

**TERMS AND CONDITIONS OF THE NOTES ISSUED UNDER THE €25,000,000,000 ISPA
HIGH SPEED RAILWAY FUNDING NOTE PROGRAMME**

(EXCERPT OF THE OFFERING CIRCULAR OF THE €25,000,000,000 ISPA HIGH SPEED RAILWAY FUNDING
NOTE PROGRAMME OF 29 JANUARY 2004)

**REGOLAMENTO DEI TITOLI EMESSI NELL'AMBITO DEL PROGRAMMA DI
EMISSIONE €25,000,000,000 ISPA HIGH SPEED RAILWAY FUNDING NOTES
PROGRAMME**

(ESTRATTO DAL DOCUMENTO DI OFFERTA DEL PROGRAMMA DI EMISSIONE €25,000,000,000 ISPA HIGH
SPEED RAILWAY FUNDING NOTES PROGRAMME DATATO 29 GENNAIO 2004)

TERMS AND CONDITIONS OF THE NOTES

*The following is the text of the terms and conditions of the Notes (the "**Conditions**") which, subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Pricing Supplement will apply to each Series of Notes. In the Conditions, references to the "holder" of a Note or to the "**Noteholders**" are to the ultimate owners of the Notes. The Noteholders are deemed to have notice of and are bound by, and shall have the benefit of, inter alia, the terms of the Rules of Organisation of Noteholders.*

1. **Introduction**

- 1.1 **Programme:** Infrastrutture S.p.A. (the "**Issuer**") has established the ISPA High Speed Railway Funding Note Programme (the "**Programme**") for the issuance of limited recourse notes (the "**Notes**") in order to fund the financing of the design, development, construction and start-up of the Turin-Milan-Naples section of the Italian high speed railway (the "**Project**"). The Programme permits the issuance of Notes of up to €25,000,000,000 in aggregate principal amount at any time less the principal amount outstanding under the Funding Loans (as defined below) at such time. Such maximum amount may be increased at any time in accordance with the provisions of the Dealer Agreement (as defined below).
- 1.2 **Pricing Supplement:** Notes issued under the Programme are issued in series (each a "**Series**") and each Series of Notes will be issued to finance and/or refinance the Project. Each Series is the subject of a pricing supplement (each, a "**Pricing Supplement**") in which will be set out, *inter alia*, the amount of proceeds of the Series of Notes to be used for the purposes of financing/refinancing the Project (such proceeds, the "**Financing Proceeds**") and the amount of proceeds of the Series of Notes to be used for the purposes of refinancing the Issuer with respect to the Project (such proceeds, the "**Refinancing Proceeds**"). The terms and conditions applicable to any particular Series of Notes are these terms and conditions as supplemented, amended and/or replaced by the relevant Pricing Supplement (the "**Conditions**" and any reference to a numbered Condition shall be construed accordingly). In the event of any inconsistency between these Conditions and the relevant Pricing Supplement, the relevant Pricing Supplement shall prevail and each Noteholder (as defined below), by reason of holding Notes, confirms and accepts the terms of the relevant Pricing Supplement and the amendments and supplements made thereby to these Conditions.
- 1.3 **Issuer's Transaction Rights:** The principal source for the payment of interest on, and repayment of principal of, the Notes and Funding Loans will be the amounts received by the Issuer as payment of interest and repayment of principal in respect of the advances made thereby to Rete Ferroviaria Italiana S.p.A. ("**RFI**") and/or Treno Alta Velocità - T.A.V. S.p.A. ("**TAV**" and together with RFI, the "**Borrowers**") in accordance with the Credit Facility Agreement (as defined below). Alternatively the Issuer may fund the payment of interest on, and repayment of principal of the outstanding Notes using Refinancing Proceeds or monies drawn down under loans received from banks (the "**Funding Loans**"). The principal sources for the payment of amounts due to the Issuer under the Credit Facility Agreement will be:

- (i) the collections and recoveries in connection with the claims and proceeds deriving from the use of the Turin-Milan-Naples line of the Italian high speed/high capacity railway system net of certain Permitted Payments (as defined below) (the "**Net Track Access Charges**" or the "**Net TACs**"); and
- (ii) collections and recoveries from the Republic of Italy (the "**State Contribution Provider**") due pursuant to Article 75 of Law No. 289 of 27 December 2002 ("**Article 75**") as implemented by the decree issued on 23 December 2003 by the Ministry of Economy and Finance and the Ministry of Infrastructure and Transport (the "**Implementation Decree**") (the "**State Contribution**" and, together with the Net TACs, the "**Credit Facility Cash Flow**").

The monetary rights deriving from the First Project Loan Tranches (as defined below) and any other rights relating to the First Project Loan Tranches (including the Issuer's rights under the Transaction Documents (as defined below) relating to the First Project Loan Tranches and any cash flow deriving therefrom to the Issuer) (together, the "**Issuer's Initial Transaction Rights**") shall be segregated by the Issuer prior to the First Loan Date (as defined below) in accordance with the terms of the credit facility agreement entered into on 23 December 2003 between the Issuer, the Borrowers and Infrastrutture S.p.A. as project facility manager (the "**Project Facility Manager**") (the "**Credit Facility Agreement**") upon the filing of the relevant resolution of the Issuer with the Chamber of Commerce of Rome.

The Issuer may use the Financing Proceeds (and may use amounts drawn down under Funding Loans) to make available advances under Further Project Loan Tranches (as defined below) to the Borrowers in accordance with the Credit Facility Agreement. Prior to the drawdown of the first advance under each Further Project Loan Tranche, the Issuer will segregate the monetary rights deriving from such Further Project Loan Tranche and any other rights relating to such Further Project Loan Tranche (including the Issuer's rights under the Transaction Documents relating to such Further Project Loan Tranches and any cash flow deriving therefrom to the Issuer) upon the filing of the relevant resolutions of the Issuer with the Chamber of Commerce of Rome (the "**Issuer's Subsequent Transaction Rights**", together with the Issuer's Initial Transaction Rights, the "**Issuer's Transaction Rights**"). For the avoidance of doubt, the Issuer's Transaction Rights will not include any amounts payable as commission, fees or otherwise to Infrastrutture S.p.A. in its various roles in relation to the Transaction pursuant to Clause 18 (*Commission and Fees*) of the Credit Facility Agreement.

The proceeds deriving from the issue of the first three Series of Notes to be issued under the Programme (the "**First Series**") will be applied by the Issuer (as Financing Proceeds) to fund the first loans to be made to the Borrowers (the "**First Project Loan Tranches**"). The Financing Proceeds deriving from the issue of any subsequent Series of Notes (and amounts drawn down under Funding Loans, if so specified in the relevant Funding Loan Agreement (as defined below)) will be applied by the Issuer to fund loans to be made to the Borrowers in accordance with the Credit Facility Agreement (the "**Further Project Loan Tranches**" and, together with the First Project Loan Tranches,

the "**Project Loan Tranches**"). The Refinancing Proceeds deriving from the issue of any subsequent Series of Notes (and amounts drawn down under Funding Loans (if so specified in the relevant Funding Loan Agreement)) will constitute Issuer Available Funds (as defined below) and will be applied by the Issuer on the Payment Dates (as defined below) to finance payments to be made by the Issuer in accordance with the relevant Priority of Payments (as defined below).

By virtue of the Transaction Documents and in accordance with Law Decree No. 63 of 15 April 2002 (as converted into law with amendments and as subsequently amended by Law Decree No. 269 of 30 September 2003, converted with amendments into Law No. 326 of 24 November 2003) ("**Law Decree No. 63**") and pursuant to resolutions of the Issuer filed with the Chamber of Commerce of Rome, the Issuer's Transaction Rights will be available both prior to and following a winding up of the Issuer, to satisfy the obligations of the Issuer to the Noteholders, to the Other Issuer Creditors (as defined below) and to any other creditors of the Issuer in relation to the finance transaction involving the Project (the "**Transaction**") in priority to the Issuer's obligations to any other creditors, until the repayment in full of the Notes and the Funding Loans. All the Issuer's Transaction Rights will constitute one single *patrimonio separato* pursuant to Article 8 of Law Decree No. 63.

By virtue of the operation of Article 75 and the Credit Facility Agreement, the Borrowers' right, title and interest in and to the Net TACs and to any sums collected therefrom will be destined with priority to the repayment of amounts due in respect of the Project Loan Tranches and no creditors, other than the Issuer, may attach the destined Net TACs until the repayment in full of the amounts due in respect of Project Loan Tranches.

- 1.4 *Cash Allocation, Management and Payment Agreement:* Pursuant to the terms of a cash allocation, management and payment agreement entered into on or about 29 January 2004 (the "**Signing Date**") between the Issuer, the Project Facility Manager, J.P. Morgan Corporate Trustee Services Ltd. as representative of the holders of the Notes (the "**Representative of the Noteholders**"), JPMorgan Chase Bank, London branch as programme calculation agent (the "**Programme Calculation Agent**"), JPMorgan Chase Bank, Milan branch as transaction accounts bank (the "**Transaction Accounts Bank**"), JPMorgan Chase Bank, Milan branch as principal paying agent (the "**Principal Paying Agent**") and J.P. Morgan Bank Luxembourg S.A. as Luxembourg paying agent (the "**Luxembourg Paying Agent**" and, together with the Principal Paying Agent, the "**Paying Agents**") (the "**Cash Allocation, Management and Payment Agreement**"), the Programme Calculation Agent, the Transaction Accounts Bank and the Paying Agents will agree to provide the Issuer with certain calculation, notification and reporting services together with account handling services in relation to monies from time to time standing to the credit of the Issuer Accounts (as defined below) and with certain agency services and the Luxembourg Paying Agent has agreed, *inter alia*, to make available for inspection such documents as may be required from time to time by the rules of the Luxembourg Stock Exchange and to arrange for the publication of any notice to be given to the Noteholders.

- 1.5 *Liquidity Facility Agreement(s)*: Pursuant to the terms of liquidity facility agreement(s) (if any) to be entered into between the Liquidity Facility Provider(s) (as defined below) and the Issuer on the terms set out in the Intercreditor Agreement (as defined below) (the "**Liquidity Facility Agreement(s)**"), the Liquidity Facility Provider(s) will commit to make available to the Issuer from the Payment Date in July 2009 the amount calculated in accordance with the Intercreditor Agreement (the "**Required Liquidity Amount**"). If drawn down by the Issuer, such advance will be credited to the Payments Account (as defined below) and form part of the Issuer Available Funds for the Notes on the immediately following Payment Date.
- 1.6 *Hedging Agreements*: Pursuant to the terms of one or more hedging agreements (the "**Hedging Agreements**") entered into from time to time during the Programme with one or more Hedging Counterparties (as defined below), the Issuer will protect itself against certain risks (fixed, floating, indexed, currency exchange or otherwise) arising in respect of its obligations under any Series of Notes or Funding Loans. Each Hedging Agreement may be subject to different terms and conditions as set out in the Pricing Supplement of any Series of Notes.
- 1.7 *Additional Hedging Agreements*: Pursuant to the terms of one or more additional hedging agreements (the "**Additional Hedging Agreements**"), entered into from time to time during the Programme, with one or more Hedging Counterparties, the Issuer may enter into additional hedging arrangements in relation to the Transaction. Each Additional Hedging Agreement may be subject to different terms and conditions as set out in the relevant supplement prepared in connection with the Notes and available to Noteholders.
- 1.8 *Deed(s) of Charge*: Pursuant to the terms of one or more English law deed(s) of charge (the "**Deed(s) of Charge**"), entered into from time to time during the Programme between the Issuer and the Representative of the Noteholders (acting on behalf of the Noteholders and of the Other Issuer Creditors) and, where appropriate, the relevant Hedging Counterparties, the Issuer will assign to the Representative of the Noteholders (for the benefit of the Noteholders and the Other Issuer Creditors) by way of fixed security all monetary claims and rights and all amounts (including payment for claims, indemnities, damages, penalties, credits and guarantees) to which the Issuer is or will be entitled to from time to time under the Hedging Agreements and Additional Hedging Agreements entered into by the Issuer.
- 1.9 *Dealer Agreement and Subscription Agreements*: Pursuant to a dealer agreement entered into on or about the Signing Date (the "**Dealer Agreement**") between the Issuer, the Borrowers, Ferrovie dello Stato S.p.A. (the "**Group Holding Company**"), the Dealers and the Arrangers (each as defined below), the Issuer has agreed the arrangements under which Notes may from time to time be agreed to be sold by the Issuer to, and subscribed by, the Dealers. Pursuant to the terms of one or more subscription agreements (the "**Subscription Agreements**"), entered into from time to time pursuant to the Programme, between *inter alios* the Issuer and any one or more of the Dealers in relation to each Series of Notes, such Dealers will subscribe and pay for

such Notes on the relevant Issue Date (as defined below), and such Dealers will appoint the Representative of the Noteholders of the relevant Series of Notes.

- 1.10 *Intercompany Agreement:* Pursuant to the terms of an intercompany agreement entered into on or before the Signing Date between the Issuer, the Project Facility Manager, the Borrowers, the Credit Facility Guarantor (as defined below), the Group Holding Company and the Representative of the Noteholders (the "**Intercompany Agreement**"), the Borrowers and the Group Holding Company have given certain undertakings in relation to the application of the State Contribution for the purposes of fulfilment of payment obligations under the Credit Facility Agreement.
- 1.11 *Issuer Collection Account Letter:* Pursuant to the terms of a letter sent by the Issuer to the Collection Accounts Bank (as defined below) on or before the Signing Date (the "**Issuer Collection Account Letter**") the Issuer has given the Collection Accounts Bank instructions in relation to the operation of the Issuer Collection Account (as defined below).
- 1.12 *Transfer Agreement:* Pursuant to the terms of a Transfer Agreement to be entered into between the Issuer, the Group Holding Company, RFI and TAV on or before the Signing Date (the "**Transfer Agreement**"), the Issuer has granted to each of the Group Holding Company, RFI and TAV a right to assign to the Issuer, and each of the Group Holding Company, RFI and TAV have granted the Issuer a right to acquire, their respective claims against the State Contribution Provider in respect to the next payment of State Contribution due therefrom.
- 1.13 *FS Group Contribution Accounts Letters:* Pursuant to the terms of the letters sent by each of the Borrowers to the Collection Accounts Bank on or before the Signing Date (the "**FS Group Contribution Accounts Letters**"), the Borrowers have given the Collection Accounts Bank instructions in relation to the operation of their respective FS Group Contributions Accounts (as defined below).
- 1.14 *Funding Loan Agreement(s):* Pursuant to the terms of funding loan agreement(s) which may be entered into by the Issuer and banks following the Signing Date (the "**Funding Loan Agreement(s)**") in accordance with the provisions of the Intercreditor Agreement, the Funding Lenders (as defined below) will provide the Funding Loans to the Issuer, in accordance with Law Decree No. 63, to be used for the financing or the refinancing of the Project.
- 1.15 *Intercreditor Agreement:* Pursuant to the terms of an intercreditor agreement entered into on the Signing Date between the Borrowers, the Credit Facility Guarantor, the Group Holding Company, the Project Facility Manager, the Representative of the Noteholders, the Transaction Accounts Bank, the Programme Calculation Agent, the Principal Paying Agent and the Luxembourg Paying Agent (and, together with the Liquidity Facility Provider(s) and the Funding Lenders, the "**Other Issuer Creditors**") and the Issuer (the "**Intercreditor Agreement**"), the Other Issuer Creditors have agreed to ensure that all the Issuer Available Funds are applied in or towards satisfaction of all the Issuer's payment obligations towards the Noteholders as well as the Other Issuer Creditors, in accordance with the terms of the Intercreditor Agreement.

- 1.16 *Monte Titoli Mandate Agreement:* By a mandate agreement entered into on or prior to the Signing Date (the "**Monte Titoli Mandate Agreement**") between the Issuer and Monte Titoli S.p.A. ("**Monte Titoli**"), Monte Titoli will agree to provide the Issuer with certain depository and administration services in relation to the Notes.
- 1.17 *The Notes:* Unless otherwise stated, all subsequent references in these Conditions to "**Notes**" are to the Notes issued under any Series of the Programme which are the subject of the relevant Pricing Supplement. Copies of the relevant Pricing Supplement are available for inspection and may be obtained by Noteholders during normal business hours at the Specified Office (as defined below) of each of the Representative of the Noteholders and the Luxembourg Paying Agent.
- 1.18 *Summaries:* These Conditions include summaries of, and are subject to, the detailed provisions of the Credit Facility Agreement, the Project Loan Tranche Annexes (as defined below), the Dealer Agreement, the Subscription Agreements, the Intercreditor Agreement, the Cash Allocation, Management and Payment Agreement, the Intercompany Agreement, the Issuer Collection Account Letter, the FS Group Contribution Accounts Letters, the Transfer Agreement, the Hedging Agreements, the Additional Hedging Agreements, the Deed(s) of Charge, the Liquidity Facility Agreement(s) and the Funding Loan Agreement(s) (together with these Conditions, the "**Transaction Documents**"). Copies of such Transaction Documents are available for inspection during normal business hours by the Noteholders at the Specified Office of the Representative of the Noteholders and the Specified Office of the Luxembourg Paying Agent.

The Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all provisions of the Transaction Documents applicable to them. In particular, each Noteholder, by reason of holding Notes, recognises the Representative of the Noteholders as its representative and accepts to be bound by the terms of each of the Transaction Documents signed by the Representative of the Noteholders as if such Noteholder was a signatory thereto.

- 1.19 *Rules of Organisation of Noteholders:* The rights and powers of the Noteholders may only be exercised in accordance with the rules of organisation of Noteholders (respectively, the "**Rules of Organisation of Noteholders**" and the "**Organisation of Noteholders**") which are attached hereto and deemed to form part of these Conditions.

2. **Interpretation**

- 2.1 *Definitions:* In these Conditions the following expressions shall, except where the context otherwise requires, have the following meanings:

"**Accumulation Amount**" means any Issuer Available Funds remaining after the payment in full of items (i) to (xi) in the Pre Event Priority of Payments on any Payment Date on which there is Principal Amount Outstanding on any Series of Notes or principal outstanding on any Funding Loan.

"**Additional Hedging Agreements**" has the meaning given to that term in Condition 1 (*Introduction*).

"Additional Reserve Record" means the record of amounts received in respect of any additional reserve amounts (if any) which the Issuer is required to create pursuant to the Intercreditor Agreement and/or any Pricing Supplement.

"Amortising Notes" means a Note specified as such in the relevant Pricing Supplement.

"Arrangers" means MCC, Morgan Stanley and UBS.

"Article 75" has the meaning given to that term in Condition 1 (*Introduction*).

"Banking Act" means Legislative Decree No. 385 of 1 September 1993 (as amended and supplemented).

"Borrowers" has the meaning given to that term in Condition 1 (*Introduction*).

"Bullet Notes" means a Note specified as such in the relevant Pricing Supplement.

"Business Centre" means the city or cities specified as such in the relevant Pricing Supplement.

"Business Day" means:

- (i) in relation to any sum payable in Euro, a TARGET Settlement Day and a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments generally in each (if any) Business Centre; and
- (ii) in relation to any sum payable in a currency other than Euro, a day on which commercial banks and foreign exchange markets settle payments generally in London, in the Principal Financial Centre of the relevant currency and in each (if any) Business Centre.

"Business Day Convention", in relation to any particular date, has the meaning given in the relevant Pricing Supplement and, if so specified in the relevant Pricing Supplement, may have different meanings in relation to different dates and, in this context, the following expressions shall have the following meanings:

- (i) **"Following Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day;
- (ii) **"Modified Following Business Day Convention"** or **"Modified Business Day Convention"** means that the relevant date shall be postponed to the first following day that is a Business Day unless that day falls in the next calendar month in which case that date will be the first preceding day that is a Business Day;
- (iii) **"Preceding Business Day Convention"** means that the relevant date shall be brought forward to the first preceding day that is a Business Day;

- (iv) **"FRN Convention", "Floating Rate Convention" or "Eurodollar Convention"** means that each relevant date shall be the date which numerically corresponds to the preceding such date in the calendar month which is the number of months specified in the relevant Pricing Supplement as the specified period after the calendar month in which the preceding such date occurred *provided, however, that*:
- (A) if there is no such numerically corresponding day in the calendar month in which any such date should occur, then such date will be the last day which is a Business Day in that calendar month;
 - (B) if any such date would otherwise fall on a day which is not a Business Day, then such date will be the first following day which is a Business Day unless that day falls in the next calendar month, in which case it will be the first preceding day which is a Business Day; and
 - (C) if the preceding such date occurred on the last day in a calendar month which was a Business Day, then all subsequent such dates will be the last day which is a Business Day in the calendar month which is the specified number of months after the calendar month in which the preceding such date occurred; and
- (v) **"No Adjustment"** means that the relevant date shall not be adjusted in accordance with any Business Day Convention;

"Cancellation Date" has the meaning given to that term in Condition 11 (*Redemption, Purchase and Cancellation*).

"Cash Allocation, Management and Payment Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"Cash Reserve Amount" means the amount to be withheld from an advance to be made to a Borrower and to be credited to the Issuer Collection Account and recorded in the Issuer Cash Reserve Record on any Issue Date of Notes or drawdown under a Funding Loan Agreement to form part of the Issuer Available Funds on the immediately following Payment Dates up to and including the next Payment Date falling in July, in each case as specified in the relevant Pricing Supplement or Funding Loan Agreement, as the case may be.

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

"Collection Accounts Bank" means *Tesoreria Centrale dello Stato*, acting through the Bank of Italy.

"Collection Period" means, in respect of any Determination Date, the period from (and including) the preceding Determination Date to (but excluding) such Determination Date or, in respect of the first Collection Period, the period from (and including) the Initial Issue Date to the first Determination Date;

"**Conditions**" has the meaning given to that term in Condition 1 (*Introduction*).

"**CONSOB**" has the meaning given to that term in Condition 3 (*Form, Denomination and Title*).

"**CONSOB Resolution No. 11768**" has the meaning given to that term in Condition 3 (*Form, Denomination and Title*).

"**Credit Facility Agreement**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Credit Facility Cash Flow**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Credit Facility Guarantor**" means RFI as guarantor of the obligations of TAV as Borrower under the Project Loan Tranches.

"**Day Count Fraction**" means, in respect of the calculation of an amount for any period of time (from and including the first day of such period to but excluding the last) (whether or not constituting an Interest Period, the "**Calculation Period**"), in relation to any Note Actual/360 (as defined below), or such day count fraction as may be specified in the relevant Pricing Supplement: and

- (i) if "**Actual/Actual (ISMA)**" is so specified, means:
 - (a) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
 - (b) where the Calculation Period is longer than one Regular Period, the sum of:
 - (A) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and
 - (B) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year;
- (ii) if "**Actual/365**" or "**Actual/Actual (ISDA)**" is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);

- (iii) if "**Actual/365 (Fixed)**" is so specified, means the actual number of days in the Calculation Period divided by 365;
- (iv) if "**Actual/360**" is so specified, means the actual number of days in the Calculation Period divided by 360;
- (v) if "**30/360**" is so specified, means the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Calculation Period is the 31st day of a month but the first day of the Calculation Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month, or (ii) the last day of the Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); and
- (vi) if "**30E/360**" or "**Eurobond Basis**" is so specified means, the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Calculation Period unless, in the case of the final Calculation Period, the date of final maturity is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month).

"**Dealer Agreement**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Dealers**" means the Initial Dealers together with any subsequent dealers appointed in accordance with the Dealer Agreement.

"**Deed(s) of Charge**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Determination Date**" means, in relation to a Payment Date, the day falling 5 Business Days prior to such Payment Date.

"**Early Partial Redemption Date**" means the date specified as such in the relevant Pricing Supplement, from which the Issuer may exercise its option to redeem the Notes early in part in accordance with Condition 11.5 (*Redemption, Purchase and Cancellation - Early Partial Redemption*).

"**Early Redemption Amount**" means, in respect of any Series of Notes, for which early redemption of a Series of Notes is exercisable by the Issuer in accordance with Condition 11.4 (*Early Redemption of a Series of Notes*), its Principal Amount Outstanding or such other amount as may be specified in, or determined in accordance with, the relevant Pricing Supplement.

"**Early Redemption Date**" means the date specified as such in the relevant Pricing Supplement.

"**Eligible Account**" means an account held with an Eligible Institution.

"Eligible Institution" means, for the purposes of the Transaction Accounts Bank, any bank located in Italy or acting through a branch located in Italy whose short-term unsecured and unsubordinated debt obligations are rated at least F1 by Fitch Ratings, P-1 by Moody's and A1+ by S&P, and for the Collection Accounts Bank, any bank located in Italy or acting through a branch located in Italy whose long-term unsecured and unsubordinated debt obligations are rated at least Aa2 by Moody's and AA by S&P and whose short-term unsecured and unsubordinated debt obligations are rated at least F1 by Fitch Ratings.

"EURIBOR" means the Euro-zone inter-bank offer rate which appears on the display page designated 248 on the Moneyline Telerate Service (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying comparable rates).

"Euroclear" means Euroclear Bank S.A./N.V. as operator of the Euroclear System.

"Expense Account" means the account opened by the Issuer with the Transaction Accounts Bank for the deposit of the Expenses Retention Amount and out of which the Expenses will be paid during each Interest Period.

"Expenses" means any documented fees, costs, liabilities and expenses required to be paid to any third party (other than the Noteholders and the Other Issuer Creditors) arising in connection with the Transaction, but excluding any taxes payable by the Issuer (for the account of Infrastrutture S.p.A. rather than for the account of the *patrimonio separato*) in respect of the segregated assets (*patrimonio separato*) during each Interest Period prior to the service of a Trigger Notice.

"Expenses Retention Amount" means an amount of €100,000 on the Initial Issue Date and, prior to the service of a Trigger Notice, on each Payment Date thereafter, such amount to be increased once each 5 years in accordance with the Italian Consumer Price Index published by *Istituto Nazionale di Statistica*, to be funded initially out of the proceeds of the first issue of Notes and subsequently in accordance with the Pre Event Priority of Payments.

"Extraordinary Resolution" the meaning given to that term in the Rules of Organisation of Noteholders.

"Facility Payment Date" means 20 July in each year or, if such day is not a Business Day, the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

"Final Maturity Date" the meaning given to that term in the relevant Pricing Supplement.

"Financing Proceeds" has the meaning given to that term in Condition 1 (*Introduction*).

"First Loan Date" means the date on which the First Project Loan Tranches are advanced.

"First Project Loan Tranches" has the meaning given to that term in Condition 1 (*Introduction*).

"First Series" has the meaning given to that term in Condition 1 (*Introduction*).

"Fitch Ratings" means Fitch Ratings Limited.

"Fixed Interest Amount" has the meaning given in the relevant Pricing Supplement.

"Fixed Interest Commencement Date" means the date specified as such in the relevant Pricing Supplement.

"Fixed Payment Date" means, in relation to each Series of Notes bearing a fixed rate of interest, 31 July of each year, as adjusted in accordance with the applicable Business Day Convention, if so specified in the relevant Pricing Supplement.

"Fixed Rate Note" means a Note on which interest is calculated at a fixed rate payable in arrear on the relevant Fixed Payment Dates in each year prior to the Scheduled Maturity Date.

"Fixed Rate Note Provisions" means the provisions detailed in Condition 7 (*Fixed Rate Note Provisions*).

"Floating Interest Amount" means the amount of interest payable on Notes bearing a floating rate of interest calculated by the Principal Paying Agent pursuant to Condition 8 (*Floating Rate Note Provisions*) on the relevant Interest Determination Date.

"Floating Interest Commencement Date" means the date specified as such in the relevant Pricing Supplement.

"Floating Payment Date" means, in relation to each Series of Notes bearing a floating rate of interest, the 31st day of January and July of each year or 31 July of each year (as specified in the relevant Pricing Supplement), as adjusted in accordance with the applicable Business Day Convention, if so specified in the relevant Pricing Supplement.

"Floating Rate Note" means a Note on which interest is calculated at a floating rate.

"Floating Rate Note Provisions" means the provisions detailed in Condition 8 (*Floating Rate Note Provisions*).

"Forecasted Gross TACs" means the forecasted Gross TACs determined by the TACs Forecast Manager pursuant to the Implementation Decree and confirmed by the TACs Confirmation Agent.

"FS Group Contributions Accounts" means the accounts opened by each of the Group Holding Company and the Borrowers with the Collection Accounts Bank for the deposit of all amounts received or recovered thereby as State Contribution.

"FS Group Contribution Accounts Letters" has the meaning given to that term in Condition 1 (*Introduction*).

"Funding Lenders" means the banks who, from time to time, enter into Funding Loan Agreement(s) with the Issuer, together with any assignees thereof of the rights and obligations thereof under the Transaction Documents to which such persons are party, who have acceded to the Intercreditor Agreement.

"Funding Loans" has the meaning given to that term in Condition 1 (*Introduction*).

"Funding Loan Agreement(s)" has the meaning given to that term in Condition 1 (*Introduction*).

"Further Project Loan Tranches" has the meaning given to that term in Condition 1 (*Introduction*).

"Gross Track Access Charges" or **"Gross TACs"** means the claims and proceeds deriving from the use of the Turin-Milan-Naples line of the Italian high speed/high capacity railway system;

"Group Holding Company" has the meaning given to that term in Condition 1 (*Introduction*).

"Hedging Agreements" has the meaning given to that term in Condition 1 (*Introduction*).

"Hedging Counterparty" or **"Hedging Counterparties"** means the party or parties who, from time to time, enter into Hedging Agreements or Additional Hedging Agreements with the Issuer in relation to the Transaction.

"Hedging Termination Amount" means any sum due by any Hedging Counterparty to the Issuer as a result of an early termination of the Hedging Agreement or Additional Hedging Agreement in accordance with the provisions set out therein.

"Implementation Decree" has the meaning given to that term in Condition 1 (*Introduction*).

"Indexation Adviser" means a leading broker, primary dealer or other expert operating in the index linked treasury market or other adviser selected by the Issuer and approved by the Representative of the Noteholders.

"Index" or **"Index Figure"** means, in relation to any Series of Index Linked Notes, subject as provided in Condition 9.5 (*Cessation of or Fundamental Changes to the Index*) the index or index figure specified in the relevant Pricing Supplement.

"Index Linked Interest Amount" means the amount of interest payable on Notes bearing an index linked rate of interest calculated by the Principal Paying Agent pursuant to Condition 9 (*Index Linked Note Provisions*) on the relevant Interest Determination Date.

"Index Linked Interest Commencement Date" means the date specified as such in the relevant Pricing Supplement.

"Index Linked Notes" means the Series of Notes designated as such in the relevant Pricing Supplement, on which each payment of interest or repayment is linked to an index.

"Index Linked Payment Dates" means, in relation to each Series of Index Linked Notes, the 31st day of January and July of each year or 31 July of each year (as specified in the relevant Pricing Supplement), as adjusted in accordance with the applicable Business Day Convention, if so specified in the relevant Pricing Supplement.

"Initial Dealers" means MCC, Morgan Stanley and UBS.

"Initial Issue Date" means the Issue Date of the First Series.

"Intercreditor Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"Intercompany Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"Interest Amount" means the Fixed Interest Amount, the Floating Interest Amount or the Index Linked Interest Amount, as the case may be.

"Interest Commencement Date" means a Floating Interest Commencement Date, a Fixed Interest Commencement Date or an Index Linked Interest Commencement Date, as the case may be.

"Interest Determination Date" means, with respect to each Series of Notes, the date specified as such in the relevant Pricing Supplement.

"Interest Period" means, in relation to each Series of Notes, each period from (and including) the Interest Commencement Date for such Series or any Payment Date to (but excluding) the next following Payment Date, provided that the initial Interest Period of the First Series shall begin on (and include) the Initial Issue Date and end on (but exclude) the first Payment Date.

"Interest and Principal Reserve" means, with reference to each Series of Notes or Funding Loan in respect of which interest and/or principal is due and payable on a semi annual basis, the amount determined on the Determination Date immediately prior to the Payment Date falling in July of each year to be payable on the Payment Date in January of the subsequent year, in accordance with the formula for such determination set out (i) in respect of the Notes, in the relevant Pricing Supplement, or (ii) in respect of the Funding Loans, in the relevant Funding Loan Agreement.

"ISDA Determination" means the means of determining a Rate of Interest described in Condition 8.4 (*ISDA Determination*).

"ISDA Definitions" means the 2000 ISDA Definitions (as amended and updated as at the date of issue of the Notes of the relevant Series (as specified in the relevant Pricing Supplement) as published by the International Swaps and Derivatives Association, Inc.).

"ISDA Rate" has the meaning given to that term in Condition 8 (*Floating Rate Note Provisions*).

"Issue Date" has the meaning given in the relevant Pricing Supplement.

"Issue Price" means, in relation to any Series, the issue price specified for such Series in the relevant Pricing Supplement.

"Issuer" has the meaning given to that term in Condition 1 (*Introduction*).

"Issuer Accounts" means the Payments Account, the Expense Account, the Issuer Collection Account, any Reserve Account and the Permitted Payments Account (if any).

"Issuer Accumulation Record" means the record of any Accumulation Amount paid on any Payment Date.

"Issuer Available Funds" means in respect of any Payment Date, as the case may be, the aggregate of:

- (i) all amounts standing to the credit of the Issuer Collection Account at the immediately preceding Determination Date and recorded in the Issuer Collection and Reserve Record (representing, for the avoidance of doubt, (i) all amounts paid to the Issuer in respect of the Credit Facility Agreement on the immediately preceding Facility Payment Date and (ii) all amounts held by the Issuer as at such date in respect of Interest and Principal Reserve, if any); and
- (ii) the Refinancing Proceeds from issues of new Series of Notes issued under the Programme and paid into the Payments Account on or prior to the immediately preceding Determination Date; and
- (iii) all amounts drawn down under Funding Loans which have been drawn down for the purposes of forming part of the Issuer Available Funds; and
- (iv) all amounts (if any) paid or to be paid immediately prior to such Payment Date by the Liquidity Facility Provider(s) into the Payments Account pursuant to the Liquidity Facility Agreement(s); and
- (v) all amounts standing to the credit of the Payments Account at the immediately preceding Determination Date (for the avoidance of doubt, with the exception of any Financing Proceeds and amounts drawn down under any Funding Loan Agreement in order to finance the Project); and
- (vi) all amounts standing to the credit of the Expense Account at the immediately preceding Determination Date; and
- (vii) all amounts standing to the credit of any Reserve Accounts (if any) at the immediately preceding Determination Date (to the extent that such amounts are due, in accordance with the Transaction Documents, to be applied as Issuer Available Funds on such Payment Date); and

- (viii) all amounts standing to the credit of the Issuer Collection Account and recorded in the Issuer Liquidity Reserve Record at the immediately preceding Determination Date (to the extent that such amounts are due, in accordance with the Transaction Documents, to be applied as Issuer Available Funds on such Payment Date); and
- (ix) all amounts standing to the credit of the Issuer Collection Account and recorded in the Issuer Accumulation Record at the immediately preceding Determination Date; and
- (x) all amounts (if any) paid or to be paid immediately prior to such Payment Date by the Hedging Counterparties into the Payments Account pursuant to the Hedging Agreement(s) or Additional Hedging Agreements (other than Hedging Termination Amounts); and
- (xi) all amounts of interest paid on any of the Issuer Accounts during the Collection Period immediately preceding such Payment Date,

provided that, for the avoidance of doubt:

- (a) (prior to the service of a Trigger Notice) the Issuer Available Funds will not include any amounts standing to the credit of the Issuer Collection Account on the immediately preceding Determination Date which are recorded in the Issuer TACs Collection Record, the Issuer State Contribution Record, the Issuer Hedging Record or the Issuer Cash Reserve Record;
- (b) (following the service of a Trigger Notice) the Issuer Available Funds will not include any amounts standing to the credit of the Issuer Collection Account and recorded in the Issuer TACs Collection Record and which are to be used to make Permitted Payments;
- (c) should there be any duplication in the amounts included in the different items of the Issuer Available Funds above, the Programme Calculation Agent shall avoid such duplication when calculating the Issuer Available Funds; and
- (d) the Issuer Available Funds will not include any asset (including, without limitation, cash or securities) which is paid or transferred by any Hedging Counterparty to the Issuer as collateral to secure the performance by such Hedging Counterparty of its obligations under a Hedging Agreement together with any income or distributions received in respect of such asset and any equivalent or replacement of such asset into which such asset is transferred but which may not be applied at such time in satisfaction of the obligations of the relevant Hedging Counterparty under the terms of such Hedging Agreement.

"Issuer Cash Reserve Record" means the record of amounts received upon an issue of Notes or drawdown of a Funding Loan which are specified in the relevant Pricing Supplement or Funding Loan Agreement to be withheld from amounts which would otherwise have been advanced to the Borrowers in accordance with the Credit Facility Agreement.

"Issuer Collection Account" means the Euro denominated account opened by the Issuer with the Collection Accounts Bank, for the deposit of monies received thereby *inter alia* in respect of the Credit Facility Agreement (including Gross TACs and State Contribution) and in respect of any Interest and Principal Reserve, Accumulation Amount, Hedging Termination Amounts or Cash Reserve Amount.

"Issuer Collection Account Letter" has the meaning given to that term in Condition 1 (*Introduction*).

"Issuer Collection Account Records" means each of the Issuer TACs Collection Record, the Issuer State Contribution Record, the Issuer Funding Record, the Issuer Hedging Record, the Issuer Cash Reserve Record, the Issuer Liquidity Reserve Record, the Issuer Accumulation Record, the Issuer Collection and Reserve Record and any Additional Reserve Record.

"Issuer Collection and Reserve Record" means the record of (i) the amounts applied as payment in respect of the Credit Facility Agreement on any Facility Payment Date (being transferred from the other Issuer Collection Account Records (other than the Issuer Funding Record, the Issuer Accumulation Record, the Issuer Liquidity Facility Record and any monies recorded in the Issuer TACs Collection Record to be used as Permitted Payments)); (ii) the monies drawn down under a Funding Loan Agreement to the extent that such monies are to be used for refinancing the Notes or the Funding Loan Agreement(s); (iii) the proceeds of any issue of Notes, to the extent they are Refinancing Proceeds; and (iv) any Interest and Principal Reserve paid on any Payment Date.

"Issuer Funding Record" means the record of (i) the monies drawn down under any Funding Loan Agreement to the extent that such monies are to be used for financing advances under the Credit Facility Agreement, and (ii) the proceeds of any issue of Notes, to the extent they are Financing Proceeds;

"Issuer Hedging Record" means the record of amounts received from any Hedging Counterparty as Hedging Termination Amounts.

"Issuer's Initial Transaction Rights" has the meaning given to that term in Condition 1 (*Introduction*).

"Issuer Liquidity Reserve Record" means the record of amounts received in respect of the Liquidity Facility Reserve.

"Issuer State Contribution Record" means the record of all amounts received in respect of the State Contribution.

"Issuer's Subsequent Transaction Rights" has the meaning given to that term in Condition 1 (*Introduction*).

"Issuer TACs Collection Record" means the record of all amounts received from the train operators and lessees in respect of Gross TACs.

"Issuer's Transaction Rights" has the meaning given to that term in Condition 1 (*Introduction*).

"Law Decree No. 63" has the meaning given to that term in Condition 1 (*Introduction*).

"Legislative Decree No. 213" has the meaning given to that term in Condition 3 (*Form, Denomination and Title*).

"Liquidity Facility Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"Liquidity Facility Event" means, in relation to the Payment Date in July 2009 and on each Payment Date in July in the following years, the failure of the Issuer to enter into Liquidity Facility Agreement(s) in accordance with the terms set out in the Intercreditor Agreement by the Second Loan Calculation Date of the year immediately preceding the relevant Payment Date.

"Liquidity Facility Provider" or **"Liquidity Facility Provider(s)"** means the party or parties specified in the relevant Pricing Supplement who, from time to time, enter into Liquidity Facility Agreement(s) with the Issuer in relation to any Series of Notes.

"Liquidity Facility Reserve" means the cash reserve for the Required Liquidity Amount or any part thereof.

"Listing Agent" means J.P. Morgan Bank Luxembourg S.A., a bank incorporated under the laws of the Grand Duchy of Luxembourg, having its registered office at 5 rue Plaetis, L-2338, Luxembourg.

"Luxembourg Paying Agent" has the meaning given to that term in Condition 1 (*Introduction*).

"Margin" has the meaning given in the relevant Pricing Supplement.

"Maximum Rate of Interest" has the meaning given in the relevant Pricing Supplement.

"MCC" means MCC S.p.A. - Capitalia Gruppo Bancario, having its registered office at Via Piemonte 51, 00187 Rome, Italy.

"Meeting" has the meaning given to that term in the Rules of Organisation of Noteholders.

"Member State" means a member state of the European Union.

"Minimum Rate of Interest" has the meaning given in the relevant Pricing Supplement.

"Monte Titoli" has the meaning given to that term in Condition 1 (*Introduction*).

"Moody's" means Moody's Investors Service.

"Monte Titoli Account Holders" means any authorised financial intermediary institution entitled to hold accounts on behalf of their customers with Monte Titoli and includes any depository banks appointed by Euroclear and Clearstream, Luxembourg.

"Monte Titoli Mandate Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"Morgan Stanley" means Morgan Stanley & Co. International Limited, having its registered office at 25 Cabot Square, Canary Wharf, London E14 4QA, United Kingdom.

"Net Track Access Charges" or **"Net TACs"** means the Gross TACs net of certain Permitted Payments.

"Notes" has the meaning given to that term in Condition 1 (*Introduction*).

"Optional Partial Redemption Amount" has the meaning given to that term in Condition 11.5 (*Redemption, Purchase and Cancellation - Early Partial Redemption*).

"Other Issuer Creditors" has the meaning given to that term in Condition 1 (*Introduction*).

"Organisation of Noteholders" has the meaning given to that term in Condition 1 (*Introduction*).

"Paying Agents" has the meaning given to that term in Condition 1 (*Introduction*).

"Payment Date" means either a Fixed Payment Date, a Floating Payment Date or an Index Linked Payment Date as the case may be.

"Payments Account" means the Euro denominated account opened by the Issuer with the Transaction Accounts Bank, into which *inter alia*, the proceeds from issues of new Series of Notes and drawdowns under the Funding Loan Agreements will be credited.

"Permitted Payments" means the payments that may be made from the Issuer to the Borrowers in connection with *inter alia* the operational costs of the Project in accordance with the Credit Facility Agreement and the Implementation Decree.

"Permitted Payments Account" means the Euro denominated account which may be opened by the Issuer with an Eligible Institution for the transfer of Gross TACs from the Issuer Collection Account in the circumstances set out in Clause 16.9 of the Intercreditor Agreement.

"Post Event Priority of Payments" means the order of priority of payments set out in Condition 6.2 (*Post Event Priority of Payments*).

"Pre Event Priority of Payments" means the order of priority of payments set out in Condition 6.1 (*Pre Event Priority of Payments*).

"Pricing Supplement" has the meaning given to that term in Condition 1 (*Introduction*).

"Principal Amortisation Amount" has the meaning given to that term in Condition 11 (*Redemption, Purchase and Cancellation*).

"Principal Amount Outstanding" means on any date:

- (i) with respect to any Note, the principal amount thereof upon issue less the aggregate amount of all principal payments that have been made on that Note prior to such date, adjusted (in the case of Index Linked Notes) in accordance with the Index or formula as specified in the relevant Pricing Supplement;
- (ii) in relation to a Series of Notes, the aggregate Principal Amount Outstanding of all Notes of such Series; and
- (iii) in relation to the Notes outstanding at any time, the aggregate Principal Amount Outstanding of all Notes outstanding regardless of Series.

"Principal Available Funds" means, in respect of any Series of Notes then outstanding as at any Payment Date, the Issuer Available Funds less all amounts required pursuant to the relevant Priority of Payment to be paid by the Issuer in priority to the repayment of principal as at such Payment Date.

"Principal Financial Centre" means, in relation to any currency, the principal financial centre for that currency *provided, however, that:*

- (i) in relation to Euro, it means the principal financial centre of such Member State of the European Union as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Principal Paying Agent; and
- (ii) in relation to Australian dollars, it means either Sydney or Melbourne and, in relation to New Zealand dollars, it means either Wellington or Auckland; in each case as is selected (in the case of a payment) by the payee or (in the case of a calculation) by the Principal Paying Agent.

"Principal Payment" means any payment repaying the principal of any Note.

"Principal Paying Agent" has the meaning given to that term in Condition 1 (*Introduction*).

"Principal Repayment Start Date" means, in relation to a Series of Amortising Notes, the Payment Date from which first payment of principal is due in accordance with the Schedule of Amortisation.

"Priorities of Payments" means the Pre Event Priority of Payments and the Post Event Priority of Payments and **"Priority of Payments"** means either one of them.

"Programme" has the meaning given to that term in Condition 1 (*Introduction*).

"Programme Calculation Agent" has the meaning given to that term in Condition 1 (*Introduction*).

"Programme Maturity Date" means the 31 July 2062.

"Project" has the meaning given to that term in Condition 1 (*Introduction*).

"Project Facility Manager" has the meaning given to that term in Condition 1 (*Introduction*).

"Project Loan Tranche Annex" means the project loan tranche annex setting out the terms agreed by the Issuer and the Borrowers relating to a Project Loan Tranche, additional to the terms of the Credit Facility Agreement.

"Project Loan Tranches" has the meaning given to that term in Condition 1 (*Introduction*).

"Rate of Interest" means in relation to a Series of Notes the rate or rates (expressed as a percentage per annum) of interest payable in respect of the Notes specified in the relevant Pricing Supplement or calculated or determined in accordance with the provisions of these Conditions and/or the relevant Pricing Supplement.

"Rating Agencies" means Fitch Ratings, Moody's and S&P.

"Redemption Amount" means the Principal Amount Outstanding or the Early Redemption Amount, as the case may be.

"Redenomination Date" has the meaning given to that term in Condition 21 (*Redenomination, Renominalisation and Reconventioning*).

"Reference Banks" has the meaning given to that term in Condition 8 (*Floating Rate Note Provisions*) or, if different in relation to any Series of Notes, those banks specified in the relevant Pricing Supplement.

"Reference Rate" means in relation to each Series of Notes the rate specified in the relevant Pricing Supplement.

"Refinancing Proceeds" has the meaning given to that term in Condition 1 (*Introduction*).

"Regular Period" means:

- (i) in the case of Notes where interest is scheduled to be paid only by means of regular payments, each period from and including the Interest Commencement Date to but excluding the first Payment Date and each successive period from and including one Payment Date to but excluding the next Payment Date;
- (ii) in the case of Notes where, apart from the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year to but excluding the next Regular Date, where **"Regular Date"** means the day and month (but not the year) on which any Payment Date falls; and
- (iii) in the case of Notes where, apart from one Interest Period other than the first Interest Period, interest is scheduled to be paid only by means of regular payments, each period from and including a Regular Date falling in any year

to but excluding the next Regular Date, where "**Regular Date**" means the day and month (but not the year) on which any Payment Date falls other than the Payment Date falling at the end of the irregular Interest Period;

"**Relevant Date**" has the meaning given to that term in Condition 14 (*Prescription*).

"**Relevant Financial Centre**" has the meaning given in the relevant Pricing Supplement.

"**Relevant Screen Page**" has the meaning given in the relevant Pricing Supplement.

"**Relevant Time**" has the meaning given in the relevant Pricing Supplement.

"**Representative of the Noteholders**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Reserve Accounts**" means any Eligible Accounts established with the Transaction Accounts Bank to be used for the deposit of any reserve of interest, principal or otherwise in accordance with the Intercreditor Agreement.

"**Rules of Organisation of Noteholders**" has the meaning given to that term in Condition 1 (*Introduction*).

"**S&P**" means Standard & Poor's Rating Services, a division of the McGraw Hill Companies.

"**Scheduled Amortisation Amount**" has the meaning given to that term in Condition 11 (*Redemption, Purchase and Cancellation*).

"**Scheduled Maturity Date**" means, with respect to each Series of Bullet Notes, the date specified in the relevant Pricing Supplement for the redemption of the Notes.

"**Scheduled Principal Amount Outstanding**" means, with respect to each Series of Amortising Notes, the expected principal amount outstanding of such Series of Amortising Notes on each relevant Payment Date according to the Schedule of Amortisation of such Series of Amortising Notes (after payments expected to be made on such date).

"**Schedule of Amortisation**" means with respect to each Series of Amortising Notes, the expected schedule of amortisation of such Series of Amortising Notes, as specified in the relevant Pricing Supplement.

"**Screen Rate Determination**" has the meaning given to that term in the relevant Pricing Supplement.

"**Security Interest**" means any mortgage, charge pledge, lien, right of set-off, special privilege (*privilegio speciale*), assignment by way of security, retention of title or any other security interest whatsoever or any other agreement or arrangement having the effect of conferring security.

"**Series**" has the meaning given to that term in Condition 1 (*Introduction*).

"Shareholder" means Cassa depositi e prestiti, with offices at Via Goito 4, 00185 Rome, Italy.

"Signing Date" means 29 January 2004.

"Specified Currency" means Euro or such other currency as may be agreed between the Issuer and the relevant Dealer(s).

"Specified Denomination" has the meaning given in the relevant Pricing Supplement.

"Specified Office" means, in relation to each of the Representative of the Noteholders and the Luxembourg Paying Agent, the office notified to the Noteholders for such purposes being, as at the Signing Date, Trinity Tower, 9 Thomas More Street, London E1W 1YT, United Kingdom for the Representative of the Noteholders and J.P. Morgan Bank Luxembourg S.A. for the Luxembourg Paying Agent.

"State Contribution" has the meaning given to that term in Condition 1 (*Introduction*).

"Subscription Agreements" has the meaning given to that term in Condition 1 (*Introduction*).

"State Contribution Provider" has the meaning given to that term in Condition 1 (*Introduction*).

"Subordinated Termination Payment" means, subject as set out below, any termination payments due and payable to any Hedging Counterparty under a Hedging Agreement or Additional Hedging Agreement where such termination results from (a) an Additional Termination Event (Ratings Event) as specified in the schedule to the relevant Hedging Agreement or Additional Hedging Agreement, (b) bankruptcy of the relevant Hedging Counterparty, or (c) any default and/or failure to perform by such Hedging Counterparty under the relevant Hedging Agreement or Additional Hedging Agreement, other than, in the event of (a) or (c) above, the amount of any termination payment due and payable to such Hedging Counterparty in relation to the termination of such transaction to the extent of any premium received by the Issuer from a replacement hedging counterparty.

"TACs Confirmation Agent" means the party or parties to be appointed by RFI in order to confirm the Forecasted Gross TACs in compliance with the Implementation Decree and the Credit Facility Agreement.

"TACs Forecast Manager" means RFI or any successor thereto in the management of the Italian national railway system.

"TARGET Settlement Day" means any day (other than a Saturday or a Sunday) on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System is open.

"Transfer Agreement" has the meaning given to that term in Condition 1 (*Introduction*).

"**Transaction**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Transaction Accounts Bank**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Transaction Documents**" has the meaning given to that term in Condition 1 (*Introduction*).

"**Trigger Event**" has the meaning given to that term in Condition 15 (*Trigger Events*).

"**Trigger Notice**" has the meaning given to that term in Condition 15 (*Trigger Events*).

"**UBS**" means UBS Limited, having its registered office at 1 Finsbury Avenue, London EC2M 2PP, United Kingdom.

2.2 *Interpretation:*

- (i) the exhibits hereto constitute an integral and essential part of these Conditions and shall have the force of and shall take effect as covenants;
- (ii) headings or subheadings are for ease of reference only and shall not affect the construction of these Conditions; and
- (iii) if an expression is stated in Condition 2.1 to have the meaning given in the relevant Pricing Supplement, but the relevant Pricing Supplement gives no such meaning or specifies that such expression is "not applicable" then such expression is not applicable to the relevant Notes.

3. **Form, Denomination and Title**

- 3.1 *Form:* The Notes will be in bearer form and will be held in dematerialised form on behalf of the beneficial owners by Monte Titoli for the account of the relevant Monte Titoli Account Holders as of their respective date of issue. Monte Titoli shall act as depository for Euroclear and Clearstream, Luxembourg.
- 3.2 *Book entries:* The Notes will at all times be evidenced by book-entries in accordance with the provisions of Legislative Decree No. 213 of 24 June 1998 ("**Legislative Decree No. 213**") and with Resolution No. 11768 of 23 December 1998 of the *Commissione Nazionale per le Società e la Borsa* ("**CONSOB**") as subsequently amended and supplemented ("**CONSOB Resolution No. 11768**"). No physical document of title will be issued in respect of the Notes.
- 3.3 *Denomination:* The Notes are issued in the Specified Denomination(s). Each Series of Notes will have Notes of one denomination only.

4. **Status, Ranking and Security**

- 4.1 *Status:* The Notes will constitute direct obligations of the Issuer, limited in recourse to the Issuer's Transaction Rights.

- 4.2 *Ranking:* The Notes of all Series will rank *pari passu* and rateably without any preference or priority among themselves for all purposes and *pari passu* and rateably without any preference or priority with the Funding Loan Agreement(s).
- 4.3 *Issuance in Series:* Notes will be issued in Series, but on different terms from each other, subject to the terms set out in the relevant Pricing Supplement in respect of such Series. Notes of different Series will not be fungible among themselves. A Series may be issued in more than one tranche which are fungible among themselves within the Series and each of which will be issued on identical terms save for the first interest payment, the Issue Date and the Issue Price. The Issuer will issue Notes without the prior consent of the holders of any outstanding Notes but subject to certain conditions. It is a condition precedent to the issuance of any Series of Notes (other than the First Series) or tranche of Notes or the entering into of any Funding Loan Agreement that each Rating Agency then rating the outstanding Notes confirms to the Issuer that the issuance of such Notes or entering into of such Funding Loan Agreement will not result in a reduction or withdrawal of the then current ratings of any of the then outstanding Notes.
- 4.4 *Sole obligations:* The Notes are obligations solely of the Issuer and are not obligations or responsibilities of, or guaranteed by, any of the Borrowers, the Credit Facility Guarantor, the Group Holding Company, the State Contribution Provider, the TACs Forecast Manager, the TACs Confirmation Agent, the Project Facility Manager, the Representative of the Noteholders, the Liquidity Facility Provider(s), the Programme Calculation Agent, the Transaction Accounts Bank, the Collection Accounts Bank, the Paying Agents, the Hedging Counterparties, the Funding Lenders, the Arrangers, the Dealers, the Shareholder or the Listing Agent.
- 4.5 *Limited Recourse:* The obligations of the Issuer to each Noteholder will be limited recourse obligations of the Issuer pursuant to Law Decree No. 63. Each Noteholder will have a claim against the Issuer only to the extent of the Issuer Available Funds available to be applied in payment of the Notes in accordance with the applicable Priority of Payments. The Noteholders acknowledge that the limited recourse nature of the Notes produces the effect of a "*contratto aleatorio*" under Italian law and the Noteholders are deemed to accept the consequences thereof including but not limited to the provisions set out in Article 1469 of the Italian Civil Code.
- 4.6 *Segregated Assets:* The monies received by the Issuer in respect of the Credit Facility Agreement will be destined to the payment of the Issuer's obligations to the Noteholders and the Funding Lenders and, pursuant to the Transaction Documents, will be used by the Issuer to meet its obligations to the Noteholders and the Funding Lenders, the other parties to the Transaction Documents and other creditors of the Issuer in connection with the Transaction, as described in Condition 1 (*Introduction*).
- 4.7 *Intercreditor Agreement:* The Intercreditor Agreement contains provisions regarding the protection of the respective interests of all Noteholders in connection with the exercise of the powers, authorities, rights, duties and discretions of the Representative of Noteholders under or in relation to the Notes or any of the Transaction Documents.

The Intercreditor Agreement contains provisions for any Liquidity Facility Provider, any Hedging Counterparty and any Funding Lender with whom the Issuer enters into any Liquidity Facility Agreement, Hedging Agreement, Additional Hedging Agreement or Funding Loan Agreement, as the case may be, following the Signing Date to accede to the Intercreditor Agreement.

- 4.8 *Deed(s) of Charge*: Pursuant to the Deed(s) of Charge, the Issuer will assign by way of fixed security all monetary claims and rights and all amounts (including payment for claims, indemnities, damages, penalties, credits and guarantees) to which the Issuer is or will be entitled to from time to time under any Hedging Agreements and Additional Hedging Agreements entered into by the Issuer to the Representative of the Noteholders (for the benefit of the Noteholders and the Other Issuer Creditors).

5. **Covenants**

For so long as any amount remains outstanding in respect of the Notes of any Series or the Programme is in existence, the Issuer shall not, save with the prior written consent of the Representative of the Noteholders, or as provided in or contemplated by any of the Transaction Documents and, in any case, so as not to adversely affect the interests of the Noteholders:

- (i) *Negative pledge*: create or permit to subsist any Security Interest whatsoever over the Issuer's Transaction Rights or any part thereof other than for the benefit of the Noteholders and the Other Issuer Creditors or sell, lend, part with or otherwise dispose of all or any part of the Issuer's Transaction Rights or any of its assets; or
- (ii) *Restrictions on activities*: without prejudice to the right of the Issuer to constitute separate *patrimoni separati* in accordance with Law Decree No. 63, at any time approve or agree or consent to any act or thing whatsoever which may be materially prejudicial to the interests of the Noteholders or any of the Other Issuer Creditors under the Transaction Documents and shall not do, or permit to be done, any act or thing which may be materially prejudicial to the interests of the Noteholders or any of the Other Issuer Creditors under the Transaction Documents, including, but not limited to, accelerating or terminating the Credit Facility Agreement; or
- (iii) *De-registrations*: ask for de-registration from the register kept by *Ufficio Italiano Cambi* under article 106 of the Banking Act or from the register kept by the Bank of Italy under article 107 of the Banking Act, for as long as the Banking Act or any other applicable law or regulation requires the Issuer to be registered thereon; or
- (iv) *No variation or waiver*: permit any of the Transaction Documents to which it is party to be amended, terminated or discharged, or exercise any powers of consent or waiver pursuant to the terms of any of the other Transaction Documents to which it is a party, or permit any party to any of the

Transaction Documents to which it is a party to be released from such obligations; or

- (v) *Statutory Documents*: amend, supplement or otherwise modify its constitutional documents (*statuto* or *atto costitutivo*) other than where so required by law or by the competent regulatory authorities or where, in the reasonable opinion of the Issuer, such amendment, supplement or modification is not materially prejudicial to the interests of the Noteholders and the Other Issuer Creditors; or
- (vi) *Centre of Interest*: move its "centre of main interest" (as that term is used in Article 3(1) of Council Regulation (EC) 1346/2000 on insolvency proceedings which came into force on 31 May 2002) outside the Republic of Italy; or
- (vii) *Branch outside Italy*: establish any branch outside Italy; or
- (viii) *Corporate Records*: cease to maintain corporate records, financial statements or books of account in relation to each of its *patrimoni separati* separate from those of the Shareholder and of any other person or entity; or
- (ix) *Corporate Formalities*: cease to comply with all corporate formalities necessary to ensure its corporate existence and good standing.

6. **Priorities of Payments**

6.1 *Pre Event Priority of Payments*: Prior to the delivery of a Trigger Notice, the Issuer Available Funds shall be applied on each Payment Date in making the following payments in the following order of priority (in each case only if and to the extent that payments of a higher priority have been made in full):

- (i) *First, pari passu* and *pro rata* according to the respective amounts thereof, (a) to pay any Expenses (to the extent that the Expenses Retention Amount standing to the credit of the Expense Account has been insufficient to pay such costs during the immediately preceding Interest Period or such Expenses are due on such Payment Date), and (b) to pay any additional fees, costs, expenses and taxes required to be paid in connection with any listing or deposit of the Notes or to fund any notice to be given to any parties in accordance with any of the Transaction Documents or to the Noteholders;
- (ii) *Second*, to pay all amounts due to the Representative of the Noteholders as remuneration and any indemnity, proper fees, costs and expenses incurred by the Representative of the Noteholders under the provisions of or in connection with any of the Transaction Documents;
- (iii) *Third, pari passu* and *pro rata* according to the respective amounts thereof, to pay (a) any amounts due and payable, in accordance with the Transaction Documents as fees, costs and expenses to the Transaction Accounts Bank, the Programme Calculation Agent, the Paying Agents, the Liquidity Facility Provider(s) and the Project Facility Manager, (b) any other documented costs,

fees and expenses due to persons who are not party to the Intercreditor Agreement which have been incurred in or in connection with the preservation or enforcement of the Issuer's Transaction Rights, and (c) to credit into the Expense Account the Expenses Retention Amount;

- (iv) *Fourth, pari passu and pro rata*, according to the respective amounts thereof, to pay to any Hedging Counterparties any amounts due and payable under any Hedging Agreement or Additional Hedging Agreement other than Subordinated Termination Payments;
- (v) *Fifth*, to pay all amounts due to the Liquidity Facility Provider under the Liquidity Facility Agreement(s) on such Payment Date (other than the fees, costs and expenses paid thereto in accordance with (iii) above);
- (vi) *Sixth*, following a Liquidity Facility Event, to replenish the Liquidity Facility Reserve up to but not exceeding the Required Liquidity Amount;
- (vii) *Seventh, pari passu and pro rata*, according to the respective amounts thereof, to pay all amounts of interest then due and payable on any Notes or in respect of any Funding Loan;
- (viii) *Eighth*, to pay all amounts due to be paid as Interest and Principal Reserve in respect of the interest to be paid on the Notes or the Funding Loans on the immediately following Payment Date;
- (ix) *Ninth, pari passu and pro rata*, according to the respective amounts thereof, (a) to pay the Principal Amount Outstanding due and payable in respect of any Bullet Notes (*pro rata* according to the amounts then due); (b) to pay the Scheduled Amortisation Amount due and payable in respect of any Amortising Notes (*pro rata* according to the amounts then due); (c) if the Issuer has elected to redeem a Series of Notes in whole but not in part pursuant to Condition 11.4 (*Redemption, Purchase and Cancellation - Early Redemption of a Series of Notes*), to pay the Principal Amount Outstanding or the Early Redemption Amount, as the case may be, in respect of the relevant Notes; (d) if the Issuer has elected to redeem an Optional Partial Redemption Amount pursuant to Condition 11.5 (*Redemption, Purchase and Cancellation - Early Partial Redemption*), to pay such Optional Partial Redemption Amount in respect of the relevant Notes and (e) to pay all amounts of principal then due and payable in respect of any Funding Loans;
- (x) *Tenth*, to pay all amounts due to be paid as Interest and Principal Reserve in respect of the principal to be paid on the Notes or the Funding Loans on the immediately following Payment Date;
- (xi) *Eleventh*, to pay *pari passu and pro rata*, according to the respective amounts thereof, any amount due and payable to any Hedging Counterparties arising out of any Subordinated Termination Payment;

- (xii) *Twelfth*, whilst there is any Principal Amount Outstanding in respect of any Series of Notes or any amounts of principal outstanding and not repaid to the relevant Funding Lenders in respect of any Funding Loan, to pay any excess to the Issuer Collection Account as Accumulation Amount;
- (xiii) *Thirteenth*, following the payment in full of all items under (i) to (xii) above (including, for the avoidance of doubt, the redemption in full of the Notes and the Funding Loans), to pay all excess amounts to RFI.

For the avoidance of doubt, on any Payment Date in January, amounts shall only be due and payable under items (iii)(c), (iv), (vii), (ix) and (xii) and (where applicable) (xiii) of the Pre Event Priority of Payments.

6.2 *Post Event Priority of Payments:* On any Business Day following delivery of a Trigger Notice (without prejudice to the ability of the Representative of the Noteholders to accumulate funds up to a certain amount in certain circumstances as set out in the proviso below), the Issuer Available Funds shall be applied in accordance with the following order of priority of payments (in each case only if and to the extent that payments of a higher priority have been made in full):

- (i) *First, pari passu and pro rata* according to the respective amounts thereof, (a) to pay any Expenses (to the extent that the Expenses Retention Amount standing to the credit of the Expense Account has been insufficient to pay such costs prior to such date or such Expenses are due on such date), and (b) to pay any additional fees, costs, expenses and taxes required to be paid in connection with any listing or deposit of the Notes, or to fund any notice to be given to the parties in accordance with any of the Transaction Documents or to the Noteholders;
- (ii) *Second*, to pay all amounts due to the Representative of the Noteholders as remuneration and any indemnity, proper fees, costs and expenses incurred by the Representative of the Noteholders under the provisions of or in connection with any of the Transaction Documents;
- (iii) *Third*, to pay, *pari passu and pro rata*, according to the respective amounts thereof, (a) any amounts due and payable, in accordance with the Transaction Documents as fees, costs and expenses to the Transaction Accounts Bank, the Programme Calculation Agent, the Paying Agents, the Liquidity Facility Provider(s) and the Project Facility Manager, and (b) any other documented costs, fees and expenses due to persons who are not party to the Intercreditor Agreement which have been incurred in or in connection with the preservation or enforcement of the Issuer's Transaction Rights;
- (iv) *Fourth, pari passu and pro rata*, according to the respective amounts thereof, to pay to any Hedging Counterparties any amounts due and payable under any Hedging Agreement or Additional Hedging Agreement other than Subordinated Termination Payments;

- (v) *Fifth*, to pay all amounts due to the Liquidity Facility Provider under the Liquidity Facility Agreement(s) on such Payment Date (other than the fees, costs and expenses paid thereto in accordance with (iii) above);
- (vi) *Sixth, pari passu and pro rata*, according to the respective amounts thereof, to pay all amounts of interest then due and payable on any Notes or in respect of any Funding Loans;
- (vii) *Seventh, pari passu and pro rata*, according to the respective amounts thereof, to pay all Principal Amount Outstanding in respect of all Notes and all principal outstanding on any Funding Loans;
- (viii) *Eighth*, to pay *pari passu and pro rata*, according to the respective amounts thereof, any amount due and payable to any Hedging Counterparties arising out of any Subordinated Termination Payment;
- (ix) *Ninth*, following the payment in full of all items under (i) to (viii) above, to pay all excess amounts to RFI.

provided however that if following the delivery of a Trigger Notice, the amount of monies at any time available to the Issuer or the Representative of the Noteholders for the payments above is less than five per cent of aggregate of the Principal Amount Outstanding of all the Notes and all principal amount outstanding under the Funding Loan Agreement(s), the Representative of the Noteholders may, at its discretion, invest such monies in some or one of the investments authorised pursuant to the Intercreditor Agreement. The Representative of the Noteholders at its discretion may vary such investments and may accumulate such investments and the resulting income until envisaged disinvestment proceeds of the accumulations, together with any other funds for the time being under the control of the Representative of the Noteholders and available for such purpose amount to at least five per cent of the aggregate of the Principal Amount Outstanding of all the Notes and the principal amount outstanding under the Funding Loan Agreement(s) and then such accumulations and funds shall be applied to make the payments in accordance with the Post Event Priority of Payments.

7. **Fixed Rate Note Provisions**

- 7.1 *Application:* This Condition 7 (*Fixed Rate Note Provisions*) is applicable to the Notes only if the Fixed Rate Note Provisions are specified in the relevant Pricing Supplement as being applicable and is only applicable until the Payment Date corresponding to the Final Maturity Date of the relevant Notes, after which the Floating Rate Note Provisions will apply (if the Notes are still outstanding), unless a Trigger Notice is delivered prior to such Final Maturity Date, in which case the Floating Rate Note Provisions will apply from the Business Day following the date on which such Trigger Notice is delivered until the Cancellation Date thereof.
- 7.2 *Accrual of interest:* The Notes bear a fixed rate of interest from the Fixed Interest Commencement Date at the Rate of Interest payable in arrear on each Fixed Payment Date, subject as provided in Condition 12 (*Payments*). Each Note will cease to bear a fixed rate of interest from the Final Maturity Date following which any Note still

outstanding will continue to bear interest in accordance with Condition 8 (*Floating Rate Note Provisions*), unless a Trigger Notice is delivered prior to such Final Maturity Date, in which case the Floating Rate Note Provisions will apply from the Payment Date following the date on which such Trigger Notice is delivered and each Note will cease to bear interest from the relevant Final Maturity Date unless (i) the Issuer has insufficient Issuer Available Funds to redeem any Note in full, in which case Condition 8 (*Floating Rate Note Provisions*) shall continue to apply in respect of such Notes until the Cancellation Date; and (ii) following the Cancellation Date, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with Condition 8 (*Floating Rate Note Provisions*) (after as well as before judgment) until the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder.

- 7.3 *Fixed Interest Amount:* The amount of interest payable in respect of each Note for any Interest Period prior to the Final Maturity Date (unless a Trigger Notice is delivered prior to such Final Maturity Date, in which case the Floating Rate Note Provisions will apply from the Payment Date following the date on which such Trigger Notice is delivered until the Notes are redeemed in full) shall be the relevant Fixed Interest Amount and, if the Notes are in more than one Specified Denomination, shall be the relevant Fixed Interest Amount in respect of the relevant Specified Denomination.
- 7.4 *Calculation of Fixed Interest Amount:* The amount of interest payable in respect of each Note for any period for which a Fixed Interest Amount is not specified shall be calculated by the Principal Paying Agent by applying the Rate of Interest to the Principal Amount Outstanding of such Note, multiplying the product by the relevant Day Count Fraction and rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards). For this purpose a "**sub-unit**" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.

8. **Floating Rate Note Provisions**

- 8.1 *Application:* This Condition 8 (*Floating Rate Note Provisions*) is applicable to the Notes only if the Floating Rate Note Provisions are specified in the relevant Pricing Supplement as being applicable.
- 8.2 *Accrual of interest:* The Notes bear interest from the Floating Interest Commencement Date at the Rate of Interest payable in arrear on each Floating Payment Date, subject as provided in Condition 12 (*Payments*). Each Note will cease to bear interest from the relevant Final Maturity Date unless (i) the Issuer has insufficient Issuer Available Funds to redeem any Note in full, in which case this Condition 8 (*Floating Rate Note Provisions*) shall continue to apply in respect of such Notes until the Cancellation Date; and (ii) following the Cancellation Date, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 8 (*Floating Rate Note Provisions*) (after as well as

before judgment) until the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder.

8.3 *Screen Rate Determination:* If Screen Rate Determination is specified in the relevant Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be determined by the Principal Paying Agent on the following basis:

- (i) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Principal Paying Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (ii) in any other case, the Principal Paying Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Interest Determination Date;
- (iii) if, in the case of (i) above, such rate does not appear on that page or, in the case of (ii) above, fewer than two such rates appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Principal Paying Agent will:
 - (A) request the principal Relevant Financial Centre office of each of the Reference Banks to provide a quotation of the Reference Rate at approximately the Relevant Time on the Interest Determination Date to prime banks in the Relevant Financial Centre interbank market in an amount that is representative for a single transaction in that market at that time; and
 - (B) determine the arithmetic mean of such quotations; and
- (iv) if fewer than two such quotations are provided as requested, the Principal Paying Agent will determine the arithmetic mean of the rates (being the nearest to the Reference Rate, as determined by the Principal Paying Agent) quoted by the Reference Banks at approximately 11.00 a.m. (local time in the Principal Financial Centre of the Specified Currency) on the first day of the relevant Interest Period for loans in the Specified Currency to leading European banks for a period equal to the relevant Interest Period and in an amount that is representative for a single transaction in that market at that time,

and the Rate of Interest for such Interest Period shall be the sum of the applicable Margin and the rate or (as the case may be) the arithmetic mean so determined; provided, however, that if the Principal Paying 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 Rate of Interest applicable to the Notes during such Interest Period will be the sum of the applicable Margin and the rate or (as the case may be) the arithmetic mean last determined in relation to the Notes in respect of a preceding Interest Period.

8.4 *ISDA Determination:* If ISDA Determination is specified in the relevant Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, the Rate of Interest applicable to the Notes for each Interest Period will be the sum of the applicable Margin and the relevant ISDA Rate where "**ISDA Rate**" in relation to any Interest Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Principal Paying Agent under an interest rate swap transaction if the Principal Paying Agent were acting as Principal Paying Agent for that interest rate swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (i) the Floating Rate Option (as defined in the ISDA Definitions) is as specified in the relevant Pricing Supplement;
- (ii) the Designated Maturity (as defined in the ISDA Definitions) is a period specified in the relevant Pricing Supplement; and
- (iii) the relevant Reset Date (as defined in the ISDA Definitions) is either (A) if the relevant Floating Rate Option is based on the London inter-bank offer rate (LIBOR) for a currency, the first day of that Interest Period or (B) in any other case, as specified in the relevant Pricing Supplement.

8.5 *Maximum or Minimum Rate of Interest:* If any Maximum Rate of Interest or Minimum Rate of Interest is specified in the relevant Pricing Supplement, then the Rate of Interest shall in no event be greater than the maximum or be less than the minimum so specified.

8.6 *Calculation of Floating Interest Amount:* The Principal Paying Agent will, as soon as practicable after the time at which the Rate of Interest is to be determined in relation to each Interest Period, calculate the Floating Interest Amount payable in respect of each Note for such Interest Period. The Floating Interest Amount will be calculated by applying the Rate of Interest for such Interest Period to the Principal Amount Outstanding of such Note during such Interest Period and multiplying the product by the relevant Day Count Fraction and rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards). For this purpose a "**sub-unit**" means, in the case of any currency other than euro, the lowest amount of such currency that is available as legal tender in the country of such currency and, in the case of euro, means one cent.

9. **Index Linked Note Provisions**

9.1 *Application:* This Condition 9 (*Index Linked Note Provisions*) is applicable only if the relevant Pricing Supplement specifies the Notes as Index Linked Notes.

9.2 *Accrual of interest:* The Notes bear interest from the Index Linked Interest Commencement Date at the Rate of Interest payable in arrear on each Index Linked Payment Date, subject as provided in Condition 12 (*Payments*). Each Note will cease to bear interest from the relevant Final Maturity Date unless (i) the Issuer has insufficient Issuer Available Funds to redeem any Note in full, in which case this Condition 9 (*Index Linked Note Provisions*) shall continue to apply in respect of such

Notes until the Cancellation Date; and (ii) following the Cancellation Date, payment of the Redemption Amount is improperly withheld or refused, in which case it will continue to bear interest in accordance with this Condition 9 (*Index Linked Note Provisions*) (after as well as before judgment) until the day on which all sums due in respect of such Note up to that day are received by or on behalf of the relevant Noteholder, in each case if so specified in the relevant Pricing Supplement and in accordance with the terms thereof.

- 9.3 *Rate of Interest and Index Linked Interest Amount for Index Linked Notes:* The Rate of Interest and the Index Linked Interest Amount in respect of the Notes for each Interest Period shall be determined by the Principal Paying Agent in accordance with these Conditions and the relevant Pricing Supplement and interest will accrue by reference to the Index or formula as specified therein.
- 9.4 *Redemption of Index Linked Notes:* If so specified in the relevant Pricing Supplement, the payments of principal in respect of the Notes will be subject to adjustment in accordance with an Index or formula as described in such Pricing Supplement as determined by the Principal Paying Agent. Unless otherwise specified in the relevant Pricing Supplement, no further adjustment to the payments of principal on the Notes will be made after the relevant Final Maturity Date.
- 9.5 *Cessation of or Fundamental Changes to the Index:*
- (i) Unless otherwise specified in the relevant Pricing Supplement, if (1) the Representative of the Noteholders has been notified by the Principal Paying Agent that the Index has ceased to be published or (2) any change is made to the coverage or the basic calculation of the Index which constitutes a fundamental change which would, in the opinion of the Representative of the Noteholders acting solely on the advice of an Indexation Adviser, be materially prejudicial to the interest of the Noteholders, the Representative of the Noteholders will give written notice of such occurrence to the Issuer, and the Issuer and the Representative of the Noteholders together shall seek to agree for the purpose of the Notes one or more adjustments to the Index or a substitute index (with or without adjustments) with the intention that the same should leave the Issuer and the Noteholders in no better and no worse position than they would have been had the Index not ceased to be published or the relevant fundamental change not been made.
 - (ii) If the Issuer and the Representative of the Noteholders fail to reach agreement as mentioned above within 20 Business Days following the giving of notice as mentioned in paragraph (i), a bank or other person in Milan shall be appointed by the Issuer and the Representative of the Noteholders or, failing agreement on and the making of such appointment within 20 Business Days following the expiry of the 20 Business Day period referred to above, by the Representative of the Noteholders (in each case, such bank or other person so appointed being referred to as the "**Expert**"), to determine for the purpose of the Notes one or more adjustments to the Index or a substitute index (with or without

adjustments) with the intention that the same should leave the Issuer and the Noteholders in no better and no worse position than they would have been had the Index not ceased to be published or the relevant fundamental change not been made. Any Expert so appointed shall act as an expert and not as an arbitrator and all fees, costs and expenses of the Expert and of any Indexation Adviser and of any of the Issuer and the Representative of the Noteholders in connection with such appointment shall be borne by the Issuer.

- (iii) The Index shall be adjusted or replaced by a substitute index as agreed by the Issuer and the Representative of the Noteholders or as determined by the Expert pursuant to the foregoing paragraphs, as the case may be, and references in these Conditions to the Index and to any Index Figure shall be deemed amended in such manner as the Representative of the Noteholders and the Issuer agree are appropriate to give effect to such adjustment or replacement. Such amendments shall be effective from the date of such notification and binding upon the Issuer, the Representative of the Noteholders, the Noteholders and the Other Issuer Creditors, and the Issuer shall give notice to the Noteholders in accordance with Condition 19 (*Notices*) of such amendments as promptly as practicable following such notification.

10. **Interest provisions applicable to all Notes**

- 10.1 *Calculation of other amounts:* If the relevant Pricing Supplement specifies that any other amount is to be calculated by the Principal Paying Agent, the Principal Paying Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Principal Paying Agent in the manner specified in the relevant Pricing Supplement.
- 10.2 *Publication:* The Principal Paying Agent will cause each Rate of Interest and Interest Amount determined by it, together with the relevant Payment Date, and any other amount(s) required to be determined by it together with any relevant payment date(s) to be notified to the Issuer, the Project Facility Manager, the Representative of the Noteholders, the Luxembourg Paying Agent, the Listing Agent, the Programme Calculation Agent, the Hedging Counterparties, the Liquidity Facility Provider(s), the Borrowers, Monte Titoli and each listing authority, stock exchange and/or quotation system (if any) on which the Notes have then been admitted to listing, trading and/or quotation as soon as practicable after such determination but (in the case of each Rate of Interest, Interest Amount and Payment Date) in any event not later than the first day of the relevant Interest Period. Notice thereof shall also promptly be given to the Noteholders. The Principal Paying Agent will be entitled to recalculate any Interest Amount (on the basis of the foregoing provisions) in the event of an extension or shortening of the relevant Interest Period.
- 10.3 *Determination or calculation by the Representative of the Noteholders*

If the Principal Paying Agent or, where applicable, the Programme Calculation Agent does not at any time for any reason determine the Rate of Interest and/or calculate the

Interest Amount and/or any other amounts in accordance with the provisions of Condition 8 (*Floating Note Provisions*) or Condition 9 (*Index Linked Notes Provisions*), the Representative of the Noteholders as legal representative of the Organisation of Noteholders shall:

- (i) determine the Rate of Interest for the Notes at such rate as (having regard to the procedure described above) it shall consider fair and reasonable in all the circumstances; and/or
- (ii) calculate the Floating Interest Amount for the Notes in the manner specified in Condition 8.6 (*Floating Note Provisions - Calculation of Floating Interest Amount*) above; and/or
- (iii) calculate any other amounts due to be calculated in accordance with Condition 8 (*Floating Note Provisions*) as supplemented by the relevant Pricing Supplement; and/or
- (iv) calculate any other amounts due to be calculated in accordance with Condition 9 (*Index Linked Notes Provisions*) as supplemented by the relevant Pricing Supplement,

and any such determination and/or calculation shall be deemed to have been made by the Principal Paying Agent or the Programme Calculation Agent, as the case may be.

- 10.4 *Notifications etc:* All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of Condition 8 (*Floating Note Provisions*) or Condition 9 (*Index Linked Notes Provisions*), whether by the Reference Banks (or any of them), the Principal Paying Agent, the Programme Calculation Agent, the Issuer or the Representative of the Noteholders shall (in the absence of wilful default, bad faith or manifest error) be binding on the Reference Banks and the other parties to the Cash Allocation, Management and Payment Agreement and all Noteholders and (in such absence as aforesaid) no liability to the Noteholders shall attach to the Reference Banks, the Paying Agents, the Programme Calculation Agent, the Issuer or the Representative of the Noteholders in connection with the exercise or non-exercise by them or any of them of their powers, duties and discretion hereunder.
- 10.5 *Reference Banks and Paying Agents:* The Issuer shall ensure that, so long as any of the Notes remain outstanding, there shall at all times be three reference banks (the "**Reference Banks**"). The initial Reference Banks shall be Citibank N.A., Deutsche Bank AG and Sanpaolo IMI S.p.A.. In the event of any such bank being unable or unwilling to continue to act as a Reference Bank, the Issuer shall appoint such other bank as may have been previously approved in writing by the Representative of the Noteholders to act as such in its place. The Paying Agents may not resign until a successor approved in writing by the Representative of the Noteholders has been appointed. If a new Paying Agent is appointed a notice will be published in accordance with Condition 19 (*Notices*).

- 10.6 *Unpaid interest:* Unpaid interest on the Notes shall accrue no interest unless default interest is specified in the relevant Pricing Supplement as being applicable and upon the terms set out therein.
- 10.7 *At Final Maturity Date:* In addition, following the Final Maturity Date and unless otherwise specified in the relevant Pricing Supplement, any Notes outstanding will continue to bear interest until the Cancellation Date and any Notes that are Fixed Rate Notes shall become Floating Rate Notes.

11. **Redemption, Purchase and Cancellation**

- 11.1 *Redemption:* Unless previously redeemed in full as provided in this Condition 11 (*Redemption, Purchase and Cancellation*), the Notes of each Series will be redeemed at their Principal Amount Outstanding on the relevant Final Maturity Date.

If the Issuer has insufficient Principal Available Funds to redeem any Note in full on the relevant Final Maturity Date, then the Representative of the Noteholders may serve a Trigger Notice on the Issuer pursuant to Condition 15 (*Trigger Events*).

Following the service of a Trigger Notice:

- (i) the Principal Amount Outstanding of any Note which has not been redeemed on its Final Maturity Date shall remain outstanding until the Cancellation Date for such Note; and
 - (ii) unless otherwise specified in the relevant Pricing Supplement, interest shall continue to accrue on any Note which has not been redeemed on its Final Maturity Date and any payments of interest or principal in respect of such Note shall be made in accordance with the relevant Priority of Payments until the Cancellation Date for such Note.
- 11.2 *Redemption of the Notes prior to the delivery of a Trigger Notice:* this Condition 11.2 will apply unless the Notes are redeemed in whole pursuant to Condition 11.4 (*Early Redemption of a Series of Notes*) or Condition 11.5 (*Early Partial Redemption*)
- (i) *Amortising Notes:* If the Notes are specified as being Amortising Notes in the relevant Pricing Supplement to the extent that the Issuer has sufficient Principal Available Funds, each Series of Amortising Notes will be redeemed *pro rata* in part in the amounts specified in the relevant Schedule of Amortisation on each Payment Date on or after the Principal Repayment Start Date in respect of such Series of Notes in accordance with the Priority of Payments (each such payment of principal due and payable, a "**Scheduled Amortisation Amount**" in respect of such Series of Notes).

If the Issuer does not have sufficient Principal Available Funds to pay in full the Scheduled Amortisation Amount payable on any Payment Date, (i) Principal Available Funds will be allocated *pro rata*, in accordance with the relevant Priority of Payments, between any principal amount due on such date on all Notes of any Series and (ii) any unpaid amount shall be paid to the

relevant Noteholders on the following Payment Dates together with the Scheduled Amortisation Amount payable on such Payment Date in accordance with the Priority of Payments.

Prior to the delivery of a Trigger Notice and to the extent that the Issuer has sufficient Principal Available Funds, the amount of principal payable in respect of each Series of Amortising Notes on each Payment Date (each, a "**Principal Amortisation Amount**") shall be calculated with respect to each Payment Date on or after the Principal Repayment Start Date of such Series of Amortising Notes as the Principal Amount Outstanding of such Series of Amortising Notes as at such Payment Date (before payments due to be made on that date) less the Scheduled Principal Amount Outstanding in respect of such Series of Amortising Notes as at such Payment Date; and

- (ii) *Bullet Notes*: If the Notes are specified as being Bullet Notes in the relevant Pricing Supplement, to the extent the Issuer has sufficient Principal Available Funds, each Series of Bullet Notes will be redeemed at its Principal Amount Outstanding on the relevant Scheduled Maturity Date in accordance with the relevant Priority of Payments.

If the Issuer does not have sufficient Principal Available Funds to redeem in full any Series of Bullet Notes on the relevant Scheduled Maturity Date, Principal Available Funds will be allocated *pro rata*, in accordance with the relevant Priority of Payments, between any principal amount due on such date on all Series of Notes in accordance with the relevant Priority of Payments.

- 11.3 *Redemption of the Notes following the delivery of a Trigger Notice*: On any Business Day following delivery of a Trigger Notice (without prejudice to the ability of the Representative of the Noteholders to accumulate funds up to a certain amount in certain circumstances), the Issuer, to the extent that it has sufficient Principal Available Funds, shall redeem the Notes then outstanding in whole or in part.

On any such date for mandatory redemption following the delivery of a Trigger Notice, Notes of each Series will be redeemed on a *pari passu* and *pro rata* basis without regard to the relevant Final Maturity Date or the Principal Repayment Start Date.

The Issuer, or the Programme Calculation Agent on its behalf, shall on a date not less than 3 Business Days prior to such date on which such redemption is to take place or commence, give notice of partial or total redemption which is to take place on such date and (in the case of partial redemption) the *pro rata* amount thereof to the Representative of the Noteholders, the Paying Agents, the Borrowers and the Noteholders and, for so long as any of the Notes are listed on any stock exchange, to such stock exchange as applicable in accordance with Condition 19 (*Notices*).

- 11.4 *Early Redemption of a Series of Notes*: Prior to the delivery of a Trigger Notice, where early redemption of a Series of Notes is specified as being applicable in the relevant Pricing Supplement, on any Payment Date on or after the relevant Early Redemption Date, the relevant Notes outstanding on such Payment Date may be redeemed (in whole

but not in part) at the option of the Issuer at their Principal Amount Outstanding or, if specified in the relevant Pricing Supplement, at their Early Redemption Amount, together with accrued but unpaid interest up to and including such Payment Date, subject to the Issuer:

- (i) giving not less than 30 and not more than 60 days' notice to the Representative of the Noteholders in writing and to the Noteholders in accordance with Condition 19 (*Notices*) hereof of its intention to redeem the relevant Notes; and
- (ii) having provided to the Representative of the Noteholders a certificate duly signed by the Issuer to the effect that it will have the necessary funds (not subject to the interests of any person) on such Payment Date to discharge all of its outstanding liabilities in respect of the relevant Notes and any amount required to be paid under the Intercreditor Agreement in priority to or *pari passu* with such Notes.

11.5 *Early Partial Redemption*: Prior to the delivery of a Trigger Notice, where early partial redemption of a Series of Notes is specified as being applicable in the relevant Pricing Supplement, on any Payment Date on or after the relevant Early Partial Redemption Date, the Notes of such Series outstanding on such Payment Date may be redeemed (in part) at the option of the Issuer (in the case of the Amortising Notes, in addition to any Scheduled Amortisation Amount then due) for a principal amount (the "**Optional Partial Redemption Amount**"), together with accrued but unpaid interest on the Optional Partial Redemption Amount up to and including such Payment Date, subject to the Issuer:

- (i) giving not less than 30 and not more than 60 days' notice to the Representative of the Noteholders in writing and to the Noteholders in accordance with Condition 19 (*Notices*) hereof of its intention to make an optional partial redemption of the Notes in addition to repaying any redemption amount then due on the Notes in any case; and
- (ii) having provided to the Representative of the Noteholders a certificate duly signed by the Issuer to the effect that it will have the necessary funds (not subject to the interests of any person) on such Payment Date to discharge all of its outstanding liabilities due in respect of the relevant Notes and any amount required to be paid under the Intercreditor Agreement in priority to or *pari passu* with such Notes.

Any Optional Partial Redemption Amount paid in accordance with this Condition 11.5 (*Early Partial Redemption*) will be divided among all the Noteholders of the relevant Series as repayment of Principal Amount Outstanding *pro rata* to the Principal Amount Outstanding of the Notes then held by the individual Noteholders.

Upon the exercise by the Issuer of its right to make an early partial redemption of any Series of Notes:

- (i) In the event that the early partial redemption has been made in relation to a Series of Bullet Notes, the Principal Amount Outstanding to be repaid on the Scheduled Maturity Date shall be reduced by the Optional Partial Redemption Amount; and
- (ii) In the event that the early partial redemption has been made in relation to a Series of Amortising Notes, the Scheduled Amortisation Amounts due on each Payment Date falling after the Payment Date on which the Optional Partial Redemption Amount is paid shall each be reduced by the amount of X as follows:

$$X = \text{OPRA} \times \text{SAA} / \text{PAO}$$

Where:

OPRA = the Optional Partial Redemption Amount paid in respect of such Series of Notes;

SAA = the Scheduled Amortisation Amount due on such Payment Date in respect of such Series of Notes; and

PAO = the Principal Amount Outstanding immediately prior to the first Payment Date immediately succeeding the date on which the Optional Partial Redemption Amount was paid.

The Issuer may exercise its option to make a payment of Optional Partial Redemption Amount in relation to any Series of Notes any number of times until the redemption in full of such Series, unless otherwise specified in the relevant Pricing Supplement.

- 11.6 *Notice of Redemption:* Any such notice as is referred to in Condition 11 (*Redemption, Purchase and Cancellation - Redemption of the Notes following the delivery of a Trigger Notice*), Condition 11.4 (*Redemption, Purchase and Cancellation - Early Redemption of a Series of Notes*) and Condition 11.5 (*Redemption, Purchase and Cancellation - Early Partial Redemption*) shall be irrevocable and, upon the expiration of such notice, the Issuer shall be bound to redeem the Notes in accordance with this Condition 11 (*Redemption, Purchase and Cancellation*).

If any Principal Payment due to be made on the Notes on any Payment Date will not be made on such Payment Date, a notice to this effect will be given by or on behalf of the Issuer to the Noteholders in accordance with Condition 19 (*Notices*).

- 11.7 *Purchase by Issuer:* The Issuer may at any time purchase any Notes in the open market or otherwise and at any price, using funds which do not form part of the Issuer's Transaction Rights. If purchases are made by tender, tenders must be available to all holders of the Series of Notes which the Issuer intends to buy. All unmatured Notes redeemed or purchased by the Issuer shall be cancelled forthwith and may not be reissued or resold.

11.8 *Cancellation:* All Notes redeemed in full in accordance with Conditions 11.1 (*Redemption, Purchase and Cancellation - Redemption*), 11.2 (*Redemption, Purchase and Cancellation - Redemption of the Notes prior to the delivery of a Trigger Notice*), 11.3 (*Redemption, Purchase and Cancellation - Redemption of the Notes following the delivery of a Trigger Notice*), 11.4 (*Redemption, Purchase and Cancellation - Early Redemption of a Series of Notes*) or 11.5 (*Redemption, Purchase and Cancellation - Early Partial Redemption*) shall be cancelled. Unless previously redeemed and cancelled as provided in this Condition 11 (*Redemption, Purchase and Cancellation*), the Notes of each Series will be cancelled on the date (the "**Cancellation Date**") which is the earlier of (A) the date on which the Project Facility Manager has certified to the Issuer and the Representative of the Noteholders that no further amounts are due to the Issuer in respect of any Project Loan Tranche (including, for the avoidance of doubt, any amounts otherwise due in relation to negative carry), and (B) the date falling 3 years after the Programme Maturity Date. Any amount in respect of principal, interest or other amounts due and payable in respect of the Notes will (unless payment is improperly withheld or refused) be finally and definitively cancelled on the Cancellation Date.

12. **Payments**

12.1 *Principal and interest:* Payment of principal and interest in respect of the Notes will be credited, according to the instructions of Monte Titoli, by the Paying Agent on behalf of the Issuer to the accounts of those banks and authorised brokers whose accounts with Monte Titoli are credited with those Notes and thereafter credited by such banks and authorised brokers from such aforementioned accounts to the accounts of the beneficial owners of those Notes or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Monte Titoli, Euroclear or Clearstream, Luxembourg, as the case may be.

12.2 *Payments subject to fiscal laws:* All payments in respect of the Notes are subject in all cases to any applicable fiscal or other laws and regulations in the place of payment, but without prejudice to the provisions of Condition 13 (*Taxation*). No commissions or expenses shall be charged to the Noteholders in respect of such payments.

12.3 *Payments on Business Days:* If the due date for any payment of principal and/or interest is not a Business Day, the Noteholders will not be entitled to payment of the relevant amount until the immediately following Business Day. Noteholders will not be entitled to any interest or other payment in consequence of any delay after the due date in receiving the amount due as a result of the due date not being a Business Day.

12.4 *Principal Paying Agent:* The Issuer reserves the right, subject to the prior written approval of the Representative of the Noteholders, at any time to vary or terminate the appointment of the Principal Paying Agent and to appoint another Principal Paying Agent. The Issuer will cause at least 30 days' prior notice of any replacement of the Principal Paying Agent to be given in accordance with Condition 19 (*Notices*).

- 12.5 *Luxembourg Paying Agent*: The Issuer reserves the right, subject to the prior written approval of the Representative of the Noteholders, at any time to vary or terminate the appointment of the Luxembourg Paying Agent and to appoint another Luxembourg Paying Agent, provided that (for as long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require) the Issuer will at all times maintain a paying and listing agent with a specified office in Luxembourg. The Issuer will cause at least 30 days' prior notice of any replacement of the Luxembourg Paying Agent to be given in accordance with Condition 19 (*Notices*).
- 12.6 *Other Paying Agents*: Subject to the provisions set forth in Conditions 12.4 (*Principal Paying Agent*) and 12.5 (*Luxembourg Paying Agent*), if the conditions for the application of the directive on the taxation of savings income adopted by the EU Council of Economic and Finance Ministers on 3 June 2003 (the "**Directive**") or any law (whether of a Member State of the European Union or a non-Member State) implementing or complying with, or introduced in order to conform to, the Directive are satisfied, the Issuer agrees that there will at all times be a Paying Agent located in an Member State that will not be obliged to withhold or deduct tax pursuant to the Directive or any law (whether of a Member State of the European Union or a non-Member State) implementing or complying with, or introduced in order to conform to, the Directive.

13. **Taxation**

- 13.1 *Gross up*: All payments of principal and interest in respect of the Notes by or on behalf of the Issuer, shall be made free and clear of, and without withholding or deduction for, any taxes, duties, assessments or governmental charges of whatsoever nature imposed, levied, collected, withheld or assessed by the Republic of Italy, as the case may be, or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law. In that event, the Issuer shall pay such additional amounts as will result in the receipt by the Noteholders of such amounts as would have been received by them if no such withholding or deduction had been required, except that no such additional amounts shall be payable in respect of any Note presented for payment:
- (i) by or on behalf of a holder which is liable to such taxes, duties, assessments or governmental charges in respect of such Note by reason of its having some connection with the Republic of Italy other than the mere holding of such Note; or
 - (ii) by any Noteholder who would be entitled to avoid such withholding or deduction by making a declaration of residence or non-residence or other similar claim for exemption and fails to do so in due time;
 - (iii) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other European Union Directive on the taxation of savings income implementing the conclusions of the ECOFIN Council meeting of 26-

27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

- (iv) in relation to any payment or deduction on principal, interest or other proceeds of any Note on account of *imposta sostitutiva* pursuant to Italian Legislative Decree No. 239 of 1 April 1996 as amended or supplemented from time to time;
- (v) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a Member State of the European Union;
- (vi) in the Republic of Italy;
- (vii) more than 30 days after the Relevant Date except to the extent that the relevant holder would have been entitled to such additional amounts if it had presented such Note on the last day of such period of 30 days;
- (viii) by, or on behalf of a holder of the Note being a resident of Italy.

In this Condition 13 (*Taxation*):

"**Imposta sostitutiva**" as defined in Italian Legislative Decree No. 239 of 1 April 1996 as amended and supplemented from time to time, does not constitute a withholding or deduction for the purposes of this Condition 13.1 (*Gross up*); and

"**Relevant Date**" means, in relation to any Notes, the date on which payment in respect of such Notes first becomes due or (if any amount of the money payable is improperly withheld or refused) the date on which payment in full of the amount outstanding is made or (if earlier) the date seven days after that on which notice is duly given to the Noteholders that such payment will be made, provided that payment is in fact made upon such presentation.

- 13.2 *Taxing jurisdiction*: If the Issuer takes any action or allows something to be done to it which results in it being subject at any time to any taxing jurisdiction other than the Republic of Italy, as the case may be, references in these Conditions to the Republic of Italy shall be construed as references to the Republic of Italy and/or such other jurisdiction.

14. **Prescription**

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

In this Condition 14 (*Prescription*), the "**Relevant Date**", in respect of a Note, is the date on which a payment in respect thereof first becomes due and payable or (if the full amount of the monies payable in respect of all Notes and accrued on or before that date has not been duly received by the Principal Paying Agent or the Representative of the Noteholders on or prior to such date) the date on which notice that the full amount of

such monies has been received is duly given to the Noteholders in accordance with Condition 19 (*Notices*).

15. **Trigger Events**

If any of the following events (each a "**Trigger Event**") occurs:

- (i) *Non-payment:*
 - (a) on the Final Maturity Date or Scheduled Maturity Date in respect of any Series of Notes or, in respect of the Amortising Notes, on any Payment Date on which principal is due and payable thereon, the Issuer defaults in the payment of the amount of principal due on such Notes on such date and such default is not remedied within a period of seven Business Days from the due date thereof; or
 - (b) on any Payment Date, the Issuer defaults in the payment of the amount of interest due on any Series of Notes and such default is not remedied within a period of seven Business Days from the due date thereof; or
 - (c) on any Payment Date on which payments of principal are due and payable to any Funding Lender under any Funding Loan Agreement(s), the Issuer defaults in the payment of the amount of principal due in respect of such Funding Loan Agreement(s) on such date and such default is not remedied within a period of seven Business Days from the due date thereof;
 - (d) on any Payment Date on which payments of interest or other sums (other than principal) are due and payable to any Funding Lender under any Funding Loan Agreement(s), the Issuer defaults in the payment of the amount of interest due in respect of such Funding Loan Agreement(s) and such default is not remedied within a period of seven Business Days from the due date thereof; or
 - (e) on any Payment Date, the Issuer defaults in the payment of any amount due and payable to the Other Issuer Creditors (other than the Funding Lenders) in priority to any amounts in respect of principal or interest on the Notes in accordance with the relevant Priority of Payments and such default is not remedied within a period of seven Business Days from the due date thereof; or
- (ii) *Breach of obligations:* the Issuer defaults in the performance or observance of any of its obligations (being, in the sole opinion of the Representative of the Noteholders, a material obligation) under or in respect of the Notes or any of the Transaction Documents to which it is a party (other than any obligation for payment as set out in (i) above) and (except where, in the sole opinion of the Representative of the Noteholders, such default is not capable of remedy in which case no notice will be required), such default remains unremedied for

30 days after the Representative of the Noteholders has given written notice thereof to the Issuer; or

(iii) *Breach of representations and warranties:* any material breach of the representations and warranties given by the Issuer under any of the Transaction Documents to which it is a party, and (except where, in the sole opinion of the Representative of the Noteholders, such breach is not capable of remedy in which case no notice will be required), such default remains unremedied for 10 days after the Representative of the Noteholders has given written notice thereof to the Issuer; or

(iv) *Insolvency of the Issuer:*

(a) an administrator, administrative receiver or liquidator of the Issuer is appointed over or in respect of the whole of the undertaking, assets and/or revenues of the Issuer or the Issuer becomes subject to any bankruptcy, liquidation, administration, insolvency, composition, reorganisation or similar proceedings (among which, without limitation, *fallimento*, *liquidazione coatta amministrativa*, *concordato preventivo* and *amministrazione controllata* within the meaning ascribed to those expressions by the laws of Italy) or application is made for the commencement of any such proceedings or an encumbrancer takes possession of the whole of the undertaking or assets of the Issuer; or

(b) proceedings are initiated against the Issuer under any applicable bankruptcy, liquidation, administration, insolvency, composition, reorganisation or similar laws and such proceedings are not, in the opinion of the Representative of the Noteholders, being disputed in good faith; or

(c) the Issuer takes any action for a readjustment or deferment of the whole or a substantial part of its obligations or makes a general assignment or a general arrangement or composition with or for the benefit of its creditors or is granted by a competent court a moratorium in respect of the whole or a substantial part of its indebtedness or any guarantee of any indebtedness given by it or applies for bankruptcy or suspension of payments;

and Article 8, paragraph 4 of Law Decree No. 63 has been amended, revoked or supplemented since the Initial Issue Date in a manner which is materially prejudicial, in the sole opinion of the Representative of the Noteholders (acting in good faith), to the interests of the Noteholders and the Other Issuer Creditors; or

(v) *Winding up of the Issuer:* an order is made or an effective resolution is passed for the winding up, liquidation, dissolution or extraordinary administration in any form of the Issuer, other than a winding up for the purposes of or pursuant to an amalgamation or reconstruction, the terms of which have been

previously approved in writing by the Representative of the Noteholders or by an Extraordinary Resolution of the Noteholders in accordance with the Rules of Organisation of Noteholders, and Article 8, paragraph 4 of Law Decree No. 63 has been amended, revoked or supplemented since the Initial Issue Date in a manner which is materially prejudicial, in the sole opinion of the Representative of the Noteholders (acting in good faith), to the interests of the Noteholders and the Other Issuer Creditors; or

- (vi) *Unlawfulness*: following the issuance of any Series of Notes it becomes unlawful (in any respect deemed by the Representative of the Noteholders to be material) for the Issuer to perform or comply with any of its obligations under or in respect of such Series of Notes or any Transaction Document to which it is a party, or
- (vii) *Acceleration under the Credit Facility Agreement*: the Issuer accelerates the Credit Facility Agreement pursuant to Clause 16.2 (*Acceleration and Cancellation*) thereof and the Issuer receives the State Contribution due as a consequence of such acceleration,

then the Representative of the Noteholders may, at its sole discretion (if it has first certified in writing that such event is, in its sole opinion (acting in good faith), materially prejudicial to the interests of the Noteholders and the Other Issuer Creditors) or, if so directed by an Extraordinary Resolution of the Noteholders of all Series of Notes issued under the Programme and then outstanding (subject to compliance with the provisions of the Intercreditor Agreement) or in respect of the Trigger Event at (vii) (*Acceleration under the Credit Facility Agreement*), shall serve a notice (a "**Trigger Notice**") on the Issuer.

Following the service of a Trigger Notice, the Issuer Available Funds shall be applied in accordance with the Priority of Payments set out in Condition 6.2 (*Post Event Priority of Payments*) and the Issuer shall be precluded from granting any Further Project Loan Tranches, issuing any Series of Notes and entering into any Funding Loan Agreement(s) or drawing down amounts thereunder.

16. **Enforcement**

- 16.1 *Notifications*: All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained in accordance with Condition 19 (*Notices*) for the purposes of Condition 15 (*Trigger Events*) or this Condition 16 (*Enforcement*) by the Representative of the Noteholders shall (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer and all Noteholders and (in such absence as aforesaid) no liability to the Noteholders or the Issuer shall attach to the Representative of the Noteholders in connection with the exercise or non-exercise by it of its powers, duties and discretion hereunder.
- 16.2 *No action by Noteholders*: No Noteholder shall be entitled to proceed directly against the Issuer unless the Representative of the Noteholders has become bound and fails to

do so within a reasonable period and such failure shall be continuing or save as otherwise provided by the Rules of Organisation of Noteholders.

- 16.3 *Issuer's Transaction Rights*: If and to the extent permitted by applicable law, upon a Trigger Notice being served which relates to a Trigger Event at Condition 15(iv) (*Insolvency of the Issuer*) or Condition 15(v) (*Winding up of the Issuer*), the Representative of the Noteholders may direct the Issuer to dispose of the Issuer's Transaction Rights if (i) so requested by an Extraordinary Resolution of Noteholders, strictly in accordance with the instruction approved thereby; (ii) a sufficient amount would be realised to allow discharge in full of all amounts owing to the Noteholders and amounts ranking in priority thereto or *pari passu* therewith or, alternatively, a certificate issued by a reputable bank or financial institution stating that the purchase price for the Issuer's Transaction Rights is adequate (based upon that bank or financial institution's evaluation of the Issuer's Transaction Rights) has been obtained by the Issuer or by the Representative of the Noteholders; (iii) the relevant purchaser has obtained all the necessary approvals and authorisations; and (iv) the relevant purchaser has produced evidence satisfactory to the Representative of the Noteholders that it is not insolvent.
- 16.4 *Insufficient funds*: In the event that the Representative of the Noteholders takes action to ensure the Noteholders' rights in respect of the Issuer's Transaction Rights and after payment of all other claims ranking in priority to the Notes of any Series under the Conditions and the Intercreditor Agreement, if the remaining proceeds of such action (the Representative of the Noteholders having taken action to ensure the Noteholders' rights in respect of the entire Issuer's Transaction Rights) are insufficient to pay in full all principal and interest and other amounts whatsoever due in respect of the Notes and all other claims ranking in priority thereto or *pari passu* therewith, then the Noteholders' claims against the Issuer in respect of the Notes will be limited to their respective *pro rata* share of such remaining proceeds (if any) and the obligations of the Issuer to the Noteholders will be deemed discharged in full and any amount in respect of principal, interest or other amounts due under the Notes will be finally and definitively cancelled.
17. **Meetings of Noteholders; Modification; Consent; Waiver**
- 17.1 *Meetings of Noteholders*: The Rules of Organisation of Noteholders contain provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of the Noteholders of a modification of the Notes (including these Conditions) or the provisions of any of the Transaction Documents.
- 17.2 *Decisions of majority of Noteholders and Funding Lenders*: The Intercreditor Agreement contains provisions requiring the Representative of the Noteholders to take the instructions of all the Funding Lenders and the Noteholders and to act in accordance therewith unless, in the sole discretion of the Representative of the Noteholders (acting in good faith), the matter under discussion affects the interests solely of one Series of

Notes or one Funding Loan Agreement. Noteholders will be bound by the decisions taken by the Noteholders and Funding Lenders in aggregate.

- 17.3 *Modifications and Waivers:* The Rules of Organisation of Noteholders contain provisions for the Representative of the Noteholders to agree, without being required to obtain the consent of the Noteholders, to certain modifications of, or waivers or authorisations of any breach or proposed breach of the Notes (including these Conditions) or any of the Transaction Documents. Any such modification, waiver, authorisation or determination shall be binding on the Noteholders and, unless the Representative of the Noteholders agrees otherwise, any such modification shall be notified to the Noteholders in accordance with Condition 19 (*Notices*) as soon as practicable thereafter.
- 17.4 *Regard to Noteholders:* Where the Representative of the Noteholders is required, in connection with the exercise of its powers, authorities, duties and discretions under or in relation to the Notes (including these Conditions) or any of the Transaction Documents, to have regard to the interests of the Noteholders, it shall have regard to the interests of all the Noteholders as a class and, in particular but without prejudice to the generality of the foregoing, shall not have regard to, or be in any way liable for, the consequences of such exercise for individual Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Representative of the Noteholders shall not be entitled to require, nor shall any Noteholder be entitled to claim from the Issuer or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders.

The Intercreditor Agreement contains provisions regarding the protection of the respective interests of all Noteholders in connection with the exercise of the powers, authorities, rights, duties and discretions of the Representative of the Noteholders under or in relation to the Notes or any of the Transaction Documents.

18. **The Representative of the Noteholders**

- 18.1 *The Organisation of Noteholders:* The Organisation of Noteholders shall be established upon and by virtue of the issuance of the First Series (or, at any time, if no Notes are outstanding under the Programme, by the issuance of any further Notes thereunder). The Organisation of Noteholders shall remain in force and in effect until repayment in full or cancellation of all the Notes issued under the Programme.
- 18.2 *Appointment of the Representative of the Noteholders:* Pursuant to the Rules of Organisation of Noteholders (attached hereto as Exhibit 1), for as long as any Note is outstanding, there shall at all times be a Representative of the Noteholders. The appointment of the Representative of the Noteholders, as legal representative of the Organisation of Noteholders, is made by the Dealers pursuant to the Dealer Agreement and the relevant Subscription Agreements. Each Noteholder is deemed to accept such appointment. The Representative of the Noteholders may be replaced in accordance with the provisions set out in the Rules of Organisation of Noteholders.

19. **Notices**

- 19.1 *Publication:* Any notice regarding the Notes, as long as the Notes are held through Monte Titoli, shall be deemed to have been duly given through the systems of Monte Titoli, and, as long as the Notes are listed on the Luxembourg Stock Exchange and the rules of such exchange so require, if published in *Il Sole 24 Ore* and in a leading daily newspaper having general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). Any such notice shall be deemed to have been given on the date of such publication or, if published more than once or on different dates, on the first date on which publication is made in the manner required in one of the newspapers referred to above.
- 19.2 *Variation:* The Representative of the Noteholders shall be at liberty to sanction some other method of giving notice to Noteholders if, in its opinion, such other method is reasonable having regard to market practice then prevailing and to the rules of the stock exchange on which the Notes are then listed and provided that notice of such other method is given to the Noteholders in such manner as the Representative of the Noteholders shall require.

20. **Rounding**

For the purposes of any calculations referred to in these Conditions (unless otherwise specified in these Conditions or the relevant Pricing Supplement), (a) all percentages resulting from such calculations will be truncated, if necessary, to the sixth decimal place and then rounded to the fifth decimal place (with 0.000005 per cent. being rounded up to 0.00001 per cent.), (b) all Euro amounts used in or resulting from such calculations will be rounded to the nearest cent (with one half cent being rounded up), and (c) all amounts denominated in any other currency used in or resulting from such calculations will be rounded to the nearest two decimal places in such currency, with 0.005 being rounded upwards.

21. **Redenomination, Renominalisation and Reconventioning**

- 21.1 *Application:* This Condition 21 (*Redenomination, Renominalisation and Reconventioning*) is applicable to the Notes only if it is specified in the relevant Pricing Supplement as being applicable.
- 21.2 *Notice of redenomination:* If the country of the Specified Currency becomes or, announces that it will become, a Member State, the Issuer may, without the consent of the Noteholders, on giving at least 30 days' prior notice to the Noteholders and the Paying Agents, designate a date (the "**Redenomination Date**"), being a Payment Date or, following the service of a Trigger Notice, any date in which payments are to be made in accordance with the Post Event Priority of Payments as determined by the Representative of the Noteholders, falling on or after the date on which such country becomes a Member State.
- 21.3 *Redenomination:* Notwithstanding the other provisions of these Conditions, with effect from the Redenomination Date:

- (i) the Notes shall be deemed to be redenominated into Euro in the denomination of Euro 0.01 with a principal amount for each Note equal to the principal amount of that Note in the Specified Currency, converted into Euro at the rate for conversion of such currency into Euro established by the Council of the European Union pursuant to the Treaty (including compliance with rules relating to rounding in accordance with European Union regulations); *provided, however, that*, if the Issuer determines, with the agreement of the Programme Calculation Agent that market practice in respect of the redenomination into Euro 0.01 of internationally offered securities is different from that specified above, such provisions shall be deemed to be amended so as to comply with such market practice and the Issuer shall promptly notify the Noteholders, each listing authority, stock exchange and/or quotation system (if any) by which the Notes have then been admitted to listing, trading and/or quotation and the Paying Agents of such deemed amendments;
 - (ii) all payments in respect of the Notes (other than, unless the Redenomination Date is on or after such date as the Specified Currency ceases to be a sub-division of the Euro, payments of interest in respect of periods commencing before the Redenomination Date) will be made solely in Euro by credit or transfer to a Euro account (or any other account to which Euro may be credited or transferred) maintained by the payee with, a bank in the principal financial centre of any Member State of the European Union.
- 21.4 *Interest*: Following redenomination of the Notes pursuant to this Condition 21 (*Redenomination, Renominalisation and Reconventioning*), where Notes have been issued in definitive form, the amount of interest due in respect of the Notes will be calculated by reference to the aggregate principal amount of the Notes presented for payment by the relevant holder.
- 21.5 *Interest Determination Date*: If under the Floating Rate Note Provisions in the relevant Pricing Supplement, Screen Rate Determination is specified in the relevant Pricing Supplement as the manner in which the Rate(s) of Interest is/are to be determined, with effect from the Redenomination Date the Interest Determination Date shall be deemed to be the second TARGET Settlement Day before the first day of the relevant Interest Period.
22. **Governing Law and Jurisdiction**
- 22.1 *Governing Law*: The Notes are governed by Italian law.
- 22.2 *Transaction Documents*: All the Transaction Documents, save for the Hedging Agreements, the Additional Hedging Agreements and the Deed(s) of Charge, are governed by Italian law. The Hedging Agreements, the Additional Hedging Agreements and the Deed(s) of Charge are governed by English law.
- 22.3 *Jurisdiction*: The courts of Rome are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Notes.