbank.de).

Corporate Objects

Pursuant to § 2 of its articles of association:

- HSH Nordbank is a commercial bank;
- HSH Nordbank may provide banking and financial services of any kind and may engage in services and transactions related to the lending business;
- as a partner of the federal states of Schleswig-Holstein and Hamburg, HSH Nordbank furthermore provides financial services to public-sector customers and acts as a central clearing-house for savings banks;
- HSH Nordbank is a member of the "Sparkassen-Finanzgruppe"; and
- HSH Nordbank may form, or acquire shareholdings in, domestic or foreign banks and enterprises, and it may set up branches and representative offices.

Principal Shareholders

The shareholders of HSH Nordbank AG include the State of Schleswig-Holstein and the Free and Hanseatic City of Hamburg; HSH Finanzfonds AöR; the Savings Bank and Giro Association for the State of Schleswig-Holstein, which represents the interests of the various savings banks in the state of Schleswig-Holstein; the Schleswig-Holsteinische Sparkassen-Vermögensverwaltungs- und Beteiligungs GmbH & Co. KG, Kiel; and nine investor groups that are advised by J.C. Flowers & Co. LLC. The Free and Hanseatic City of Hamburg, the State of Schleswig-Holstein, HSH Finanzfonds AöR and the Savings Banks and Giro Association for Schleswig-Holstein have entered into a "holding agreement" pursuant to which they have mutually undertaken to hold at least 50.1% in aggregate of the voting share capital in HSH Nordbank AG until at least the end of 2013.

By 30 June HSH Nordbank AG received EUR 3 billion in Tier 1 capital. HSH Finanzfonds AöR subscribed for all the shares at a subscription price of EUR 19 each on behalf of the federal states of Hamburg and Schleswig-Holstein. As a result of the capital increase, the equity holding of the federal states of Hamburg and Schleswig-Holstein in HSH Nordbank AG increased to around 85.5%. (Hamburg: 10.9%, Schleswig-Holstein: 10.4%, HSH Finanzfonds AöR (Joint legal entity under public law of the two states): 64.2%). The investor groups advised by J.C. Flowers hold a stake of 9.2% and the Savings Bank and Giro Association for Schleswig-Holstein a stake of 5.3% in HSH Nordbank AG (Savings Bank and Giro Association: 4.7%, Schleswig-Holsteinische Sparkassen-Vermögensverwaltungs- und Beteiligungs GmbH & Co.KG: 0.6%). The registration

of the capital increase was completed on 25 June 2009. SoFFin confirmed to HSH Nordbank AG that the framework guarantee would be made available in full upon presentation of the parliamentary resolutions. These have now been made available.

HSH Nordbank AG's share capital was thus increased by EUR 1,578,947,360, from EUR 881,226,310 to EUR 2,460,173,670. The premium amounting to EUR 1.421 billion will flow into the tied-up capital reserve.

Members of the Management and Supervisory Boards

The management board of HSH Nordbank AG (hereinafter "**HSH Nordbank**") consists of a minimum of three members. The supervisory board shall determine the number of and appoint the management board members and nominate the chairman of the management board. The current members of the management board include: Prof. Dr. Dirk Jens Nonnenmacher (Chairman, CEO and CFO), Dr. Martin van Gemmeren (Board Member), Constantin von Oesterreich (CRO) and Bernhard Visker (Board Member).

HSH Nordbank's Supervisory Board reinforced the Bank's management with the appointment at its meeting on 20 October 2009 of two new members to the Management Board. The bank succeeded in attracting the distinguished expert on risk management, Constantin von Oesterreich, to the Board: he was appointed for three years with effect from 1 November 2009 with responsibility for risk management. Also with effect from 1 November 2009, Martin van Gemmeren was appointed for three years to the Management Board as Head of the Restructuring Unit. He has worked in the banking and insurance sector and was also involved in advising Dresdner Bank's Institutional Restructuring Unit in this capacity. Mr van Gemmeren has been at HSH Nordbank since October 2006, taking responsibility for a number of areas including work-out management, and has for several months been in charge of the project to establish the Restructuring Unit.

With effect from 1 December 2009, the Management Board has appointed Ulrich Voss as Chief Operating Officer with the rank of Generalbevollmächtigter. He is responsible in this capacity for the Transaction Services and IT / Organisation divisions. Mr Voss is a recognised expert in transaction banking, bank IT and restructuring.

At an extraordinary meeting held on 10 November 2009, the Supervisory Board of HSH Nordbank AG considered the legal opinion it had commissioned from Freshfields Bruckhaus Deringer LLP. After discussing it thoroughly, the Supervisory Board decided to revoke with immediate effect the appointments of Jochen Friedrich and Peter Rieck as members of the Management Board.

The supervisory board of HSH Nordbank consists of 20 members, as set out in the articles of association. Ten members are elected by the shareholders' meeting pursuant to the provisions of the German Stock Corporation Act and 10 members are elected by the employees under the German Codetermination Act (*Mitbestimmungsgesetz*) of 1976. The supervisory board appoints a chairman and a vice chairman from among its members. As of 1st November 2009 the members of the supervisory board are: Hilmar Kopper (chairman), Olaf Behm (deputy chairman), Hans-Werner Blöcker, Detlev Bremkamp, Oke Heuer, Dr. Rainer Klemmt-Nissen, Lutz Koopmann, Dr. Joachim Lemppenau, Dr. David Morgan, Dr. Hans Reckers, Bernd Wrede, Sabine-Almut Auerbach, Astrid Balduin, Berthold Bose, Jürgen Friedland, Jens-Peter Gotthardt, Torsten Heick, Manfred Lener, Rieka Meetz-Schawaller and Edda Redeker.

Survey of Selected Financial Information

The following tables set forth certain summary financial information for the HSH Nordbank Group, comprising HSH Nordbank and its consolidated subsidiaries (hereinafter "**HSH Nordbank Group**", "**Group**" or "**Bank**") on a consolidated basis as of and for the financial years ended 2007 and 2008 and on consolidated basis as of and for the period from 1 January to 30 September 2008 and 2009, which were subject to auditor review. The summary financial information set forth below has been derived from the consolidated financial statements and the consolidated interim financial statements for the first nine month of 2009, which were subject to auditor review.

Consolidated Income Statement Data for the period from 1 January to 30 September 2008 and 2009*

Income statement (€ m)	Note	January – September 2009	January – September 2008	Change in %
Interest income		16,647	24,865	-33.1
Interest expense		-15,362	-23,597	-34.9
Net interest income	(5)	1,285	1,268	1.3
Loan loss provisions	(6)	-1,841	-509	> 100
Net interest income after loan loss provisions		-556	759	> -100
Net commission income	(7)	154	209	-26.3
Result from hedging	(8)	106	-	-
Net trading income	(9)	533	-507	> -100
Net income from financial investments	(10)	-159	-213	-25.4
Administrative expenses	(11)	-649	-730	-11.1
Other operating income	(12)	50	26	92.3
Restructuring expenses	(13)	-79	-	-
Expenses for government guarantees	(14)	-286	-	-
Net income before taxes		-886	-456	94.3
Income tax		65	-10	> -100
Net income after taxes/Group net loss		-821	-466	76.2
Group net loss attributable to non-controlling interests		-13	-4	> 100
Group net loss attributable to HSH Nordbank shareholders		-808	-462	74.9

* Some of the figures reported in the group financial statements as at 31 December 2008 were corrected in the group interim financial statements as at 30 June 2009, in line with the provisions of IAS 8.41ff. Please refer to the previous interim report for a detailed explanation of the adjustments.

Consolidated Income Statement Data for the Years ended 31 December 2007 and 2008

Income statement (€ m)	Note	2008	following adjustment 2007	Change in %
Interest income		33,163	32,891	0.8
Interest expense		-31,112	-31,290	-0.6
Net interest income	(7)	2,051	1,601	28.1
Loan loss provisions	(8)	-1,888	15	> -100
Net interest income after loan loss provisions		163	1,616	-89.9
Net commission income	(9)	270	326	-17.2
Result from hedging	(10)	-15	-13	15.4
Net trading income	(11)	-953	-576	65.5
Net income from financial investments	(12)	-1,022	-389	> 100
Administrative expenses	(13)	-899	-984	-8.6
Other operating income	(14)	-166	149	> -100
Net income before restructuring expenses		-2,622	129	> -100
Restructuring expenses	(15)	-172	-	-
Net income before taxes		-2,794	129	> -100
Income tax expense	(16)	-261	141	> -100
Net income after taxes		-3,055	270	> -100
Income from transfer of losses		351	-	-
Group net income/loss for the year		-2,704	270	> -100
Group net income attributable to minority interests		-35	-5	> 100
Group net income attributable to HSH Nordbank shareholders		-2,669	275	> -100

Consolidated Balance Sheet as at 30 September 2009 and as at 31 December 2008*

(€ m)	Note	30.9.2009	following adjustment 31.12.2008	Change in %
Assets				
Cash reserve		1,187	1,419	-16.3
Loans and advances to banks	(16)	18,692	23,340	-19.9
Loans and advances to customers	(17)	112,995	117,431	-3.8
Loan loss provisions	(18)	-4,112	-2,751	49.5
Positive fair value of hedge derivatives	(19)	2,030	2,807	-27.7
Positive adjustment item from portfolio fair value hedges		373	427	-12.6
Assets Held For Trading	(20)	20,040	26,663	-24.8
Financial investments	(21)	32,455	36,511	-11.1
Intangible assets	(22)	257	246	4.5
Property, plant and equipment	(23)	104	114	-8.8
Investment properties	(24)	317	285	11.2
Non-current assets held for sale and disposal groups	(25)	58	-	-
Current tax assets		508	572	-11.2
Deferred tax assets	(26)	794	726	9.4
Other assets	(27)	344	472	-27.1
Total assets		186,042	208,262	-10.7
Liabilities				
Liabilities to banks	(28)	42,440	61,391	-30.9
Liabilities to customers	(29)	54,102	52,397	3.3
Securitised liabilities	(30)	54,540	58,200	-6.3
Negative fair value of hedge derivatives	(31)	798	2,194	-63.6
Negative adjustment item from portfolio fair value hedges		1,273	1,159	9.8
Liabilities Held For Trading	(32)	15,871	17,587	-9.8
Provisions	(33)	1,474	1,412	4.4
Liabilities relating to disposal groups		7	-	-
Current tax obligations		72	101	-28.7
Deferred tax obligations		29	14	> 100
Other liabilities	(34)	1,673	1,795	-6.8
Subordinated capital	(35)	9,337	9,962	-6.3
Equity	(36)	4,426	2,050	> 100
Share capital		2,460	881	> 100
Capital reserve		1,509	88	> 100
Retained earnings		1,668	1,354	23.2
Revaluation reserve		-345	-562	-38.6
Currency conversion reserve		-87	-85	2.4
Group profit/ loss		-808	329	> -100
Total before non-controlling interests		4,397	2,005	> 100
Non controlling interests		29	45	-35.6
Total equity and liabilities		186,042	208,262	-10.7

*"Note" refers to the information in the notes to the interim financial statements.

Consolidated Balance Sheet Data as at 31 December 2007 and 2008*

(€ m)	Note	2008	following adjustment 2007	Change in %
Assets				
Cash reserve	(19)	1,419	1,197	18.5
Loans and advances to banks	(20)	23,340	30,679	-23.9
Loans and advances to customers	(21)	117,431	104,064	12.8
Loan loss provisions	(22)	-2,751	-1,529	79.9
Positive market values of hedge derivatives	(23)	2,807	1,302	> 100
Positive adjustment item from portfolio fair value hedges		427	-23	> -100
Assets held for trading	(24)	26,802	24,417	9.8
Financial investments	(25)	36,511	42,342	-13.8
Intangible assets	(26)	246	340	-27.6
Tangible assets	(27)	114	117	-2.6
Investment property	(27)	285	258	10.5
Non-current assets held for sale	(28)	-	65	-100
Current tax assets	(29)	572	337	69.7
Deferred tax assets	(30)	726	832	-12.7
Other assets	(31)	472	429	10.0
Total assets		208,401	204,827	1.7

(€ m)	Note	2008	following adjustment 2007	Change in %
Liabilities				
Liabilities to banks	(32)	61,391	57,763	6.3
Liabilities to customers	(33)	52,397	50,394	4.0
Securitised liabilities	(34)	58,200	70,229	-17.1
Negative market value of hedge derivatives	(35)	2,194	1,080	> 100
Negative adjustment item from portfolio fair value hedges		1,159	-3	> -100
Liabilities held for trading	(36)	17,587	8,400	> 100
Provisions	(37,38)	1,412	800	76.5
Current tax obligations	(39)	101	258	-60.9
Deferred tax obligations	(40)	58	99	-41.4
Other liabilities	(41)	1,795	2,143	-16.2
Subordinated capital	(42)	9,962	9,296	7.2
Equity	(43)	2,145	4,368	-50.9
Share capital		881	702	25.5
Conversion capital		-	-	-
Capital reserve		88	2,317	-96.2
Retained earnings		1,354	1,505	-10.0
Revaluation reserve		-562	-180	> 100
Currency translation reserve		-85	-114	-25.4
Consolidated profit		424	50	> 100
Total before minority interests		2,100	4,280	-50.9
Minority interests		45	88	-48.9
Total liabilities		208,401	204,827	1.7

Off-balance sheet business declined by 20.6% to EUR 29,426 million (previous year: EUR 37,070 million), with both contingent liabilities and other commitments as well as irrevocable credit commitments and other obligations falling sharply (EUR -2,777 million and EUR -4,867 million, respectively). On balance, the changes in off-balance sheet business and the increase in the balance sheet total resulted in a marginal decline of 1.7% in business volume to EUR 237,827 million as at 31 December 2008.

Overview

HSH Nordbank is a dependable partner to the business community in northern Germany. In the higher-end corporate client business, it is market leader in this home region due to its high market penetration. As one of the major providers of real estate finance in Germany, HSH Nordbank focuses on serving its commercial real estate clients. HSH Nordbank offers in-depth advice combined with innovative products to its clients in the Private Banking segment. HSH Nordbank has particular know-how in looking after foundations. On the basis of

a close cooperation between equal partners, HSH Nordbank supports the savings banks, particularly in Schleswig-Holstein, with solution-oriented products.

HSH Nordbank also operates internationally in the regionally-rooted key industries of shipping, transportation and energy. As one of the world's leading providers of ship finance, it has been in this market for decades. In the transportation sector, HSH Nordbank is a close partner to the aviation industry and is also engaged in financing transport-related infrastructure projects. HSH Nordbank offers its clients tailored finance solutions and advisory services. In the energy sector, HSH Nordbank is a top provider of finance for wind and solar-energy projects in Europe, and number 1 by transaction volume (Source: Infrastructure Journal, Mandated Lead Arranger 2008) in this important market for northern Germany.

The activities in the Financial Markets Division focus mainly on funding and liquidity management. Furthermore, the division supports client activities by providing tailored products, such as risk hedging in rates, currencies and commodities.

Effective December 1, 2009 the Restructuring Unit represents a new segment with a stand-alone organizational structure within HSH Nordbank. The Restructuring Unit's central task will be to wind down or profitably divest with due care and in a controlled manner HSH Nordbank's activities and business segments that are not compatible with its new strategy or that entail high risks, and therefore to strengthen the position of the core bank. Customers' best interests will continue to be guaranteed in the course of this process.

Established on 2 June 2003, HSH Nordbank is the result of the merger between Hamburgische Landesbank and Landesbank Schleswig-Holstein (LB Kiel). As at 30 September 2009, it had total assets of approximately EUR 186 billion (as at 30 June 2009: approximately EUR 198/ as at 31 March 2009: approximately EUR 207 billion/as at 31 December 2008: approximately EUR 209 billion) and 4,365 employees around the world (as at 30 June 2009: approximately 4,500/ as at 31 March 2009: approximately 4,600 employees/as at 31 December 2008: approximately 5,000 employees). HSH Nordbank has twin headquarters in Hamburg and Kiel.

Strategy

HSH Nordbank's Strategic Realignment

In the light of the significant burdens created by the global financial crisis, HSH Nordbank has initiated a far-reaching strategic realignment in order to maintain HSH Nordbank as a going concern. The aim is to strategically focus on sustainably strong business areas in the home region of Hamburg/Schleswig-Holstein and on attractive international sectors.

The structural amendments that this constitutes are being made in four main areas:

- Creation of a core bank with sustainable business areas;
- Hiving off non-strategic portfolios and portfolios to be wound down;
- Targeted risk shielding and adequate capitalisation; and
- Implementation of a comprehensive restructuring plan.

Equity-boosting measures and agreement with Special Fund Financial Market Stabilisation

The realignment required to maintain HSH Nordbank as a going concern was preceded by an agreement being reached with SoFFin at the end of 2008. In view of the internationally dwindling refinancing opportunities in the interbank market, HSH Nordbank applied to SoFFin for a guarantee on bond placements in November. HSH Nordbank was granted a guarantee sum of up to EUR 30 billion. SoFFin liquidity guarantees are issued with the proviso that the shareholders make sure that HSH Nordbank has sufficient equity capitalisation and that they implement restructuring to liberate HSH Nordbank of its existing burdens.

In accordance with resolutions by the state parliaments of Hamburg and Schleswig-Holstein, the shareholders of HSH Nordbank implemented transactions in the second quarter 2009 to bolster the Bank's equity in order to safeguard its continued existence and capacity for future business. The transactions ensure that the regulatory capital requirements are met and contractual obligations towards the Special Financial Market Stabilization Fund (SoFFin) relating to the Tier 1 capital ratio are satisfied. These involve an increase in shareholders' equity and the arrangement of a guarantee framework by HSH Finanzfonds AöR, a public-sector agency specifically set up for this purpose by the shareholders the State of Schleswig-Holstein (SH) and the Free and Hanseatic City of Hamburg (FHH). The guarantee from this agency is in turn covered by a further guarantee from the public-

sector shareholders. The European Commission has approved these transactions for a limited period as emergency aid in the interest of financial market stability.

HSH Nordbank continues to make good progress in implementing its strategic realignment. In recent months the focus has primarily been on creating a restructuring segment and submitting a restructuring plan to the European Commission. The EUR 3 billion capital injection and EUR 10 billion financial guarantee by the federal states of Hamburg and Schleswig-Holstein in the second quarter of 2009 mean that solid foundations have already been laid for the Bank to make a successful fresh start. As expected, the EU Commission decided in October 2009 to investigate whether the stated stabilising measures taken by the federal states to stabilise the Bank and the restructuring plan submitted in September were compatible with EU rules on state aid. The steps taken by the federal states had earlier been provisionally approved as rescue aid. The EU assessment process – which is standard in such circumstances – is likely to be completed within the next few months.

Total Tier 1 capital in the Group as at 30. September 2009 rose as a result of the capital increase in the second quarter to EUR 8.7 billion (31 December 2008: EUR 8.4 billion). The rise in the Tier 1 capital ratio (including the market risk position) to 10.2 % was achieved not only by the capital increase but was also due to the financial guarantee granted by the federal states of Hamburg and Schleswig-Holstein, as this has the effect of relieving risk-weighted assets. As at 31 December 2008 the Tier 1 capital ratio still stood at 7.5 %.

The EU Commission will not retract its requirements under state aid law with respect to servicing and participating in the losses on hybrid capital instruments.

Pursuant to the EU Commission's requirements, HSH Nordbank would not be permitted to make any payouts on profit participation capital and silent partnerships in the event of a net loss or balance sheet loss for the fiscal year 2009. Furthermore, such capital instruments would have to participate in either the balance sheet loss or net loss for the fiscal year 2009. The amount of the loss participation will not be determined until the 2009 financial statements are approved.

Affected are securities that are based on HSH Nordbank AG silent partnerships and were placed on the capital market.

Apart from silent partnerships subscribed in 2008 by HSH Nordbank's shareholders, the same applies to the privately-placed profit participation instruments and silent partnerships.

Risks relating to HSH Nordbank

The solvency of HSH Nordbank is affected by risk factors concerning HSH Nordbank and its business and the German banking sector as a whole as well as the development of the crisis on the international financial markets.

For obligations incurred after 18 July 2005, HSH Nordbank has lost the benefit of the maintenance obligation (*Anstaltslast*) and the guarantee of its shareholders (*Gewährträgerhaftung*), so that investors no longer have recourse to the shareholders of HSH Nordbank with regard to claims incurred after this date. After the loss of this government support mechanism, the ratings of HSH Nordbank have already deteriorated; further deteriorations cannot be excluded and could have negative effects on HSH Nordbank's profit situation and market position.

HSH Nordbank's dependence on the interbank market may make its earnings more susceptible to fluctuations in interest rates than those of banks with larger deposit bases. In addition, if market risks are realised, they may have an adverse impact on the value of elements in the trading book and the banking book of HSH Nordbank and therefore on HSH Nordbank's liquidity and financial situation. Such market risks result from changes in the market value of interest rates, exchange rates, share prices, indices and fund prices.

HSH Nordbank is exposed to liquidity and operational risks. Liquidity risk refers to the danger of HSH Nordbank being unable to meet its own payment obligations or cover its funding requirements to the desired extent or at the terms it expects. Operational risks may result from inadequacy or failure of the internal infrastructure, internal processes or staff or as a result of external influence.

If HSH Nordbank is unable to implement its strategic realignment, this may ultimately affect its competitiveness as the basis of its business. This may also occur as a result of long-term decisions that are erroneous or based on incorrect assumptions, particularly with respect to the performance of individual business segments or the banking sector as a whole (materialisation of strategic risks).

The total assets of the Group are to be reduced from EUR 209 billion as at the end of 2008 to approximately EUR 187 billion by the end of 2009. Total assets are set to be drastically reduced even further by 2012. The strategic realignment furthermore entails a significant reduction of costs for the HSH Nordbank Group. In addition to the curtailment of operating expenses, staff reductions are also planned.

There is a risk that HSH Nordbank's plans to reduce staff and costs cannot be implemented as planned. This may lead to a deterioration of HSH Nordbank's competitive position and its financial and earnings position.

The guarantee granted by the federal states of Hamburg and Schleswig-Holstein protects HSH Nordbank from the risk of defaults in the material existing loan and securities portfolios that were not anticipated in the planned budget. HSH Nordbank's aim is to meet the capital requirements of SoFFin by 2012 in spite of additional burdens. A further severe deterioration of the global economic crisis or its prolongation beyond 2010 would result in further loss risks and income reductions for HSH Nordbank. In such an unforeseen scenario, further capitalisation measures to secure the required capital ratio cannot be ruled out. This may entail the risk that further capitalisation measures cannot be implemented in the required form or at all.

Taking the global economic downturn and financial market tension into account, HSH Nordbank is anticipating a difficult earnings situation in 2009 and 2010. Assuming the market environment remains critical, HSH Nordbank is anticipating high loan loss provision requirements and losses also for 2009 and 2010. HSH Nordbank is endeavouring to significantly reduce the volume of its credit investment business. Further write-downs can nevertheless be expected. HSH Nordbank is not expecting to see any signs of notable reversal of write-downs that could have a positive effect on the earnings situation in these two years. In addition, with the cap placed on new business in 2009 and 2010, an increase in the income from client business is not to be expected.

An improvement in the earnings situation is not expected until after 2010, assuming the underlying conditions have then normalised. This may entail the risk that these assumptions do not materialise and, as a consequence, that HSH Nordbank's financial and earnings position does not evolve as planned.

HSH Nordbank has devoted significant resources to developing its risk management policies, procedures and assessment methods and intends to continue to do so in the future. If it turns out that the supervising mechanisms are not fully effective to limit the actual risks or do not yet cover such risks, any losses exceeding the anticipated losses could harm HSH Nordbank's revenues and profits as well as its reputation.

Unforeseen events such as severe natural catastrophes, terrorist attacks or other comparable states of emergency can lead to an abrupt interruption of HSH Nordbank's operations, which can cause substantial expenses and losses. Such events may also make insurance coverage for certain risks unavailable and thus increase HSH Nordbank's risk.

As a credit institution, HSH Nordbank is exposed to the creditworthiness of its customers and counterparties. At year-end 2008, 30.8% of HSH Nordbank's loans and advances to customers were secured by mortgages and ship mortgages. If the value of the collateral securing the loan portfolio declines, HSH Nordbank will be exposed to higher credit risk and increased risk of non-recovery in the event that any of its loans fail to perform. At 31 December 2008, HSH Nordbank's level of allowances for impairment and provisions was EUR 3.223 billion. The level of allowances for impairment and provisions measured by the loan volume of the Group of EUR 237.0 billion (previous year: EUR 240.9 billion) amounts to 1.4%. Due to the loss posted for 2008 and the loss anticipated for the financial year 2009, HSH Nordbank's risk coverage potential has fallen further since 31 December 2008. Despite the recent signs of recovery, the lending environment in the first nine months of 2009 was strongly affected by the impact of the economic crisis. This resulted in the Bank accumulating much higher loan loss provisions than in the first nine months of 2008. The Bank expects that the uncertain economic situation will lead to a further increase in default rates throughout its loan portfolio. In recent months the difficult economic environment has had an increasing effect on loan loss provisions required and the quality of the Bank's loan portfolio. For example the economic capital required for default risks – excluding the guarantee issued by the federal states of Hamburg and Schleswig-Holstein – rose sharply in the first nine months of 2009 due to negative rating movements and rising loss ratios. In the same period, loan loss provisions again increased in all segments, having started at a comparatively high level in 2008.

At Group level, net allocations to loan loss provisions in the first nine months of 2009 totalled EUR –1,841 million (30 September 2008: EUR –509 million). The largest increase was accounted for by the Transportation and Energy segment, at € –1,088 million. Of this, EUR –959 million related to the shipping business. This includes an estimate for possible further deterioration in the market situation in the shipping business. However,

HSH Nordbank cannot assume that its level of provisions will be adequate or that it will not have to make significant additional provisions for possible bad and doubtful debts in future periods.

Changes in existing, or new, government laws and regulations, or enforcement initiatives in respect thereof, in the countries in which HSH Nordbank operates may materially impact HSH Nordbank and could adversely affect its business.

HSH Nordbank's business may be negatively affected by adverse publicity, regulatory actions or litigation with respect to HSH Nordbank, other well-known companies and the financial services industry generally.

As with most other banks, HSH Nordbank relies heavily on communication and information systems to conduct its business. If, for example, HSH Nordbank's information systems failed, even for a short period of time, it would be unable to close open positions as planned and possibly unable to carry out customer orders. The damage and costs arising therefrom, including expenses for the recovery of required data, may cause considerable costs and customer losses despite existing back-up systems and emergency plans, which might in turn lead to a material deterioration of HSH Nordbank's financial situation and operating result.

Since the beginning of 2008, HSH Nordbank has been determining the level of equity capital backing necessary for default, market and operational risks on the basis of the German Solvency Regulation (Solvabilitätsverordnung). Following the approval of the Supervisory Board, HSH Nordbank has been using the advanced IRB approach in relation to default risks. HSH Nordbank is therefore using the same parameters for regulatory reporting as it already uses internally for general and default risk management, and is using the corresponding equity capital relief. The implementation of the Basel Committee for Banking Supervision's accord on the International Convergence of Capital Measurement and Capital Standards of June 2004 ("Basel II") is likely to increase the volatility of HSH Nordbank's capital ratios.

Declining financial markets in Germany, Europe, the United States and around the world and changed interest rates due to factors beyond HSH Nordbank's control (e.g. monetary policy) may result in a reduction of HSH Nordbank's net interest income, the largest source of its revenues, an increase in interest expenses and, as a result, a deterioration of the income situation eroding profitability. In some of HSH Nordbank's divisions, volatility or protracted market movements may result in a reduced market activity and decreased liquidity. Such development may lead to material losses if HSH Nordbank cannot close out deteriorating positions in a timely way. Increasing interest rates may lead to a decrease in the demand for loans and thus the sales potential of HSH Nordbank's loans. Decreasing official interest rates could, *inter alia*, affect HSH Nordbank through, among other things, increased prepayments on its loan and increased competition for deposits. Likewise, a decrease in interest rates may affect HSH Nordbank's ability to issue mortgage-backed securities, securitise parts of its balance sheet or otherwise issue debt securities.

Risks due to the Crisis in the International Financial Markets

(i) HSH Nordbank increasingly affected by financial crisis developments

The crisis which started in the U.S. real estate market had already resulted in substantial write-downs in 2007 due to lower market prices for sub-prime bonds and structured securities (credit investments).

In Germany, as in many other countries, the liquidity of the banking industry could only be secured with the aid of comprehensive support packages from the central banks and governments.

The situation on the money and capital markets and in the real economy has brightened somewhat recently following the slumps seen in the previous year and at the beginning of 2009. However, HSH Nordbank is still feeling the effects of the financial market and economic crisis.

(ii) Liquidity situation of the Bank

The situation in the money and capital markets has normalised significantly over the course of the year. Secured funding, e.g. through repo transactions, has improved since the second quarter, and even unsecured funding has become possible since the middle of the year. Overall, the refinancing situation for banks has eased in the year to date.

As the liquidity situation of HSH Nordbank was burdened in the first half of 2009 by the difficult market situation and long and short-term rating downgrades by one agency, the liquidity limits were under considerable pressure at times. The Bank therefore drew more heavily on liquidity provided by central banks through secured lending against its collateral pool, and placed several benchmark bonds guaranteed by the Special Fund

Financial Market Stabilisation (SoFFin). In addition, the Bank increased the collateral pool (e.g. by injecting commercial loans) and the cover pool for *Pfandbrief* issues. These measures enabled the Bank to offset the temporary decrease in deposits by banks and non-banks following the rating downgrade. At the beginning of May 2009, the rating agency Standard & Poor's downgraded its long- and short-term ratings for German federal state banks. HSH Nordbank's long-term rating was reduced by two levels to BBB+ and its short term rating was corrected downwards by one notch to A-2. The downgrade of its short-term rating to A-2 resulted in the Bank losing time deposits, especially from US money market funds, as their investment guidelines only allow them to purchase paper rated A-1, so they did not renew their deposits with HSH Nordbank when they expired. The Bank received much better ratings from the agencies. Overall, the Bank's liquidity situation has improved in line with the general improvement market and the measures described above, but it remains strained.

The growing optimism in the market and the progress made in stabilising and realigning the Bank have made the raising of funds via private placements noticeably easier. The volume of bonds placed privately between January and September totalled EUR 2.9 billion for uncovered and EUR 1.2 billion for covered bonds. At the beginning of the fourth quarter, the Bank had already fully achieved the funding targets for the whole of 2009. In recent months, the Bank has been able to place increasing amounts of unsecured debt instruments and *Pfandbriefs*, mainly with domestic institutional investors, as well as bonds with private investors. The volume of deposits has remained virtually unchanged in recent months.

To further raise funding potential via repo facilities, the Bank has lodged eligible loans and securities with central banks around the world. The Bank has succeeded in significantly cutting back the funding volume utilised in the past at the European Central Bank, which in return has led to growth in the freely available collateral pool.

Besides the measures described above, the limited volume of new business has made a major contribution to stabilising the liquidity situation, but this still has to be considered as strained. Progress in reducing assets under the terms of the Bank's realignment further cuts the funding requirements.

In case the already implemented and planned actions to manage liquidity do not lead to the planned funding success, this could have negative effects on the Bank's liquidity position. In the extreme, this could pose a threat to the existence of the Bank.

(iii) Credit investment portfolio wound down

In the course of the financial market crisis the Credit Investment Portfolio resulted in heavy charges for HSH Nordbank. As a result the Bank decided in September 2008 to completely liquidate the Credit Investment Portfolio in a way which would not cause excessive market effects or damage income. By utilising market opportunities, the portfolio's total exposure was reduced by around 18% in the first nine months of 2009, taking exchange rate effects into account, and stood at EUR 17,893 million as at 30 September 2009. This compares with EUR 21,836 million as at 31 December 2008. At the end of 2007, the total was EUR 29,968 million.

After recognising a total negative effect of EUR 2.9 billion on the group income statement in the financial years 2007 and 2008, further effects were felt in the first three quarters of 2009, which were recognised in the income statement to the sum of EUR 43 million. The revaluation reserve was relieved by a EUR 280 million write-back.

As at 30 September 2009 the group's total Credit Investment Portfolio also included unrealised losses totalling EUR 1.3 billion (31 December 2008: EUR 1.8 billion). According to IFRS, unrealised losses arise on loans and receivables (LAR) from market value losses which are not categorised as credit-related and permanently impairing value.

The main impact on the income statement in the first nine months of 2009 resulted from structured products such as RMBSs of home equity loans (securitised private US property loans) and collateralised loan obligations (CLOs, securitised loans to European and American corporate clients). In contrast, market gains were realised on some synthetic CDOs and individual issuers' bonds (corporate and financial bonds), recognised in the income statement thanks to the disposal of a number of items.

If the Bank cannot reduce its credit investment portfolio or if the Bank cannot reduce it to the extent planned or at the conditions it desires, this could have negative effects on the Bank's creditworthiness as well as its financial and earnings position.

Documents Available for Inspection

During the validity of this Information Memorandum, copies of the following documents may be inspected and obtained on HSH Nordbank's website (<http://www.hsh-nordbank.de>):

- HSH Nordbank's articles of association;
- HSH Nordbank's annual reports for the years 2007 and 2008, including the audited annual and consolidated financial statements as well as the status reports for the years 2007 and 2008;
- HSH Nordbank AG's interim report as at 31 March 2009, including the consolidated interim financial statements and the interim management report for the period from 1 January 2009 to 31 March 2009, which were subject to auditor review.
- HSH Nordbank AG's interim report as at 30 June 2009, including the consolidated interim financial statements and the interim management report for the period from 1 January 2009 to 30 June 2009, which were subject to auditor review.
- HSH Nordbank AG's interim report as at 30 September 2009, including the consolidated interim financial statements and the interim management report for the period from 1 January 2009 to 30 September 2009, which were subject to auditor review.

The articles of association of SoFFin are available at the SoFFin website (<http://www.soffin.de>).

13. **THE TRUSTEE**

Bank of America Trustees Limited is a private limited company incorporated under the laws of England and Wales and with Registration Number 2379632 with its registered office and place of business at 2 King Edward Street, London, EC1A 1HQ, acting as the Trustee. It is a wholly owned subsidiary company within the Bank of America Corporation group of companies.

14. **THE ISSUER ACCOUNT BANK, THE REPLACEMENT RESERVE ACCOUNT BANK, THE CASH ADMINISTRATOR AND THE AGENTS**

Bank of America, National Association acting through its London Branch ("**BANA, London**"), is a branch of Bank of America, National Association, a national banking association organised under the laws of the United States. BANA, London is registered in the United Kingdom and is regulated by the United Kingdom Financial Services Authority, and the United States Office of the Comptroller of the Currency to carry on banking business in the United Kingdom. BANA, London is also subject to certain laws and regulations administered by the United States Board of Governors of the Federal Reserve System. BANA, London is a wholly owned indirect subsidiary of Bank of America Corporation and is engaged in a general consumer banking, commercial banking and trust business, offering a wide range of commercial, corporate, internal, financial market, retail and fiduciary banking services.

15. THE CORPORATE SERVICES PROVIDER

The Corporate Services Provider, Structured Finance Management (Luxembourg) S.A. ("**SFM**") is a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg in 2003. Its head office is located at 7, Val Ste. Croix, L-1371 Luxembourg.

SFM's core businesses are as a provider of independent directors, corporate administration and governance services to special purpose vehicles used in the securitisation and structured finance industries. It is part of a network of offices in multiple jurisdictions in Europe.

The Corporate Services Provider is licensed by the Luxembourg Ministry of Finance to act as a domiciliation agent within the meaning of Article 29 of the law of 5 April 1993 on the financial sector, as amended (the "**Luxembourg Banking Act**"). As a licensed financial professional under the Luxembourg Banking Act, it is subject to the supervision of the Commission de Surveillance du Secteur Financier, the supervisory authority of the Luxembourg financial sector.

The members of the board of directors of the Corporate Services Provider are Mr Alexis Kamarowsky, Mr Federigo Cannizzaro di Belmontino, Jonathan Keighley and James Macdonald.

16. RATING

The rating of AAA is the highest rating that Fitch assigns to long-term debts.

The rating of the Rated Notes by Fitch addresses the expected loss posed to investors until legal final maturity. The rating takes into consideration the characteristics of the Purchased Loan Receivables and the structural, legal, tax and Issuer related aspects associated with the Rated Notes.

The rating assigned to the Rated Notes should be evaluated independently from similar ratings on other types of securities. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal by the Rating Agency at any time. In the event that the rating initially assigned to the Rated Notes by the Rating Agency is subsequently withdrawn or lowered for any reason, no person or entity is obliged to provide any credit facilities or credit enhancement to the Issuer for the original rating to be restored.

The Issuer has not requested a rating of the Notes by any rating agency other than Fitch; there can be no assurance, however, as to whether any other rating agency will rate the Notes or, if it does, what rating would be assigned by such other rating agency. The ratings assigned to the Notes by such other rating agency could be lower than the respective rating assigned by Fitch, and such "unsolicited ratings" could have an adverse effect on the value of the Notes.

17. TAXATION

The following is a general discussion of certain tax consequences under the tax laws of the Grand Duchy of Luxembourg and the Federal Republic of Germany of the acquisition and ownership of Notes. This discussion does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase Notes. In particular, this discussion does not consider any specific facts or circumstances that may apply to a particular purchaser. This summary is based on the laws of the Grand Duchy of Luxembourg and the Federal Republic of Germany currently in force and as applied on the date of this Prospectus, which are subject to change, possibly with retroactive or retrospective effect. It should be read in conjunction with the section entitled "RISK FACTORS".

This summary is based upon the law as in effect on the date of this Prospectus. The information contained within this section is limited to taxation issues, and prospective investors should not apply any information set out below to other areas, including (but not limited to) the legality of transactions involving the Notes.

PROSPECTIVE PURCHASERS OF NOTES ARE ADVISED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF NOTES, INCLUDING THE EFFECT OF ANY STATE OR LOCAL TAXES UNDER THE TAX LAWS APPLICABLE IN THE GRAND DUCHY OF LUXEMBOURG AND THE FEDERAL REPUBLIC OF GERMANY AND EACH COUNTRY OF WHICH THEY ARE RESIDENTS.

I. Taxation in the Grand Duchy of Luxembourg

a. Taxation of the Issuer

All payments made to a holder of a Note issued by the Issuer and all payments to any creditors as well as all commitments for such payments to a holder of a Note and creditors are fully tax deductible. However, according to the Luxembourg Securitisation Law, the Issuer is a fully taxable company and any profit realized by the Issuer normally suffers income taxation in Luxembourg.

b. Taxation of the Noteholders

Withholding Tax

All payments of interest and principal by the Issuer in the context of the holding, disposal, redemption or repurchase of the Notes can be made free and clear of any withholding or deduction for or on account of any taxes of whatsoever nature imposed, levied, withheld, or assessed by Luxembourg or any political subdivision or taxing authority thereof or therein, in accordance with the applicable Luxembourg law, subject however to:

- (i) the application of the Luxembourg laws of 21 June 2005 implementing the European Union Savings Directive (Council Directive 2003/48/EC) and several agreements concluded with certain dependent or associated territories and providing for the possible application of a withholding tax (twenty (20) per cent. from 1 July 2008 to 30 June 2011 and thirty-five (35) per cent. from 1 July 2011) on interest paid to certain non Luxembourg resident investors (individuals and certain types of entities called "residual entities") in the event of the Issuer appointing a paying agent in Luxembourg within the meaning of the above-mentioned directive (see section "*EU Savings Directive*" below) or agreements; and
- (ii) the application as regards Luxembourg resident individuals of the Luxembourg law of 23 December 2005 which has introduced a ten (10)% withholding tax (which is final when Luxembourg resident individuals are acting in the context of the management of their private wealth) on savings income (i.e. with certain exemptions, savings income within the meaning of the Luxembourg laws of 21 June 2005 implementing the European Union Savings Directive (Council Directive 2003/48/EC)). This law should apply to savings income accrued as from 1 July 2005 and paid as from 1 January 2006.

Responsibility for the withholding of tax in application of the above-mentioned Luxembourg laws of 21 June 2005 and 23 December 2005 is assumed by the relevant paying agent within the meaning of these laws and not by the Issuer.

Taxes on Income and Capital Gains

Holders of Notes who derive income from such Notes or who realise a gain on the disposal or redemption thereof will not be subject to Luxembourg taxation on such income or capital gains, subject to the application of the laws of laws of 21 June 2005 and 23 December 2005 referred to above, and unless:

- (i) such holders of Notes are, or are deemed to be, resident in Luxembourg for Luxembourg tax purposes (or for the purposes of the relevant provisions), or
- (ii) such income or gain is attributable to an enterprise or part thereof which is carried on through a permanent establishment, a permanent representative or a fixed base of business in Luxembourg.

Pursuant to the law of 23 December 2005 as amended by the law of 17 July 2008, Luxembourg resident individuals can opt to self declare and pay a ten (10) per cent. tax on interest payments made by paying agents located in a Member State of the European Union other than Luxembourg, a Member State of the European Economic Area or in a State or territory which has concluded an agreement directly relating to the European Union Savings Directive (Council Directive 2003/48/EC). This ten (10) per cent. tax is final when Luxembourg resident individuals are acting in the context of the management of their private wealth.

Net Wealth Tax

Luxembourg net wealth tax will not be levied on a corporate holder of Notes unless:

- (i) such holder of Notes is, or is deemed to be, resident in Luxembourg for the purpose of the relevant provisions; or
- (ii) such Note is attributable to an enterprise or part thereof which is carried on through a permanent establishment, a permanent representative or a fixed base of business in Luxembourg.

As regards to individuals, the Luxembourg law of 23 December 2005 has abrogated the net wealth tax starting with the year 2006.

Inheritance and Gift Tax

Where the Notes are transferred for no consideration:

- (i) no Luxembourg inheritance tax is levied on the transfer of the Notes upon death of a holder of Notes in cases where the deceased holder was not a resident of Luxembourg for inheritance tax purposes; or
- (ii) Luxembourg gift tax will be levied in the event that the gift is made pursuant to a notarial deed signed before a Luxembourg notary or is registered in Luxembourg.

Value Added Tax

There is no Luxembourg value-added tax payable in respect of payments in consideration for the issue of the Notes or in respect of the payment of interest or principal under the Notes or the transfer of a Note; **provided that** Luxembourg value added tax may, however, be payable in respect of fees charged for certain services rendered to the Issuer, if for Luxembourg value added tax purposes such services are rendered, or are deemed to be rendered, in Luxembourg and an exemption from value added tax does not apply with respect to such services.

Other Taxes and Duties

It is not compulsory that the Notes be filed, recorded or enrolled with any court or other authority in Luxembourg or that registration tax, transfer tax, capital tax, stamp duty or any other similar tax or duty (other than court fees and contributions for the registration with the Chamber of Commerce) be paid in respect of or in connection with the execution, delivery and/or enforcement by legal proceedings (including any foreign judgment in the courts of Luxembourg) of the Notes. In case of voluntary registration of the Notes, only a fixed duty would be payable.

Residence

A holder of a Note will not become resident, or deemed to be resident, in Luxembourg by reason only of the holding of such Note or the execution, performance, delivery and/or enforcement of that or any other Note.

II. Taxation in Germany

a. Taxation of the Issuer

It is not expected that the Issuer becomes subject to taxation in Germany. However, as there remains a risk in this respect, please see the respective information in the risk factors on page 32.

b. Taxation of the Noteholders

(1) Tax Residents

German tax resident persons are persons who are tax resident in Germany (in particular, persons whose residence, habitual abode, seat or place of management is located in Germany).

(a) Taxation if the Notes are held as private assets (Privatvermögen)

In the case of German tax-resident individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as private assets (*Privatvermögen*), the following applies:

(i) Income

Payments of interest on the Notes qualify as taxable income from capital investments (*Einkünfte aus Kapitalvermögen*) pursuant to section 20 para 1 German Income Tax Act ("**ITA**" - *Einkommensteuergesetz*).

Capital gains / capital losses realised upon sale, computed as the difference between the acquisition costs and the sales proceeds reduced by expenses directly and factually related to the sale, qualify as (negative) income from capital investments (*Einkünfte aus Kapitalvermögen*). If the Notes are assigned, redeemed or repaid rather than sold, such transaction is treated like a sale.

(ii) Taxation of income

Income from capital investments is taxed at a separate tax rate for income from capital investments (*gesonderter Steuertarif für Einkünfte aus Kapitalvermögen*), which is 26.375 per cent. (including solidarity surcharge (*Solidaritätszuschlag*)) plus, if applicable, church tax. When computing the income from capital investments, the saver's lump sum amount (*Sparer-Pauschalbetrag*) of EUR 801 (EUR 1,602 in the case of jointly assessed husband and wife) will be deducted. The deduction of the actual income related expenses, if any, is excluded. The taxation of income from capital investments shall take place mainly by way of levying withholding tax (please see (iii) below). If and to the extent German withholding has been levied, such withholding tax shall, in principle, become definitive and replace the investor's income taxation. If no withholding tax has been levied other than by virtue of a withholding tax exemption certificate (*Freistellungsauftrag*) and in certain other cases, the investor is nevertheless obliged to file a tax return, and the income from capital investments will then be taxed within the assessment procedure. However, the separate tax rate for income from capital investments applies in most cases also within the assessment procedure.

(iii) German withholding tax

German withholding tax will be levied if the Notes are held in a custodial account which the investor maintains with a German branch of a German or non-German credit or financial services institution or with a securities trading business or securities trading bank (a "**German Disbursing Agent**"). The tax base is, in principle, equal to the taxable income as set out in (i) above. However, in the case of capital gains, if the acquisition costs of the Notes are not proven to the German Disbursing Agent, withholding tax is applied to thirty (30) per cent. of the proceeds from the redemption, sale or assignment of the Notes. When computing the tax base for withholding tax purposes, the German Disbursing Agent may deduct any negative income from capital investments in the same calendar year or unused negative income from capital investments in previous calendar years.

If the Issuer is deemed to be resident in Germany for tax purposes and if, further, the Notes qualify as hybrid instruments (e. g. silent partnership, profit participating notes, *jouissance* rights (*Genussrechte*)), German withholding tax has to be imposed irrespective of where the Notes are held in custody.

German withholding tax will be levied at a flat withholding tax rate of 26.375 per cent. (including solidarity surcharge) plus, if applicable, church tax.

No German withholding tax will be levied if the investor filed a withholding tax exemption certificate (*Freistellungsauftrag*) with the German Disbursing Agent, but only to the extent the income from capital investments does not exceed the maximum exemption amount shown on the withholding tax exemption certificate. Currently, the maximum exemption amount is EUR 801 (EUR 1,602 in the case of jointly assessed husband and wife). Similarly, no withholding tax will be levied if the investor has submitted to the German Disbursing Agent a certificate of non-assessment (*Nichtveranlagungsbescheinigung*) issued by the relevant local tax office.

(b) *Taxation if the Notes are held as business assets (Betriebsvermögen)*

In the case of German tax-resident corporations or individual investors (*unbeschränkt Steuerpflichtige*) holding the Notes as business assets (*Betriebsvermögen*), interest payments and capital gains will be subject to corporate income tax or income tax, as the case may be, (in each case plus 5.5 per cent. solidarity surcharge thereon), trade tax, if applicable, and church tax, if applicable. Capital losses might be ring-fenced.

The provisions regarding German withholding tax apply, in principle, as set out in section (a) (iii) above. However, investors holding the Notes as business assets cannot file a withholding tax exemption certificate with the German Disbursing Agent. Instead, no withholding tax will be levied on capital gains from the redemption, sale or assignment of the Notes if (y) the Notes are held by a company in terms of section 43 para 2 sentence 3 no 1 ITA or (z) the proceeds from the Notes qualify as income of a domestic business and the investor notifies this to the German Disbursing Agent by use of the officially required form.

Any withholding tax levied is credited as prepayment against the German (corporate) income tax amount. If the tax withheld exceeds the respective (corporate) income tax amount, the difference will be refunded within the tax assessment procedure.

(c) *German Investment Tax Act*

The German Investment Tax Act (*Investmentsteuergesetz*) may apply to the Notes if the Issuer is regarded as a foreign investment fund and the Notes qualify as an interest therein. In such circumstances, profits and capital gains earned by the Issuer would be subject to tax at the level of the Noteholders, and the Noteholders might become subject to special penalty taxation on the basis of deemed income.

(2) *Non-residents*

Persons who are not tax resident in Germany are not subject to tax with regard to income from the Notes unless (i) the Notes are held as business assets (*Betriebsvermögen*) of a German permanent establishment (including a permanent representative) which is maintained by the investor or (ii) the income under the Notes qualifies for other reasons as taxable German source income (e. g. as income from letting and leasing of property located in Germany). If a non-resident person is subject to tax with its income from the Notes, in principle, similar rules apply as set out above with regard to German tax resident persons (please see (1) (*Tax Residents*) above).

Non-resident persons generally do not suffer German withholding tax. If, however, the income is subject to German tax as set out in the preceding paragraph, German withholding tax may be applied like in the case of a German tax resident person.

(3) *Inheritance and Gift Tax*

Inheritance or gift taxes with respect to any Note will, in principle, arise under German law if, in the case of inheritance tax, either the decedent or the beneficiary or, in the case of gift tax, either the donor or the donee is a resident of Germany or if such Note is attributable to a German trade or business for which a permanent establishment is maintained or a permanent representative has been appointed. In addition, certain German expatriates will be subject to inheritance and gift tax.

(4) *Other Taxes*

No stamp, issue, registration or similar taxes or duties is currently payable in Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax (*Vermögensteuer*) is not levied in Germany.

III. EU Savings Directive

Under EC Council Directive 2003/48/EC on the taxation of savings income (the "**EU Savings Directive**"), each Member State is required to provide to the tax authorities of another Member State details of payments of interest or other similar income paid by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in that other Member State; however, for a transitional period, Austria, Belgium and Luxembourg will, subject to certain exceptions, apply a withholding system in relation to such payments, deducting tax at rates rising over time to thirty-five per cent. (35%) (unless during that transitional period they elect to provide information in accordance with the EU Savings Directive). The transitional period is to terminate at the end of the first full fiscal year following agreement by certain non-EU countries to the exchange of information relating to such payments. Belgium has replaced this withholding tax with a regime of exchange of information to the Member State of residence as from 1 January 2010.

A number of non-EU countries Switzerland, Andorra, Liechtenstein, Monaco and San Marino, and certain dependent or associated territories of certain Member States, have adopted similar measures (either provision of information or transitional withholding) in relation to payments made by a person within its jurisdiction to, or collected by such a person for, an individual resident or certain limited types of entity established in a Member State. In addition, the Member States have entered into provision of information or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a person in a Member State to, or collected by such a person for, an individual resident or certain limited types of entity established in one of those territories.

On 13 November 2008 the European Commission published a proposal for amendments to the EU Savings Directive, which included a number of suggested changes which, if implemented, would broaden the scope of the requirements described above. The European Parliament approved an amended version of this proposal on 24 April 2009. Investors who are in any doubt as to their position should consult their professional advisers.

THE DISCUSSION ABOVE IS A GENERAL SUMMARY. IT DOES NOT COVER ALL TAX MATTERS THAT MAY BE OF IMPORTANCE TO A PARTICULAR INVESTOR. EACH PROSPECTIVE INVESTOR IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISOR ABOUT THE TAX CONSEQUENCES OF AN INVESTMENT IN THE NOTES UNDER THE INVESTOR'S OWN CIRCUMSTANCES.

18. SUBSCRIPTION AND SALE

HSH Nordbank as Lead Manager will, in a subscription agreement to be dated on or prior to the Closing Date (the "**Subscription Agreement**") and made between, *inter alios*, the Issuer and the Lead Manager upon the terms and subject to the conditions contained therein, agree to subscribe and pay for:

- (a) the Class A Notes at their issue price of 100 per cent. (100%) of their principal amount;
- (b) the Class B Notes at their issue price of 100 per cent. (100%) of their principal amount; and
- (c) the Class C Notes at their issue price of 100 per cent. (100%) of their principal amount.

Thereafter, the Lead Manager may sell at its discretion some or all of the Notes held by it from time to time. The Lead Manager is entitled, in certain circumstances, to be released and discharged from its obligations under the Subscription Agreement prior to the closing of the issue of the Notes.

SELLING RESTRICTIONS

GENERAL

(1) No action to permit public offering

The Lead Manager has acknowledged that no action has been or will be taken in any jurisdiction by the Issuer that would permit a public offering of the Notes, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required.

(2) Lead Manager's compliance with applicable laws

The Lead Manager has undertaken to the Issuer that it will comply with all applicable laws and regulations in each country or jurisdiction in which it purchases, offers, sells or delivers Notes or has in its possession or distributes such offering material, in all cases at its own expense.

UNITED STATES

(1) No registration under Securities Act

The Notes have not been and will not be registered under the US Securities Act 1933 as amended (the "**Securities Act**") and may not be offered or sold within the United States, or to or for the account or benefit of, U.S. persons except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. Terms used in this paragraph, have the meanings given to them by Regulation S under the Securities Act.

The Notes will bear a legend to the following effect: "Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code". The sections referred to in such legend provide that a United States person who holds a Note will generally not be allowed to deduct any loss realised on the sale, exchange or redemption of such Note and any gain (which might otherwise be characterised as capital gain) recognised on such sale, exchange or redemption will be treated as ordinary income.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the United States Internal Revenue Code and regulations thereunder.

(2) Compliance by Issuer with United States securities laws

The Issuer has represented, warranted and undertaken to the Lead Manager that:

- (a) within the preceding six (6) months, neither the Issuer nor any of its affiliates nor any other person acting on its or their behalf has offered or sold, or will offer or sell, to any person any Notes in any circumstances which would be integrated with the Notes in a manner which would require the

registration of any of the Notes under the Securities Act or the qualification of the Trust Agreement as an indenture under the United States Trust Indenture Act of 1939;

- (b) neither the Issuer nor any its affiliates nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts within the meaning of Rule 902 under the Securities Act with respect to the Notes;
 - (c) the Issuer is a "foreign issuer" (as defined in Regulation S) and the Issuer and its affiliates have complied with and will comply with the offering restrictions requirement of Regulation S under the Securities Act;
 - (d) neither the Issuer nor any of its affiliates nor any person acting on its or their behalf has made, or will make, an offer to sell, or has solicited or will solicit any offer to buy the Notes within the United States or to, from or for the account of a U.S. person; and
 - (e) the Issuer is not, and after giving effect to the offering and sale of the Notes, will not be a company registered or required to be registered as an "investment company", as such term is defined in the United States Investment Company Act of 1940, as amended (the "**Investment Company Act**").
- (3) **Lead Manager's compliance with United States securities laws**

In addition, the Lead Manager has represented, warranted and undertaken to the Issuer that:

- (a) it has offered and sold the Notes, and will offer and sell the Notes (i) as part of their distribution at any time and (ii) otherwise until the expiration of the distribution compliance period of forty (40) days after the later of the commencement of the offering and the issue date of the Notes only in accordance with Rule 903 of Regulation S under the Securities Act;
 - (b) at or prior to confirmation of sale of the Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it during the distribution compliance period a confirmation or notice to substantially the following effect:

"The Securities covered hereby have not been registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, (i) as part of their distribution at any time or (ii) otherwise until forty (40) days after the later of the commencement of the offering and the closing date, except in either case in accordance with Regulation S under the Securities Act. Terms used above have the meaning given to them by Regulation S."
 - (c) it, its affiliates and any person acting on its or their behalf have complied and will comply with the offering restrictions requirements of Regulation S under the Securities Act;
 - (d) neither it, its affiliates nor any person acting on its or their behalf have engaged or will engage in any directed selling efforts within the meaning of Rule 902 under the Securities Act with respect to the Notes;
 - (e) neither it, its affiliates nor any person acting on its or their behalf has made, or will make, an offer to sell, or has solicited or will solicit any offer to buy the Notes within the United States or to, from or for the account of a U.S. person; and
 - (f) it has not entered and will not enter into any contractual arrangement with respect to the distribution or delivery of the Notes, except with its affiliates or with the prior written consent of the Issuer.
- (4) **Lead Manager's compliance with United States Treasury regulations**

The Notes will be issued in accordance with the provisions of U. S. Treas. Reg. section 1.163-5(c) (2) (i) (C) (the "**Tefra C Rules**"). The Lead Manager has represented, warranted and undertaken to the Issuer that except to the extent permitted under the Tefra C Rules:

- (a) it has not offered, sold or delivered, and will not offer, sell or deliver, directly or indirectly, any Notes within the United States or its possessions; and

- (b) it has not communicated, and will not communicate, directly or indirectly, with a prospective purchaser if the Lead Manager or such prospective purchaser is within the United States or its possessions and will not otherwise involve the United States office of the Lead Manager in the offer and sale of Notes.

(5) **Interpretation**

Terms used in Paragraphs 2.1, 2.2 and 2.3 above have the meanings given to them by Regulation S under the Securities Act. Terms used in Paragraph 2.4 above have the meanings given to them by the United States Internal Revenue Code of 1986, as amended, and regulations thereunder, including the Tefra C Rules.

UNITED KINGDOM

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

LUXEMBOURG

The Notes may not be offered or sold within the territory of the Grand Duchy of Luxembourg unless:

- (a) a prospectus has been duly approved by the CSSF if the Grand Duchy of Luxembourg is the home Member State (as defined in the Luxembourg law of 10 July 2005 on prospectuses for securities implementing the Prospectus Directive in the Grand Duchy of Luxembourg (the "**Prospectus Law**")); or
- (b) the offer benefits from an exemption to or constitutes a transaction not subject to, the requirement to publish a prospectus.

FRANCE

The Lead Manager has represented, warranted to, and agreed with, the Issuer that it has not offered or sold and will not offer or sell, directly or indirectly, any of the Notes to the public in France and that offers and sales of the Notes in France will be made only to providers of investment services relating to portfolio management for the account of third parties and/or to qualified investors (*investisseurs qualifiés*) as defined in Articles L.411-1, L.411-2 and D.411-1 to D.411-3 of the French *Code monétaire et financier*, but excluding individuals referred to in Article D.411-1 II 2°.

In addition, the Lead Manager has represented and warranted to, and agreed with the Issuer, that it has not distributed or caused to be distributed and will not distribute or cause to be distributed in France this Prospectus or any other offering material relating to the Notes other than to investors to whom offers and sales of Notes in France may be made as described above.

NETHERLANDS

The Lead Manager has represented and agreed, and each further lead manager appointed will be required to represent and agree with the Issuer that it has not offered or sold and will not offer or sell any Notes in the Netherlands other than through one or more investment firms acting as principals and having the Dutch regulatory capacity to make such offers or sales.

BELGIUM

The Prospectus has not been submitted for approval to the Belgian Banking, Finance and Insurance Commission or any other competent authority in the European Economic Area and, accordingly, the Lead Manager represents, warrants and agrees with the Issuer that the Notes will not be distributed in Belgium by way of an offer of securities to the public, as defined in Article 2.1(d) of the Prospectus Directive and Article 3 §1 of the law of 16 June 2006 on public offerings of investment instruments and the admission of investment instruments to trading on regulated markets, save in those circumstances (commonly called "private placement") set out in Article 3.2 of the Prospectus Directive and Article 3 §2 of the law of 16 June 2006.

SPAIN

In relation to the Notes, the Lead Manager represents, warrants and undertakes to the Issuer that it has not offered and sold Notes, and will not offer and sell Notes, in Spain, unless:

- (a) it is authorised to provide investment services in Spain under the Securities Market Law 24/1988 of 28 July (*Ley 24/1988, de 28 de julio, del Mercado de Valores*), as amended, (the "**Securities Market Law**") and the Royal Decree on Investment Services Companies 217/2008, of 15 February (*Real Decreto 217/2008, de 15 de febrero, sobre el régimen jurídico de las empresas de servicios de inversión y de las demás entidades que prestan servicios de inversión y por el que se modifica parcialmente el Reglamento de la Ley 35/2003, de 4 de noviembre, de Instituciones de Inversión Colectiva, aprobado por el Real Decreto 1309/2005, de 4 de noviembre*) ("**Royal Decree 217/2008**"); and
- (b) it has complied with, and will comply with, all applicable provisions of the Securities Market Law, Royal Decree 217/2008 and any other applicable legislation in relation to any offer or sale of the Notes in Spain.

The Prospectus has not been registered with the Spanish Securities Market Commission (*Comisión Nacional del Mercado de Valores*) and therefore it is not intended for a public offer of the Notes in Spain.

EUROPEAN ECONOMIC AREA

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), the Lead Manager has represented and agreed with the Issuer that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "**Relevant Implementation Date**") it has not made and will not make an offer of Notes to the public in that Relevant Member State prior to the publication of a prospectus in relation to the Notes which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer to the public in that Relevant Member State at any time:

- (a) to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
 - (1) to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year; (ii) a total balance sheet of more than €43,000,000 and (iii) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or
 - (2) in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.
- (b) For the purposes of this provision, the expression an "**offer of notes to the public**" in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

INVESTOR COMPLIANCE

Persons into whose hands the Prospectus comes are required by the Issuer and the Lead Manager to comply with all applicable laws and regulations in each country or jurisdiction in which they purchase, offer, sell or deliver any Notes or have in their possession, distribute or publish the Prospectus or any other offering material relating to any Notes, in all cases at their own expense.

PUBLIC OFFERS GENERALLY

Save for applying for admission of the Notes to trading on the regulated market of the Luxembourg Stock Exchange, no action has been or will be taken in any jurisdiction by the Issuer or the Lead Manager that would, or is intended to, permit a public offering of the Notes, or possession or distribution of the Prospectus or any other offering material, in any country or jurisdiction where action for that purpose is required.

19. GENERAL INFORMATION

Authorisation

The creation and issue of the Notes has been authorised by a resolution of the Board of Directors of the Issuer dated 23 December 2009.

All other authorisations, consents and approvals required to be obtained by the Issuer for, or in connection with, the creation and issue of the Notes, the performance by the Issuer of the obligations expressed to be undertaken by it and the distribution of this Prospectus have been obtained and are in full force and effect.

Litigation

Save as disclosed in this Prospectus, there are no litigation or arbitration proceedings against or affecting the Issuer or any of its assets, nor is the Issuer aware of any pending or threatened proceedings, which are or might be material in the context of the issue of the Notes.

No Material Adverse Change

Since the date of the Issuer's incorporation, there has been no material adverse change, or any development reasonably likely to involve any material adverse change, in the condition (financial or otherwise) or general affairs of the Issuer and the Seller.

Post Issuance Reporting

The Issuer will not provide any post-issuance information, except if required by any applicable laws and regulations (including any information to be provided by the Issuer to the Luxembourg national central bank (*Banque Centrale du Luxembourg*) pursuant to its obligations under the ECB Regulation). The Reporting Agent shall deliver an Investor Report, verified by the Trustee, to the Principal Paying Agent two (2) Reporting Business Days prior to each Payment Date and such Investor Report shall be available at the Specified Office of the Principal Paying Agent (and on the website www.etrustee.net) on the Payment Date.

ISIN and Common Code

The Notes have been accepted for clearance through Euroclear and Clearstream Luxembourg and the relevant Common Codes and ISIN numbers are as follow:

	Common Code	ISIN No.
Class A Notes:	047435226	XS0474352266
Class B Notes:	047435234	XS0474352340
Class C Notes:	047435269	XS0474352696

Availability of Documents

Copies of this Prospectus and of all future annual financial statements of the Issuer may be obtained as hard copy as long as any of the Notes remains outstanding at the registered office of the Issuer and the Specified Office of the Principal Paying Agent. The Issuer will not publish interim financial statements.

Copies of the following documents may be obtained will be available for inspection as hard copies during customary business hours on any week day (excluding Saturdays, Sundays and public holidays) as long as any of the Notes remains outstanding at the registered office of the Issuer and the Specified Office of the Principal Paying Agent:

- (a) the Memorandum and Articles of Association of the Issuer;
- (b) the authorisation of the issue of the Notes and the Transaction by the Issuer;
- (c) the Prospectus, the Cash Administration Agreement, the Issuer Account Agreement, the Issuer Reserve Account Agreement, the Corporate Services Agreement, the Loan Receivables Purchase Agreement, the Servicing Agreement, the Trust Agreement, the Issuer Deed of Charge, the Liquidity Facility Agreement, the RR Expenses Facility Agreement, the Interest Rate Swap Agreement, the Agency Agreement, the Issuer Pledge Agreement, the Dutch Deed of Pledge, the HSH Account Agreement and the HSH Deed of Charge;
- (d) the latest Investor Report after 4:00 p.m. (Luxembourg time) on each Payment Date;

- (e) all future annual financial statements of the Issuer; and
- (f) all notices given to the Noteholders pursuant to Condition 23 (*Forms of Notices*) of the Terms and Conditions.

Other than as set out above, the Issuer does not intend to provide post-issuance transaction information regarding the Notes or the performance of the underlying collateral.

Legend on the Notes

The Notes will bear a legend to the following effect: "**Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code.**" The sections referred to in such legend provide that a United States person who holds a Note will generally not be allowed to deduct any loss realised on the sale, exchange or redemption of such Note and any gain (which might otherwise be characterised as capital gain) recognised on such sale, exchange or redemption, will be treated as ordinary income.

KPMG Audit S.à.r.l., chartered accountants, have given and not withdrawn their consent to the inclusion of their report relating to the Issuer in the form and context in which it is included in the accountant's report in "THE ISSUER".

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