

**Base Prospectus**  
of  
**E-Stream Energy GmbH & Co KG**

*(incorporated as a limited liability company under the laws of Germany)*

**for the Issuance of**

**Option I – Terms and Conditions of the Fixed Rate Bearer Notes under German law, Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law, Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law, Option IV – Terms and Conditions of the Fixed Rate Bearer Notes, Option V – Terms and Conditions of the Fixed Rate Registered Notes, Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes, Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II, Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes, Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II, Option X – Terms and Conditions of the Contingent Capital Fixed Rate Bearer Notes, Option XI – Terms and Conditions of the Contingent Capital Fixed Rate Registered Notes, Option XII – Terms and Conditions of the Fixed Rate Registered Notes in Dematerialised Form, Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, Option XV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and Option XVI – Terms and Conditions of the guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form**

**dated**

**19 November 2019**

In accordance with the Regulation (EU) 2017/1129 of the Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended, (the **Prospectus Regulation**), this Base Prospectus was approved by the Liechtenstein Financial Market Authority (the **FMA**) as the competent authority in Liechtenstein. In accordance with the Prospectus Regulation and the Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004, as amended, by approving this Base Prospectus, the FMA gives no assurances relating to the economic and financial suitability of the transaction and the quality or solvency of the Issuer.

This document constitutes a base prospectus (the **Base Prospectus**) according to Article 2 sub-paragraph (s) in connection with Article 8 (1) of the Prospectus Regulation for the issuance of Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes II under German law, Fixed Rate Bearer Notes, Fixed Rate Registered Notes, guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Bearer Notes II, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes II, Contingent Capital Fixed Rate Bearer Notes, Contingent Capital Fixed Rate Registered Notes, Fixed Rate Registered Notes in Dematerialised Form, guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form (together the **Notes**) issued from time to time by E-Stream Energy GmbH & Co KG (the **Issuer**, or the **Company**) and, if applicable, to be guaranteed by Timberland Securities Investment plc (the **Guarator**). In the latter case, payments of amounts up to an amount as specified in the

relevant Final Terms due in respect of Notes issued by the Issuer will be unconditionally and irrevocably guaranteed by the Guarantor.

The purpose of this Base Prospectus is the offer to the public and/or the admission to trading of the Notes described herein. This Base Prospectus is to be read together with the information provided in (a) the supplements to this Base Prospectus, if any (the **Supplements**), (b) all other documents whose information is incorporated herein by reference (see section "*Documents Incorporated by Reference*" below) as well as (c) the respective Final Terms (the **Final Terms**).

The Notes are subject to, and governed by, the terms and conditions fully described in the section entitled "*Terms and Conditions of the Notes*" (the **Terms and Conditions**). Unless redeemed early or purchased and cancelled in accordance with the relevant Terms and Conditions, the Issuer will redeem each Note on the Maturity Date specified in the relevant Terms and Conditions by paying the Redemption Amount (as defined in the Terms and Conditions) to the relevant holder of such Note.

The Issuer has also requested the FMA in accordance with Article 25 of the Prospectus Regulation to provide the competent authorities in the Republic of Austria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the French Republic, the Federal Republic of Germany, Hungary, the Republic of Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland (and together with the Principality of Liechtenstein collectively, the **Public Offer Jurisdictions** and each, a **Public Offer Jurisdiction**) with a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with the Prospectus Regulation. The publication of the Base Prospectus will be made at least one working day prior to the commencement of an offer to the public of the Notes in the relevant Public Offer Jurisdiction.

The Issuer has authorised the making of a public offer of the Notes by Timberland Invest Ltd. and Timberland Capital Management GmbH, as applicable, (the **Distribution Agents**) in the Public Offer Jurisdictions during the offer period and the Issuer has consented to the use of this Base Prospectus by any other person authorised by the Distribution Agents in connection with any public offer of Notes (under which the offer of the Notes takes place) and the applicable Final Terms in connection with a subsequent resale or final placement of the Notes to the extent and the conditions as set out in the Base Prospectus and the relevant Final Terms during the term of its validity in accordance with Article 12 of the Prospectus Regulation.

**Information on the terms and conditions of the offer of Notes by a Distribution Agent is to be provided at the time of the offer by the Distribution Agent.**

**The Terms and Conditions of the Notes may be complex. An investment in the Notes is suitable only for investors who are in a position to evaluate the risks and who have sufficient resources to be able to bear any losses which may result from such investment. Before subscribing to or otherwise acquiring any Notes, prospective investors should specifically ensure that they understand the structure of, and the risk in an investment in, the Notes and should specifically consider the risk factors set out in section "*Risk Factors*" below.**

The Issuer and the Guarantor accept responsibility for the information contained in this Base Prospectus and, to the best of their knowledge (having taken all reasonable care to ensure that such is the case) the information contained in the Base Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

No person is or has been authorised by the Issuer, or the Guarantor, to give any information or to make any representation not contained in or not consistent with this Base Prospectus or any other information supplied in connection with the offering of the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer.

If the relevant Final Terms in respect of any Notes include a legend entitled "*Prohibition of Sales to Retail Investors in the European Economic Area*", the Notes are not intended to be offered, sold or otherwise made

available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (**MiFID II**); (ii) a customer within the meaning of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, where that customer would not qualify as a professional client as defined in Point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC. If the relevant Final Terms include the above-mentioned legend, no key information document required by Regulation (EU) No. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (the **PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the European Economic Area has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the European Economic Area may be unlawful under the PRIIPs Regulation.

The Final Terms in respect of any Notes will include a legend entitled "MiFID II Product Governance" which will outline the target market assessment in respect of the Notes and which channels for distribution of the Notes are appropriate. Any person subsequently offering, selling or recommending the Notes (a **distributor**) should take into consideration the target market assessment; however, a distributor subject to MiFID II (as amended) is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the target market assessment) and determining appropriate distribution channels. A determination will be made in relation to each issue about whether, for the purpose of the MiFID Product Governance rules under EU Delegated Directive 2017/593 (**MiFID Product Governance Rules**), any dealer subscribing for any Notes is a manufacturer in respect of such Notes, but otherwise neither the Issuer nor the dealers nor any of their respective affiliates will be a manufacturer for the purpose of the MiFID Product Governance Rules.

Neither this Base Prospectus or its delivery nor any other information supplied in connection with the offering, sale or delivery of the Notes (a) is intended to provide the basis of any credit or other evaluation, or (b) should be considered as a recommendation by the Issuer (or the Guarantor) that any recipient of this Base Prospectus, or the recipient of any other information supplied in connection with the offering, sale, or delivery of the Notes, should purchase any Notes. Each investor contemplating acquiring any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness of the Issuer. Save for the approval of the Base Prospectus by the FMA and save as described herein, neither this Base Prospectus nor any other information supplied in connection with the offering of the Notes constitutes an offer or invitation by or on behalf of the Issuer to any person to subscribe to, or otherwise acquire, any Notes.

Neither the delivery of the Base Prospectus nor the offering, sale or delivery of the Notes shall in any circumstances imply that the information contained herein concerning the Issuer or the Guarantor is correct at any time subsequent to the date hereof or that any other information supplied in connection with the offering of the Notes is correct as of any time subsequent to the date indicated in the document containing the same.

THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, AND ARE SUBJECT TO U.S. TAX LAW REQUIREMENTS. SUBJECT TO CERTAIN EXCEPTIONS, THE NOTES MAY NOT BE OFFERED, SOLD OR DELIVERED WITHIN THE UNITED STATES OR TO U.S. PERSONS. FOR A FURTHER DESCRIPTION OF CERTAIN RESTRICTIONS ON THE OFFERING AND SALE OF THE NOTES AND ON DISTRIBUTION OF THIS DOCUMENT, SEE SECTION "*SELLING RESTRICTIONS*".

This Base Prospectus does not constitute an offer to sell, or the solicitation of an offer to buy, the Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Base Prospectus and the offer or sale or delivery of Notes may be restricted by law in certain jurisdictions. The Issuer and the Guarantor do not represent that this Base Prospectus may be lawfully distributed, or that the Notes may be lawfully offered or sold, in compliance with any applicable registration

or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer (or the Guarantor) which is intended to permit an offering to the public or sale of the Notes or the distribution of this Base Prospectus in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Base Prospectus nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Base Prospectus or any Notes may come must inform themselves about, and observe, any such restrictions on the distribution of this Base Prospectus and the offering and sale of Notes. In particular, there are restrictions on the distribution of this Base Prospectus and the offer or sale of Notes in the United States of America (**United States**) and the EEA including the Public Offer Jurisdictions (please see section "*Selling Restrictions*").

Supplements (if any) to this Base Prospectus will be approved by the FMA and published in accordance with Article 21 of the Prospectus Regulation.

Any websites included in this Base Prospectus are for information purposes only and do not form part of the Base Prospectus.

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## **RISK FACTORS**

Prospective investors in the Notes should ensure that they fully understand the nature of the Notes, as well as the extent of their exposure to risks associated with an investment in the Notes. They should consider the suitability of an investment in the Notes in light of their own particular financial, fiscal and other circumstances. In particular, prospective investors should be aware that the Notes may decline in value and should be prepared to sustain a substantial or total loss of their investment in the Notes and ensure that their acquisition is fully consistent with their financial needs and investment policies, is lawful under the laws of the jurisdiction of their location or incorporation and/or in which they operate, and is a suitable investment for them to make.

The Issuer believes that the following factors may affect its ability to fulfil its obligations under the Notes. All of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring.

In addition, factors which are material for the purpose of assessing the market risks associated with the Notes are described below. The Issuer believes that the factors described below represent the principal risks inherent in investing in the Notes, but the inability of the Issuer to pay principal or other amounts under or in connection with the Notes may occur for other reasons, which may not be or may not have been considered significant risks by the Issuer based on information currently available to it or which it may not currently be able to anticipate. Prospective investors should also read the detailed information set out elsewhere in this Base Prospectus and reach their own views prior to making any investment decision.

### **I. SPECIAL AND MATERIAL RISK FACTORS RELATING TO THE ISSUER**

#### **1. Risks related to the Issuer's financial situation**

##### **Risks in connection with a possible insolvency of the Issuer**

The Noteholders assume the credit risk of the Issuer. In the case of an insolvency of the Issuer and/or any existing or future subsidiary, the Noteholders may lose part or all of their claims to repayment of their invested capital.

##### **Risks in connection with refinancings**

It cannot be ruled out that the Issuer will be dependent on new refinancing for the repayment of the Notes, if necessary by issuing new Notes. If financing required for repayment is not available – for whatever reason – the Issuer may not be in a position to repay the Notes.

##### **Risks in connection with fundraising to cover future capital requirements**

The further growth of the Issuer is dependent on successful ongoing financing and the successful raising of capital to cover future capital requirements.

The further development of battery storage technologies and the financing of battery production through to the manufacture of complete battery storage systems involve considerable investment costs. It cannot be excluded that the production cannot be carried out within the planned budget, within the agreed schedule or in accordance with the agreed specifications or that individual producers of round cells or other components prove to be unsuitable. Should the investment costs turn out to be higher than expected, the Issuer's profitability would deteriorate, which could have a negative impact on the Issuer's net assets, financial position and results of operations.

The Issuer expects capital requirements to increase in the coming financial years as a result of the planned commencement of production and activities in the field of research and development. The Issuer may then be dependent on further capital. It cannot be excluded that the Issuer may not be able

to raise additional funds or may not be able to do so on economically justifiable terms. This may result in the Issuer being unable to develop new products, market them or further develop the battery storage systems, which would prevent the planned expansion of its business activities. There is therefore a risk that the Issuer will not be in a position to cover its capital requirements with equity capital or debt capital made available to it at conditions it deems appropriate.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with Credit Risks**

Noteholders are subject to the risk of partial or total inability of the Issuer to make distribution and/or redemption payments that the Issuer may, subject to the limitations described in the terms and conditions of this Base Prospectus, be obliged to make under the Notes. The worse the creditworthiness of the Issuer, the higher the risk of loss. Prospective investors should note that a materialisation of credit risk with respect to the Issuer may result in the inability of the Issuer to pay interest and/or principal under the Notes.

### **Risks in connection with Credit Spread Risks**

A credit spread is the margin payable by the Issuer to the holder of an instrument as a premium for the assumed credit risk. Factors influencing the credit spread include, among other things, the creditworthiness and rating, if any, of the Issuer, probability of default, recovery rate, remaining term to maturity of the Notes and obligations under any collateralisation or guarantee and declarations as to any preferred payment or subordination. The liquidity situation of the market, the general level of interest rates, overall economic developments, and the currency, in which the relevant obligation is denominated may also have a negative effect.

Noteholders are exposed to the risk that, as the credit spread of the Issuer widens, this may result in a decrease in the price of the Notes.

### **Risks in connection with the Issuer's limited operating history**

The Issuer was incorporated on 2 December 2004 and therefore has a limited operating history that can be evaluated as a basis for the Issuer's potential performance and the ability to achieve its investment objectives. Consequently, the possibility to assess the Issuer's business plan is limited.

Therefore, any investment in the Notes is subject to the uncertainties associated with the business model and any related operational misjudgement may have a direct effect on the ability of the Issuer to meet its obligations in respect of the repayment of principal and interest under the Notes.

In addition, the Issuer is a start-up company with a high-risk business model, which currently generates no revenues but is exclusively active in research and development. It is entirely dependent on the success of new technologies which have not yet been established and for which it is uncertain whether they can generate revenues. Furthermore, it is uncertain whether the planned expansion of business activities, i.e. the production and/or sale of battery cells, battery systems and applications/products in connection with battery systems, such as, but not limited to, in the field of residential and industrial energy storage, mobile energy storages and automotive applications will show the promised success.

Since several years the Issuer has amended its business activities from IT-services and consulting and asset management of own assets to an operational activity in the field of research and development of battery systems and plans to start production. As a start-up company in this field, the Issuer plans to produce the battery systems and applications/products inter alia in Mönchengladbach (rented industrial property) and to sell these products in various markets in addition to the ongoing further development of the technologies. The Issuer is not yet generating any turnover from this new business area of battery storage systems. For its economic success, the Issuer relies, among other things, on successful research



and development activities and the successful acquisition customers for its battery systems and applications/products. It is therefore entirely dependent on the success of unestablished technologies, for which it is uncertain whether these will be accepted on the market and whether these will generate revenues. The future development of the Issuer is therefore difficult to predict. Due to the uncertainties in this context, the Issuer's business model is a high-risk business model. There can be no guarantee that the Issuer will succeed in establishing its new business activities and achieve the desired economic success.

The planned growth depends in particular on the ability of the Issuer to manufacture marketable products, to successfully launch and sell battery cells, battery systems and applications/products on the market and/or to successfully market other products resulting from further research and development activities. Successful marketing requires a development strategy and a market strategy geared to the target markets. If the Issuer does not succeed or does not succeed to a sufficient extent in marketing, or if the strategies applied turn out to be partially or completely wrong, this may have significant negative effects on the activities of the Issuer.

The Issuer's production site in Mönchengladbach is currently being set up. The Issuer cannot draw on its own experience and practice in the production of battery cells, battery systems and applications/products. There is therefore a risk that the Issuer will not be able to produce the battery systems within the planned time frame and at the planned cost, or that it will not be able to produce a certain number of units within a certain period of time. In addition, the expansion of production capacities requires a time lead both for the procurement of the required machines and for the acquisition of the necessary employees.

In the automotive sector, the OEMs (Original Equipment Manufacturers) or system suppliers (also known as Tier 1 and Tier 2 suppliers) can be considered as buyers. In the area of charging systems, both the manufacturers of charging systems and the operators of charging infrastructures can be considered as purchasers. In the field of energy storage systems, the manufacturers of such systems are eligible as purchasers in sub-areas of house storage systems, industrial storage systems, "island" systems (network-independent systems) and the new market segment of transportable energy storage systems (e.g. network-independent systems on construction sites, etc.), wholesalers and retailers and, where applicable, end customers.

If the Issuer does not succeed in marketing the respective products, or does not succeed in marketing them sufficiently, and/or if the costs of implementing the strategy are higher than those forecast by the Issuer, this may have a material adverse effect on the business activities of the Issuer.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with the impact of a downgraded credit rating**

The value of the Notes may be affected by investors' general appraisal of the Issuer's creditworthiness. Such perceptions may be influenced by any credit ratings which may, in the future, be assigned to the Issuer or any company which may form part of its group. A rating is, broadly, the opinion of a rating agency on the credit standing of an issuer, i.e., a forecast or an indicator of a possible credit loss due to insolvency, delay in payment or incomplete payment to the investors. It is not a recommendation to buy, sell or hold securities.

A rating agency may, in particular, suspend, downgrade or withdraw a rating. A rating may also be suspended or withdrawn if an issuer of notes were to terminate the agreement with the relevant rating agency or to determine that it would not be in its interest to continue to supply financial data to a rating agency. A downgrading of the rating may lead to a restriction of access to funds and, consequently, to higher refinancing costs. A rating could also be negatively affected by the soundness or perceived soundness of other institutions operating within the same sector as the Issuer or any company which may form part of its group.

Any downgrade of a credit rating which may, in the future, be assigned to the Issuer and/or any company which may form part of its group could have a material adverse effect on the liquidity and competitive position of the Issuer, undermine confidence therein, increase its borrowing costs, limit its access to funding and capital markets and/or limit the range of counterparties willing to enter into transactions with the Issuer and may, as a consequence, have a material adverse effect on the Issuer's business, financial condition and results of operations.

### **Risks in connection with the dependency on certain persons**

Mr Kraemer is a direct limited shareholder and, via Timberland Securities Investment plc, an indirect limited shareholder and managing director of the general partner. Mr Kraemer is the sole shareholder of the general partner and thus may exert influence on the Issuer.

Hence, the Issuer is heavily dependent on its (direct and indirect) limited partner shareholder and managing director of the general partner, due to the controlling influence of this limited partner shareholder, the financing previously significant by this shareholder and its participation in various Timberland related companies including Timberland Securities Investment plc (inter alia refinancing risks).

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with the integration of potential future acquisitions**

The Issuer may in the future seek to make one or more acquisitions to support its business objectives and complement the development of its business in existing and new geographic markets. Such strategic transaction(s) would, if pursued, demand significant management attention and will require the Issuer to divert financial and other resources that would otherwise be available for its existing business. Furthermore, prospective investors should note that the benefits of potential future acquisitions may take longer to realise than expected and may not be realised fully, or at all, there can be no assurance that the Issuer will be able to successfully pursue and complete the acquisition of any future target(s), and there can be no assurance that the Issuer will be able to identify all actual and potential liabilities to which any target company is exposed prior to the acquisition thereof.

Any of these factors could, in the event that an acquisition is pursued, lead to unexpected losses for the Issuer which may have a material adverse effect on the Issuer's business, financial condition and results of operations.

## **2. Risks related to the Issuer's business activities and industry**

### **Risks in connection with the fact that the Issuer is exposed to the credit risk of its customers, suppliers and dealers**

The Issuer intends to conduct transactions (sales) with customers, suppliers and dealers as part of its business activities. There is a risk that one or more of these counterparties may become insolvent and be unable to meet their obligations to the Issuer. In particular, if one of the Issuer's principal clients becomes insolvent or in financial difficulty, the Issuer may not be able to collect any outstanding debt and may be required to write off the debt. Significant or recurring delays in receiving payments or defaults could have a material adverse effect on the Issuer.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

## **Risks in connection with the intended change of the legal structure from a Limited Liability Partnership (GmbH & Co KG) into a partnership limited by shares (Kommanditaktiengesellschaft)**

The Issuer intends to change its legal form into a company limited by shares (*Kommanditgesellschaft auf Aktien* (hereinafter also referred to as "**KGaA**")) which is a mixed form of limited partnership and stock corporation. In addition to a personally liable shareholder (general partner), who manages the Issuer's business as a so-called "born" business body, i.e. on a permanent basis and not for a specific period of time, the limited liability shareholders participate in the Issuer in a similar way to the shareholders of a stock corporation. The personally liable partner of the Issuer is E-Stream Management GmbH with its office in Krefeld (hereinafter also referred to as the "**General Partner**"). Mr Kraemer holds 100% of the shares in the General Partner.

This may have an impact on the Issuer in regard to tax due to but not limited to the German conversion tax law ("*Umwandlungssteuerrecht*"), organizational structure, conversion costs, costs and further risks due to the issuing shares and/or mandatory convertible bonds (*Pflichtwandelanleihen*) and compliance costs and risk in connection with the intended legal form.

## **Risks in connection with the Issuer's business model**

The Issuer's business model depends on the competitiveness of its battery storage systems and technologies.

It cannot be excluded that there may be competitors on the market who offer services similar to those of the Issuer and who are able to acquire customers and generate profits faster and more successfully with cheaper and/or better offers than the Issuer. This could lead to the Issuer's failure to plan, which could have an adverse effect on its business, assets, liabilities, financial position and profit or loss.

There is also a risk that the battery storage systems and/or technologies may not be competitive. The battery storage system and technologies are in global competition with similar or comparable products or technologies from other manufacturers. Due to changes in customer requirements, the continuous introduction of new products to the market and/or constantly evolving product standards, the Issuer's battery storage systems and/or technologies may become obsolete, unattractive to customers or otherwise uncompetitive. This intense competition could result in lower profit margins, lower revenues and a lower market share. If the Issuer does not succeed in asserting itself in this environment and in developing sufficient economic projects, this could have a significant negative impact on the success of its business activities.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

## **Risks in connection with the Issuer's research and development activities**

The Issuer's business success depends on its successful research and development of packaging solutions for battery systems.

The planned establishment and expansion of the Issuer's business activities requires the successful research and development of packaging solutions for battery systems on the basis of lithium-ion cells with the aim of continuously further developing the battery storage systems and the underlying technologies. The Issuer designs and develops energy storage systems (battery systems) as modules and as finished applications for both mobile and stationary applications (home and industrial storage). The Issuer intends to improve and further develop these technologies and produce its own battery packages and products.

The corresponding production of battery systems suitable for everyday use for various fields of application requires the continuous further development of technologies and its adaptation to the specific requirements of the respective application. There is a risk that the Issuer will not succeed in

correctly identifying the respective requirements in the aforementioned business segments and in adapting the respective product to them as part of the development, such as that the Issuer may not be able to market its products appropriately and find buyers for its products.

It is in the nature of research and development projects that approaches pursued may prove impracticable, ineffective or economically uninteresting. In this respect, it cannot be ruled out that individual or several development projects may not be recognized as a result, and that the time and financial expenditure for the research and development project in question may thus be useless.

Furthermore, there is a risk that certification of the Issuers battery packs and the Issuers products containing battery packs in accordance with existing or future standards will not be achieved to the intended extent and/or within the intended timeframe and insofar the distribution of such battery packs and products cannot be achieved to the intended extent and/or within the intended timeframe, which would have an effect in no, limited or time wise later turnover and income/profit of the Issuer.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with the dependency on key personnel, internal personnel and recognized structures, in particular through planned growth**

The operations of the Issuer are dependent on the abilities of the members of its Board of Directors. If one or more of such persons are unable or unwilling to continue in their present position, the Issuer might not be able to replace them within a short term and this could affect the profitability of the Issuer's operations.

The planned expansion of the Issuer's business activities requires the (further) development of appropriate internal organisational, risk monitoring and management structures in line with growth, which enable undesirable developments and risks to be identified at an early stage. This is particularly true here, as the research and development activities were only started approximately three years before the date of the Base Prospectus and production is not scheduled to start until the second half of 2019 at the earliest. In addition, the Issuer has recently been converted into a partnership limited by shares (*Kommanditgesellschaft auf Aktien*), as follows that the management does not yet have any experience with the legal structures of a German partnership limited by shares. In the past, the internal organisation was not carried out in all areas in the way that would have been necessary in a partnership limited by shares. In addition, the workforce is to be significantly expanded and entire departments or structures below the complementary level are to be established for the first time. In addition to building up the know-how required to expand the business in the Issuer below the general partner level, this also includes hiring various highly qualified employees. The expansion of business operations and of the internal and external organization entail, among other things, financial and personnel expenses. Should gaps or deficiencies in the existing risk monitoring and management system become apparent in ongoing practice, or should management be unable to create appropriate structures and systems in a timely manner in connection with the planned further growth and to implement the pending increases in personnel by recruiting appropriately qualified employees in a timely manner and without unforeseen difficulties, this could lead to restrictions in the ability to identify and control risks, trends and undesirable developments in a timely manner.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with the supply industry and the availability of raw materials and intermediate products**

The Issuer is dependent on the supply industry and the availability of raw materials and intermediate products; if the Issuer is unable to purchase battery cells and other components in sufficient quantities and at marketable conditions, this could lead to production stoppages and/or price increases.

The further growth of the Issuer also depends on its ability to procure the battery cells and other components of the battery packages required for the production of the battery systems in appropriate quantities and at reasonable prices. In order to ensure the supply of battery cells and other components in sufficient quantities at reasonable prices, the Issuer could also be forced to enter into cooperation or purchasing associations with other (possibly also competing) battery and battery package manufacturers.

Due to a possible excess demand for battery cells or other raw materials, the Issuer may also be unable to procure materials of the desired quality from other suppliers or only to procure them to the required extent at inappropriate conditions.

If one of the suppliers fails to meet its delivery obligations (e.g. due to insolvency or for other reasons) or fails to do so on time, and if the Issuer is unable to procure replacements elsewhere in good time, delays may occur in production and sale of battery systems, which may lead to production losses and thus to loss of earnings as well as possible contractual penalties or claims for damages, and in individual cases also to rights of withdrawal on the part of the Issuer's customers.

In addition, the prices to be paid for raw materials and intermediate products are subject to strong fluctuations in some cases, which may lead to an increase in the Issuer's purchase costs. Such price increases may have a negative impact on the Issuer's profitability.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

#### **Risks in connection with sales problems relating to e-vehicles and e-mobility applications as well as stationary energy storage systems in the market**

It is currently impossible to assess whether and how quickly the energy revolution and the resulting phase-out of energy generation from fossil fuels and nuclear power can be realized, and whether and how quickly e-mobility will develop further or even gain acceptance, and whether manufacturers will possibly switch to other drives or optimize existing drives. As a result, the Issuer's future business plans may prove unrealistic in whole or in part and not only may the planned turnover and earnings not be achieved, but investments may prove to be erroneous and loss-making.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

#### **Risks in connection with technical developments in the sector and industry the Issuer is active**

The Issuer is subject to technology risks that new technologies devalue the development work performed by the Issuer and that the battery storage systems will no longer correspond to the current state of the art in the future.

The market for battery storage systems is subject to constant and dynamic changes. There is a risk that new technologies will devalue the development work carried out by the Issuer and that the battery storage systems will no longer be state-of-the-art in the future. As a result, the use of battery storage systems may become uneconomical for the user/customer and marketing may no longer be possible or not possible to the intended extent. Adaptations to technological developments can be very cost-intensive or even impossible. Nor can it be ruled out that future technical problems may arise with the battery storage systems and/or the technologies of the associated companies, which are not foreseeable at the time this Base Prospectus is drawn up, so that the performance of the battery storage systems will be reduced in comparison with the market and competitors, if necessary significantly or even to zero.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

## **The Issuer is exposed to the risk of violating its business and trade secrets as well as its technologies and know-how**

In addition to any as applicable rights applied for and thus protected or to be protected (such as but not limited to intellectual property rights), the Issuer also relies on certain technologies, know-how and trade secrets that cannot be protected by intellectual property rights. Therefore, there is a risk that third parties, in particular competitors, may copy or independently develop these technologies and know-how and later question their use by the Issuer. In addition, employees regularly have access to relevant proprietary information that may or may not be protected by intellectual property rights. These employees could leave the Issuer to work for competitors. Although the Issuer implements and trusts confidentiality agreements and technical precautions to protect its technologies, know-how and other sensitive information, there can be no assurance that such agreements and precautions will provide adequate protection against unauthorized access or use by third parties or against misappropriation or disclosure of such information. Protection against unauthorized use or access, misappropriation or disclosure of technologies, know-how and other proprietary information, including but not limited to the Issuer's trade secrets and trade secrets, may result in protracted and costly litigation or administrative proceedings and may cause substantial disruption to business operations and tie up resources otherwise required.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

## **Risks in connection with third parties involved**

The Issuer is party to contracts with a number of third parties who have agreed to perform several services in relation to the Notes. If any such third party fails to perform its obligations under any relevant agreement, Noteholders may be adversely affected.

## **Risks in connection with the fact that the business success of the Issuer depends on the acceptance of the markets for e-mobility and for transportable and stationary energy storage systems**

The Issuer's business activities focus on the market for e-mobility and the market for transportable and stationary energy storage systems. The market segments are increasingly attracting public attention and are referred to as future technologies, which is also the subject of critical observation by users and consumers. The market acceptance and hence the commercial success of the Issuer's battery storage systems depends on the demonstration of the effectiveness of the technologies, its safety and cost-effectiveness, the complexity of the production and successful certification aimed at the core markets. In addition, market acceptance depends on public opinion on the market for e-mobility and battery storage systems in general and on the battery storage systems of the Issuer in particular. In this respect, it cannot be excluded that the Issuer and/or competitors may launch products on the market that cause damage to other legal interests and that the reputation of the entire market segment and thus also that of the Issuer may suffer as a result. If the Issuer's technologies and/or battery storage systems are not sufficiently accepted by the market, this may have a material adverse effect on the business activities and their success.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

## **Risks in connection with the fact that the Issuer's business success depends on the future development of electro mobility (especially in the automotive sector) and/or portable and stationary energy storage systems**

The battery storage system of the Issuer is designed for all applications where high power and energy density and/or simple assembly and disassembly are required. These are primarily the area of e-mobility within the automotive sector and the market for transportable and stationary energy storage systems.

If the automotive sector does not develop as planned in the area of e-mobility and/or the area of transportable and/or stationary energy storage systems and/or if car manufacturers and/or other manufacturers in the area of e-mobility and/or buyers in the area of transportable and/or stationary energy storage systems may switch to other drive types or technologies or optimise existing drive types or technologies, this may result in the Issuer's plans turning out to be unrealistic. This in turn may have material adverse effects on the Issuer's business. The Issuer's success depends on the economic development of battery storage systems and technologies. An unfavourable development can have a negative effect on the business activities and/or the net assets, financial position and results of operations of the Issuer.

If, in particular, the issue of electro mobility does not remain an essential part of the mobility policy of industry and the public sector in the future, the awarding of contracts by industry and the public sector could suffer considerably. Furthermore, if the energy turnaround currently being driven by the German Federal Government and the resulting expected increase in demand for decentralised or local energy storage systems and/or corresponding developments in other countries (above all in Europe, the U.S.A., China, etc.) and/or on an international level should not materialise in the manner expected, this would lead to a reduction in sales and earnings, which in turn could have a material adverse effect on the Issuer's business activities and/or its net assets, financial position and results of operations.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### 3. Legal and regulatory risks

#### **Risks in connection with copyright and patent procedures and possible copyright infringements by third-parties**

The Issuer may not be able to register patents or utility models of the battery storage systems and technologies on which the Issuer's business is or may be inter alia based in the future, or to protect

The Issuer may not be able to register patents or utility models of systems/applications and technologies on which the Issuer's business is or may be inter alia based in the future, or to protect other intellectual property rights of the Issuer.

It cannot be excluded that the systems/applications will not be in conflict with rights of third parties.

Furthermore, it cannot be excluded that the systems/applications can be copied despite existing protection rights. Competitors could infringe patents and/or industrial property rights. In addition, they could use technologies that function essentially like the systems/applications of the Issuer without infringing patent and industrial property rights. If licensors are not able to effectively prevent the imitation of its products, this could endanger the competitiveness of the systems/applications and technologies.

If the systems/applications and technologies cannot be registered as patents or utility models and other intellectual property rights cannot be adequately protected, this could have a material adverse effect on the business because competitors could copy and use the Issuer's systems/applications and/or technologies without the Issuer being able to take legal action against them.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

#### **Risks in connection with potential patent and property infringements and corresponding assertion of claims as well as patent litigation proceedings**

Patent and property right infringements could lead to the assertion of claims by third parties and endanger the legal status of property rights.

It cannot be ruled out that patents and industrial property rights of third parties which have not been recognized as such by the Issuer may lead to claims against the Issuer as patent and utility model owner and/or against licensors to the Issuer or the Issuer as patent and utility model user. The assertion of patent and property right infringements as well as the assertion of claims for damages can endanger the legal existence of property rights, if any in connection with systems/applications and/or technologies.

The mere allegation that infringe the intellectual property rights of third parties could cause economic damage to the Issuer due to the important role that intellectual property rights play in technology sectors. All these risks can have a lasting negative impact on the Issuer's net assets, financial position and results of operations.

Litigation to confirm or enforce patent rights or patent usage rights to enforce payment claims against third parties based on patent infringements or to defend against alleged patent infringements can result in considerable costs and tie up personnel resources in addition to financial burdens.

Should licensors to the Issuer and/or the Issuer lose a legal dispute regarding industrial property rights, it cannot be ruled out that the Issuer and/or Licensors to the Issuer will not lose the relevant patent protection. It may then no longer be able to prevent the use of one or more systems/applications or the technology/technologies, in whole or in part, which may result in significant competitive disadvantages for the Issuer, whose business may be based inter alia on the technologies and patents. In addition, the negative outcome of such proceedings may result in third parties being able to use the systems/applications and/or the technology without payment to the respective patent and utility model users.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with laws and regulations, especially due to potential future business and/or subsidiaries and/or joint ventures and/or other form of cooperations**

The Issuer and/or a future subsidiary and/or joint venture and/or other form of cooperation may engage in the financing, leasing and or rental sales (*Mietkauf*) of battery cells, battery packs, battery systems, electric cars and other products and services.

Such activities may have an impact on the regulatory treatment of the Issuer and/or a future subsidiary, joint venture or other form of cooperation, for instance in case the Issuer would set up a subsidiary, joint venture or other form of cooperation with the aim to increase distribution of its product and service – for instance via a financing, leasing and or rental sales company. Such a financing and/or leasing and/or rental sales company might be regulated under EU-laws or national laws for financial services.

In response to the global financial crisis, a number of regulatory initiatives have been (and are currently being) implemented, adopted, or developed, which could, if deemed applicable to the Issuer and/or a future subsidiary and/or joint venture and/or other form of cooperation, have a negative impact on the Issuer and its operations.

The Issuer may itself or by way of subsidiary enter into financing, leasing, rental sales agreements (*Mietkauf*) and/or other forms in connection with the financing of customers in connection with its products, which may incur that the Issuer itself, its subsidiary and/or as a group might get subject to before mentioned laws and regulations.



## **Risks in connection with new governmental or regulatory requirements**

New governmental or regulatory requirements and changes in perceived levels of adequate capitalisation and leverage could potentially subject the Issuer to increased capital requirements or standards and require it to obtain additional capital or liquidity in the future.

### ***Changes in Recognition of Own Funds***

Due to regulatory changes, certain existing capital instruments which may be issued by the Issuer in the future may be subject to (gradual) exclusion from own funds or reclassification as a lower category form of own funds.

### ***Changes in CET 1 Criteria***

In the course of the global financial crisis, the rules on own funds have come under scrutiny by legislators, regulators and advisory bodies (e.g. the BCBS). In the event that the Issuer were deemed to fall within the remit of the CRD IV/CRR regime, legislative or regulatory changes in the current definitions of what is deemed to qualify as CET 1 capital could reduce the Issuer's CET 1-ratio or otherwise reduce the (eligible) own funds on an individual or a consolidated basis. There can be no assurance that any further changes of the applicable rules as aforesaid, adequate grandfathering or transition periods will be implemented to allow the Issuer, if it were deemed to fall within the remit of the CRD IV/CRR regime, to repay or replace such derecognised CET 1 or other own funds instruments in a timely fashion or on favourable terms. In such case, the Issuer may need to obtain additional own funds or other eligible capital in the future, and such funds, whether in the form of ordinary shares or other capital, may not be available on attractive terms, or at all.

### ***Consolidation***

If the Issuer were deemed to fall within the remit of the CRD IV/CRR regime, then, in addition to potentially complying with capital requirements on an unconsolidated basis, the Issuer itself or group related entities may also be subject to capital requirements on a consolidated basis. Furthermore, any future shareholders of the Issuer which are subject to local supervision in their country of incorporation may, on an individual and on a consolidated basis, be required to comply with applicable local regulatory capital requirements. It is therefore possible that individual entities which may form part of the group of the Issuer may require more own funds, even though the own funds of the Issuer on a consolidated basis are sufficient.

### ***Stricter and Changing Accounting Standards***

Prospective changes in accounting standards as well as those imposing stricter or more extensive requirements for assets to be carried at fair value could also impact Issuer's capital needs.

### ***Other Initiatives***

Additionally, stricter and/or new regulatory requirements may be adopted in the future, and the existing regulatory environment in many markets in which the Issuer operates (or may operate in future) continues to develop and change, including, for example, the Banking Union within the EU. The substance and scope of any such (new or amended) laws and regulations as well as the manner in which they are (or will be) adopted, enforced or interpreted may increase the Issuer's financing costs and could have an adverse effect on the Issuer's business, financial condition, results of operations and prospects.

### ***Impact***

In the event that any one or more of the foregoing matters mentioned in this risk factor were to apply to the Issuer and/or to any member which may form part of its group, this could have a negative impact

on the business of the Issuer, the products and services it offers as well as the value of its assets, and may require the Issuer to change the manner in which it conducts its business.

### **Risks in connection with certain tax related circumstances**

The Issuer is subject to certain tax risks.

The development of current tax law is subject to constant change – also in its administrative application. The tax information presented here therefore reflects the current legal situation, current case law, published views of the tax authorities as well as the comments made by the tax literature on the date of the Base Prospectus. Future changes in the law, differing interpretations of the law by tax authorities and courts cannot be ruled out.

The tax burden of the Issuer could increase in particular as a result of future tax audits, new assessments by the competent authorities and possible changes to the applicable tax laws and regulations. The registered office of the Issuer is currently located in Germany. From time to time, however, it is subject to routine tax audits by tax authorities in the countries in which it operates. Future tax audits may lead to additional taxes. In addition, the tax authorities may not be able to accept the deductibility of some interest in the context of the cap or transfer pricing rules. In this case, tax arrears may be incurred during tax audits or as part of the normal taxation process (through tax assessment notices). In addition, changes to the tax regulations are possible. The interpretation of tax laws by courts or tax authorities (including courts or tax authorities in foreign jurisdictions in which the Issuer may operate in the future) may also have a material adverse effect on the business of the Issuer. Any further tax or interest payments resulting from such tax audits or other decisions of the relevant tax authorities could have a material adverse effect on the Issuer's business, financial condition, results of operations and prospects.

The future development of the Issuer's assets, financial and profit position, inter alia, depends – among other circumstances – on the tax framework applicable to it. Every future change in legislation, relevant decision of the competent fiscal courts and/or the tax authorities' administrative practice may have a negative impact on the Issuer's business.

Any of the aforementioned circumstances could have an adverse effect on the Issuer's net assets, financial position and results of operations.

### **Risks in connection with the United Kingdom in regard to the termination of EU-Membership**

In 2016, the United Kingdom has voted in a referendum to leave the EU, commonly referred to as Brexit. The political, economic and legal consequences of Brexit (especially with respect to a so-called hard Brexit) are not yet known or foreseeable and there may be increased volatility in the financial markets. Thus, the aforementioned referendum may have a negative impact on both the economies of the countries in which the Issuer currently operates and with respect to the financial industry as a whole. Furthermore, prospective investors should note that the UK's exit from the EU could limit market access for the sale and distribution of financial products therein.

## **4. Internal control risks**

### **Risks in connection with internal risk management processes**

The Issuer's risk management techniques and strategies may in the future not be fully effective in mitigating the Issuer's risk exposure in all economic market environments or against all types of risks, including risks that the Issuer may fail to identify or anticipate. Furthermore, audits or other regular reviews of the risk management procedures and methods may, in the future, detect weaknesses or deficiencies in the Issuer's risk management systems. In the event that the Issuer's risk management systems fail to identify, anticipate or correctly evaluate risks to which the Issuer may be exposed, the Issuer may experience material unanticipated losses, which could have an adverse effect on its business, financial condition and operational results.

## **Risks in connection with operational risk**

The Issuer is exposed to operational risk, which is the risk of loss resulting from inadequate or failed internal processes, human errors, malfunctioning systems or from external events, including in particular legal, regulatory and compliance risk. The Issuer is also susceptible to, among other things, operational errors, clerical or record-keeping errors and errors resulting from faulty computer or telecommunications systems.

Any inadequacy of the Issuer's internal processes or systems in detecting or containing such risks as aforesaid could have a material adverse effect on Issuer's business, financial condition, operation results and prospects.

## **II. SPECIAL AND MATERIAL RISK FACTORS RELATING TO THE NOTES**

All recipients of this Base Prospectus and prospective investors are urged to consult an investment advisor as to the suitability or otherwise of an investment in any of the Notes before making an investment decision. An informed investment decision can only be made by investors after they have read and fully understood this Base Prospectus, and, in particular, the Terms and Conditions, the risk factors associated with an investment in the Notes, the risk factors associated with the markets generally, and the inherent risks associated with the Issuer's business. In the event that an investor in the Notes does not seek professional advice and/or does not read and fully understand the provisions of this Base Prospectus, there is a risk that such investor may acquire an investment which is not suitable for his or her risk profile.

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

- have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained in, or incorporated by reference into, this Base Prospectus or any supplement thereto;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact the Notes will have on its overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes where the currency for principal payments is different from the potential investor's currency;
- understand fully the respective Terms and Conditions of the Notes and be familiar with the behaviour of any relevant indices and financial markets; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

The Notes may be complex financial instruments. Investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an appropriate addition of risk to their overall portfolios. A potential investor should not invest in the Notes unless it has the expertise (either alone or with a financial adviser) to evaluate how the Notes will perform under changing conditions, the resulting effects on the value of the Notes and the impact this investment will have on the potential investor's overall investment portfolio.

## **1. Risks related to the nature of the Notes**

### **Substitution of the Issuer and/or the Guarantor (as applicable) and the Successor Issuer (as applicable) and the Successor Guarantor (as applicable)**

The Terms and Conditions may contain provisions for the substitution of another company as principal debtor (including, as applicable, a subsequent substitution of the debtor) and in case of guaranteed Notes the Guarantor (including, as applicable, a subsequent substitution of the Guarantor(s)) under the Notes in place of the Issuer. The amounts which Noteholders should receive in respect of the Notes may be affected in the event that the Issuer and/or Guarantor substitutes another company for itself as issuer of the Notes under the Terms and Conditions.

### **Subordinated Notes**

The contingent capital Notes constitute direct, unsecured and subordinated obligations of the Issuer, and would, if the Issuer was subject to CRR, constitute Tier 2 instruments.

In the event of insolvency or liquidation of the Issuer, if the Issuer was subject to CRR, the obligations of the Issuer under the Notes would rank (i) junior to all present or future unsubordinated instruments or obligations of the Issuer, (ii) pari passu (a) among themselves and (b) with all present or future obligations under any other Tier 2 instruments, and (iii) senior to all present or future (a) obligations under any AT 1 instruments and (b) all other subordinated instruments or obligations of the Issuer ranking or expressed to rank (x) subordinated to the obligations of the Issuer under the Notes or (y) pari passu with obligations under any AT 1 instruments.

Subordination means that the rights and claims of the Noteholders in respect of the payment of capital and interest on the Notes will, in the event of dissolution and winding-up of the Issuer, rank after the claims of all senior indebtedness and will not be repaid until all other senior indebtedness outstanding at the time has been settled. Accordingly, there is a substantial risk that investors who/which invest in subordinated notes (such as these Notes) will lose all or some of their investment in case the Issuer become insolvent, or should the Issuer have insufficient profit to write up the Notes following a write-down.

### **Write-down**

Under the Terms and Conditions of the contingent capital Notes, if the Issuer incurs an annual balance sheet loss this would trigger a write-down under the Notes.

Noteholders may lose all or some of their investment as a result of a write-down, unless, following such write-down, the Notes are subsequently written up. Prospective investors should note that, due to the uncertainty regarding a potential write-down event under the Notes, the trading behaviour of the Notes may not necessarily follow the trading behaviour of other types of subordinated instruments. Any indication that the Issuer may incur an annual balance sheet loss may have an adverse effect on the market price and liquidity of the Notes. Under such circumstances, investors may not be able to sell their Notes easily or at prices that will provide them with a yield comparable to more conventional investments.

### **No limit to the amount of debt to be incurred by the Issuer in the future**

There is no restriction on the amount of debt that the Issuer may borrow on an equal footing or with priority with the Notes. Any assumption of additional liabilities by the Issuer which are not subordinated to the Notes increases the debt of the Issuer and may reduce the amount that the Noteholders of the Notes will receive on their claims in the event of the liquidation or insolvency of the Issuer.

## **Meetings of Noteholders**

In the event that the Issuer wishes to amend the Terms and Conditions of the Notes, unless it is only an editorial change, it shall call a meeting of Noteholders for approval. Defined majorities of Noteholders may bind all Noteholders including those that did not attend and vote at the relevant meeting and Noteholders who attended and voted in a manner contrary to the majority.

The majority of the bondholders represented at a creditors' meeting may pass adverse resolutions for all investors; the bondholders' rights of termination are excluded in certain cases prior to creditors' meetings.

The Terms and Conditions provide that bondholders may adopt certain measures, in particular amendments to the Terms and Conditions, by a majority vote binding on all bondholders. The resolutions are also binding on creditors who did not participate in the adoption of the resolution or voted against it. Meetings of bondholders may be quorate (if it is a second meeting) if only one bondholder is represented or, in respect of resolutions requiring a qualified majority, if at least 25% of bondholders are represented. A bondholder is therefore subject to the risk that he is bound by resolutions to which he has not consented and may thereby lose rights from the mandatory convertible bonds against his will.

The terms and conditions of the bonds provide for the exclusion of the bondholders' right to redeem the bonds due to a breach of the bond terms and/or a deterioration in the issuer's financial circumstances if a meeting of the bondholders has been convened in connection with this right to redeem the bonds. This means that in a situation in which bondholders wish to exercise their right to call their bonds particularly urgently, for example because the issuer's economic situation is negative, the right to call the bond cannot exist.

## **Changes in interest rates**

Investment in the Notes involves the risk that subsequent changes in market interest rates may adversely affect the value of the Notes. A Noteholder is exposed to the risk that the price of such Note falls as a result of changes in the market rate of interest. While the rate of interest of a fixed rate note is fixed during the life of such Note, the current rate of interest in the capital markets (so-called market rate of interest) typically changes on a daily basis. As the market rate of interest changes, the price of a fixed rate note also changes, but in the opposite direction. If the market rate of interest increases, the price of a fixed rate note typically falls, until the yield of such Note is approximately equal to the market rate of interest. If the market rate of interest falls, the price of a fixed rate note typically increases, until the yield of such Note is approximately equal to the market rate of interest. If the Noteholder of a fixed rate note holds such Note until maturity, changes in the market rate of interest are without relevance to such Noteholder as the Note will be redeemed at the principal amount of such Note.

## **Currency risk**

A Noteholder denominated in a foreign currency is exposed to the risk of changes in currency exchange rates which may affect the yield of such Notes. Changes in currency exchange rates result from various factors such as macro-economic factors, speculative transactions and interventions by central banks. A change in the value of any currency other than euro against the euro, for example, will result in a corresponding change in the euro value of a Note denominated in a currency other than euro and the euro value of interest and principal payments, if any, made in accordance with the terms of such Note.

If the underlying exchange rate falls and the value of the euro correspondingly rises, the price of the Note and the value of interest and principal payments, if any, made thereunder expressed in euro falls.

## **Taxation and FATCA**

Distribution payments on Notes, or profits realized by a Noteholder upon the sale or repayment of Notes, may be subject to taxation in the Noteholder's home jurisdiction or in other jurisdictions in which the Noteholder is required to pay taxes. The amount of taxation so payable is therefore subject to changes in tax law and to potential changes in their practical application (both of which may change to the disadvantage of investors).

Besides the above, risks may occur in connection with the FATCA regime. Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), an agreement entered into with the U.S. Internal Revenue Service pursuant to such sections of the Code, or an intergovernmental agreement between the United States and another jurisdiction in furtherance of such sections of the Code (including any non-US laws implementing such an intergovernmental agreement) (collectively referred to as **FATCA**) impose a new reporting regime and, potentially, a thirty per cent withholding tax with respect to (i) certain payments from sources within the United States (ii) so-called 'foreign pass-thru payments' made to certain non-US financial institutions that do not comply with this new reporting regime, and (iii) payments to certain investors that do not provide identification information with respect to interests issued by a participating non-US financial institution.

The Issuer may be classified as a non-US financial institution for these purposes. If the Issuer becomes subject to withholding tax as a result, the monetary return of Noteholders may be affected. To the extent the Issuer suffers US withholding tax as a result of FATCA, the Issuer may take any action in relation to a Noteholder's investment to ensure that such withholding is economically borne by the relevant Noteholder whose failure to provide the necessary information or to become a participating FFI (i.e., foreign financial institution) gave rise to the withholding.

## **Unfavorable development of market prices**

The market price of the Notes depends on various factors, such as changes in interest rate levels, the policies of central banks, overall economic developments, inflation rates, or the lack of, or excess demand for, the Notes.

Noteholders are therefore exposed to the risk that the market price of the Notes will drop as a result of unfavourable market developments, which risk would materialise in the event that Noteholders were to sell the Notes before the relevant maturity date, if applicable. Noteholders should be aware that if they acquire Notes at a price which is higher than the market price at issue and/or the redemption amount, the impact which unfavourable market developments may have on the Notes would be heightened.

## **The market price for bonds could fall as a result of changes in the market interest rate.**

The mandatory convertible bonds bear fixed interest until redemption. If the market interest rate on the capital market changes, the market price for securities already issued with a fixed interest rate typically changes in the opposite direction. This means that if the market interest rate rises, the price of the fixed-interest security already issued usually falls. Changes in the market interest rate may thus have a negative effect on the price of the mandatory convertible bonds and lead to losses for the holders of the mandatory convertible bonds if the mandatory convertible bonds are sold before maturity.

## **Conflicts of Interest**

The Issuer may, from time to time, act in other capacities with regard to the Notes, such as calculation agent, which allows the Issuer to make calculations in respect of the Notes (e.g. the amount of

distributions to be paid) which are binding for the Noteholders. This could generate conflicts of interest, which may, if not properly managed, affect the value of the Notes.

### **Change of law**

The respective Terms and Conditions of the Notes are based on Luxembourg law respective German law (for the Fixed Rate Bearer Notes under German law, the guaranteed Fixed Rate Bearer Notes under German law and the guaranteed Fixed Rate Bearer Notes II under German law) and, with respect to certain provisions, Maltese Law now in force. No assurance can be given as to the impact of any possible judicial decision or change in applicable laws or administrative practice after the date of this Base Prospectus.

### **Credit ratings and other ratings**

Any rating which may, in the future, be assigned to the Notes, may not adequately reflect all risks of the investment in such Notes. Equally, ratings may be suspended, downgraded or withdrawn. Such suspension, downgrading or withdrawal may have an adverse effect on the market value and trading price of the Notes. A (credit) rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by the rating agency at any time.

### **Early redemption**

The Notes are redeemable in whole at the option of the Issuer prior to the relevant maturity date (in cases there is a maturity date) in the instances prescribed in the Terms and Conditions. Any decision by the Issuer as to whether it will redeem the Notes will be made at the absolute discretion of the Issuer. The feature allowing for optional redemption may condition the market value of the Notes and there can be no guarantee that the Noteholders may be able to re-invest the proceeds of such redemption at equivalent or higher rates of return.

In addition, the Issuer will always have the right to redeem the Notes if the relevant Issuer and/or Guarantor are required to pay additional amounts (gross-up payments) on the Notes for reasons of taxation as set out in the Terms and Conditions.

Further, prospective investors should note that, in the event that the Issuer were to be deemed to fall within the remit of the CRR, any redemption before the applicable maturity date would be subject to the prior permission of the competent authority pursuant to Article 78(1) of the CRR. Under the CRR, the competent authority may only permit institutions to redeem Tier 2 instruments such as the Notes if certain conditions prescribed by the CRR are complied with. These conditions, as well as a number of other technical rules and standards relating to regulatory capital requirements applicable to the Issuer, should be taken into account by the competent authority in its assessment of whether or not to permit any redemption or repurchase. It is uncertain how the competent authority will apply these criteria in practice and such rules and standards may change during the maturity of the Notes. It is therefore difficult to predict whether, and if so, on what terms, the competent authority will grant its prior permission for any redemption or repurchase of the Notes.

### **Functionality of the relevant Clearing System, Distribution Agents and/or any relevant Central Securities Depository**

The transfer or registration (as applicable with respect to each type of Notes) of Notes through different clearing systems, such as Clearstream Banking AG and/or Clearstream Banking S.A. and/or Euroclear Bank S.A./N.V. and/or the Central Securities Depository of the Malta Stock Exchange and/or OeKB CSD GmbH and/or in the case of registered Notes through distribution agents and further distributors as appointed from time to time. The Issuer does not assume any responsibility as to whether the Notes are actually transferred to the securities portfolio of the relevant investor. Noteholders have to rely on the functionality of the relevant clearing system and, in the case of registered Notes, on the systems of the relevant distribution agents, other distributors appointed from time to time and, in the case of series

of Notes issued in dematerialised form, any central securities depository with and through which any series of Notes may be dematerialised. In the event of operational failure of such functionality and/or systems, including the systems of any central securities depository, Noteholders can be negatively affected.

## **Perpetual Notes**

The Notes may be set up as perpetual obligations which have no fixed maturity date and may only be redeemed at the option of the Issuer (and subject to certain regulatory requirements to be met and as set out in the relevant Terms and Conditions).

## **Inflation Risk**

Inflation causes the rate of return on assets (such as the Notes and income deriving therefrom) to decrease in value. Inflation risk thus relates to the possibility that the value of assets (such as the Notes and income therefrom) will decrease as inflation reduces the purchasing power of a currency. If the inflation rate exceeds the distribution paid on the Notes (if any), the yield on such Notes will become negative.

## **2. Risk relating to the Guarantor and the Guarantee**

### **Risks in connection with a possible insolvency of the Guarantor (or the Successor Guarantor(s) as applicable)**

The Noteholders assume not only the credit risk of the Issuer but also of the Guarantor (or the Successor Guarantor, as applicable). In the case of insolvency (or similar cases) of both the Issuer and the Guarantor, the Noteholders may lose part or all of their claims to repayment of their invested capital.

### **Risks in connection with a possible payment default under the relevant Guarantee**

The Guarantor (or its Successor Guarantor(s), as applicable) may not have the ability to repay the Notes. The Guarantor (or its Successor Guarantor(s), as applicable) may not be able to repay the Notes in the event of a call under the relevant Guarantee. If the Noteholders were to demand payment from the Guarantor (or its Successor Guarantor(s), as applicable) under the relevant Guarantee, the Guarantor (or its Successor Guarantor(s), as applicable) cannot be certain that it will be able to pay the required amount in full. The Guarantor's (or its Successor Guarantor(s)'s, as applicable) ability to repay the Notes will depend on its financial condition at the time of the call under the relevant Guarantee, will be limited by the limitations set out in paragraph (1) of the relevant Guarantee or in clause 2 of the Terms and Conditions and may be limited by law, by the terms of its indebtedness and by the agreements that it may have entered into on or before such date, which may replace, supplement or amend its existing or future indebtedness. The Guarantors' (or its Successor Guarantor(s)'s, as applicable) failure to repay the Notes may result in an event of default under the terms of other outstanding indebtedness (if any) of the Issuer (or its Successor Issuer, as applicable) and the Guarantor (or its Successor Guarantor(s), as applicable).

### **Risks in connection with limitations provided for in the relevant Guarantee**

The relevant Guarantee of the Notes may not cover the full amount of principal and interest of the Notes. The obligations of the Guarantor (or its Successor Guarantor(s), as applicable) under the relevant Guarantee shall be limited pursuant to the relevant guarantee limitations set out in paragraph (1) of the relevant Guarantee or in clause 2 of the Terms and Conditions, respectively. As a consequence of such guarantee limitations the aggregate amount that the Guarantor (or its Successor Guarantor(s), as applicable) may be required to pay under the relevant Guarantee may be less than the principal amount of the Notes and any interest due in respect of the Notes.



### **Risks in connection with a possible bankruptcy of the Guarantor**

Bankruptcy laws may impact claims in respect of the Issuer (or its Successor Issuer, as applicable) and the Guarantor (or its Successor Guarantor(s), as applicable). The Issuer (or its Successor Issuer, as applicable) and the Guarantor (or its Successor Guarantor(s), as applicable) are subject to applicable bankruptcy laws. In the event of a bankruptcy of the Issuer (or its Successor Issuer, as applicable) and/or the Guarantor (or its Successor Guarantor(s), as applicable), the application of these bankruptcy laws may substantially affect the Noteholders' claims to obtain repayment in full of the Notes, e.g. through a suspension of payments, a stay on enforcement measures or an order providing for partial repayment of the Notes only.

### **Risks in connection with the Guarantor's principal business**

The core business of the Guarantor consists of acting as (sub-) arranger in respect of the issuance of certain bonds (or other financial instruments) by, inter alia, Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A., Timberland Investment S.A. Notwithstanding the fact that the Guarantor receives a customary remuneration for the services rendered as a (sub-) arranger, it cannot be ruled that the fees and income generated are sufficient to cover all and any payment obligations as stipulated under the terms of the Guarantee or Guarantee II (as applicable).

The occurrence of the above described scenario may affect (or limit) the Guarantor's ability to perform the obligations under the terms of the Guarantee or Guarantee II (as applicable).

### **Risks in connection with the Guarantor's investment decisions**

In addition to the business activities as set out above, the Guarantor is also a so-called frequent issuer that issues financial instruments (i.e. certain types of bonds) on a regular basis to finance its principal business and support its business activities. The proceeds received from the sale of such bonds may, in order to generate additional revenues besides the remunerations received for the services rendered as (sub-) arranger, be invested by the Guarantor in other financial instruments, including, without limitation, shares, bonds, securitised debt instruments, money market instruments and units in collective investment schemes. As such investments will be subject to normal market fluctuations and the risks inherent in all investments of this type (e.g. insolvency of the respective obligor of such debt financial instrument), it cannot be ruled out that the Guarantor may lose all or part of the moneys invested which are not only required to redeem its own capital markets liabilities stemming from bonds issued) but also may limit the financial capability to ensure full payment under the obligations under the terms of the Guarantee or Guarantee II (as applicable).

The occurrence of the above described scenario may affect (or limit) the Guarantor's ability to perform the obligations under the terms of the Guarantee or Guarantee II (as applicable).

### **Risks in connection with the fact that the Guarantor is an issuer of bonds issued with special regulatory features**

As mentioned above, the Guarantor issues financial instruments (i.e. bonds) on a regular basis. Although the Guarantor is not a regulated company (subject to, inter alia, regulatory capital requirement provisions or other legal regimes applicable to investment firms, banks and other financial intermediaries) and consequently not obliged or mandatorily required to fulfil certain regulatory prerequisites, but due to the nature of certain bonds (e.g. contingent convertible bonds) issued in connection with, and under, officially approved prospectuses, it cannot be ruled out completely that the Guarantor may become subject to legal regimes and accompanying rules and provisions as mentioned above. This may have a negative impact on the Guarantor and future issuances of (e.g. contingent convertible) bonds and respective proceeds stemming from such issuances and which,

amongst others, serve as a source to generate additional revenues and income (as describes in the risk factor directly above).

The occurrence of the above described scenario may affect (or limit) the Guarantor's ability to perform the obligations under the terms of the Guarantee or Guarantee II (as applicable).

### **Risks in connection with the Guarantor's limited operating history**

The Guarantor, an unregulated company whose primary business is acting as (sub-) arranger for certain issuers of financial instruments (such bonds or index-linked notes), was incorporated on 30 January 2015 and therefore has a limited operating history or a limited proven track record that can be evaluated as a basis for the Guarantor's potential performance and the financial ability to act as a guarantor (especially with the obligations to pay principal and interest).

### **Risks in connection with security granted for certain other issuers**

Besides acting as a guarantor for certain Notes issued under this Base Prospectus, the Guarantor may provide security for, or act as a guarantor with respect to, financial instruments issued by Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A., Timberland Investment S.A. and/or any other securitisation vehicle in respect of which the Issuer may act as (sub-) arranger in the future without the mandatory necessity to receive a customary remuneration. In the event that one or more of the aforementioned issuers defaults on its payment obligations under the respective financial instruments which have been guaranteed and/or secured in the instances prescribed above, and corresponding claims of secured third-parties have to be paid, this may impact (or limit) the ability of the Guarantor to fulfil its obligations provided for in the Guarantee or Guarantee II (as applicable).

The occurrence of the above described scenario may affect (or limit) the Guarantor's ability to perform the obligations under the terms of the Guarantee or Guarantee II (as applicable).

## **3. Risks related to the offer to the public and/or admission of the Notes to trading on a regulated market**

### **Commissions to be paid by the Issuer**

Distribution commissions or other similar fees charged by the Issuer's distribution agents reduce the total amount of the net issue proceeds. Therefore, the issue proceeds available to the Issuer for the purpose of investing in financial instruments or other assets may be reduced accordingly.

### **Costs relating to the purchase and sale of the Notes**

When Notes are purchased or sold, several types of incidental costs (including transaction fees and commissions) may be incurred in addition to the purchase or sale price of the Notes.

To the extent that credit institutions are involved in the process for the purchase or sale of Notes, prospective investors should note that such credit institutions may charge commissions which are either fixed minimum commissions or pro-rata commissions, depending on the order value. In the event that additional parties are involved in the process for the purchase or sale of Notes (including, for instance, domestic dealers or brokers in foreign markets), Noteholders may also be charged brokerage fees, commissions and other fees and expenses. In addition to costs directly related to the purchase of Notes, investors may also be charged other costs, such as custody fees and the fees of any central securities depository with and through which any Notes may be dematerialised.

Investors should inform themselves about any additional costs incurred in connection with, amongst others, the purchase, custody or sale of the Notes before investing in the Notes. Prospective investors

should note that these costs may significantly reduce or eliminate any profits which may be derived from investing in the Notes.

### **Market price risk**

In case the Notes are listed or included for trading on a stock exchange or OTF, the development of market prices of the Notes depends on various factors, such as changes of the market rate interest levels, the policies of central banks, overall economic developments, inflation rates or the lack of or excess demand for the relevant type of Note. The Noteholder is therefore exposed to the risk of an unfavourable development of the market price of its Notes which materialises if the Noteholder sells the Notes prior to the maturity date of such Notes. If a Noteholder decides to hold the Notes until its final maturity, the Notes will be redeemed at the amount set out in or determined pursuant to the provisions contained in the relevant Final Terms.

### **Orderly and liquid market**

The existence of an orderly and liquid market for the Notes depends on a number of factors, including the presence of willing buyers and sellers of the Issuer's Notes at any given time. Such presence is dependent upon the individual decisions of investors over which the Issuer has no control. Accordingly, there can be no assurance that an active secondary market for the Notes will develop, or, if it develops, that it will continue. Furthermore, there can be no assurance that Noteholders will be able to sell the Notes at or above the relevant issue price or at all.

### **No full placement of the Notes guaranteed**

Offerings comprises typically a maximum volume of Notes. However, it is not certain that all Notes of an issuing of Notes under Final Terms will be placed. Under certain circumstances, this may result in the Notes being issued only with a significantly lower volume. This would result in less capital being available to the Issuer. This could also have a negative impact on the price development and liquidity of the Notes.

### **Future public offers**

No prediction can be made about the effect which future public offers of the Issuer's securities or any takeover or merger activity involving the Issuer, if any, would have on the market price of the Notes prevailing from time to time.

### **Legality of purchase**

The Issuer has or assumes no responsibility for the lawfulness of the acquisition of the Notes by a potential investor of the Notes, whether under the laws of the jurisdiction of its incorporation or the jurisdiction in which it operates (if different) or for compliance by that potential investor with any laws, regulation or regulatory policy applicable to it. A potential investor may not rely on the Issuer, any distributor or financial intermediaries or any of their respective affiliates in connection with its determination as to the legality of its acquisition of the Notes.

### **Loan-financed investments**

A potential investor that finances its investment in the Notes via a loan should not rely on the fact that the income generated by an investment in the Notes will suffice to repay the loan itself and the interest thereon. In the case of a loss of the investment, the investor would still have to repay the loan and the interest thereon.

## **Trading suspension, interruption or termination**

Trading in the Notes on regulated or unregulated markets and any other markets on which the Notes may (in the future) be listed, may, depending on the rules applicable to such relevant markets, be suspended or interrupted by the relevant markets or by a competent regulatory authority (or stock exchange) upon the occurrence of a number of factors, including (but not limited to): (i) violation of price limits, (ii) breach of statutory provisions, (iii) occurrence of operational problems with respect to the relevant markets, and/or (iv) if required in order to secure a functioning market or to safeguard the interests of Noteholders. Furthermore, trading in the Notes may be terminated, either upon decision of the relevant markets, upon the decision of a regulatory authority (or stock exchange), or upon application by the Issuer.

Noteholders should be aware that the Issuer has no influence on the suspension, interruption, or termination of trading in the Notes (other than where trading in the Notes is terminated upon the Issuer's decision), and Noteholders bear the risks connected with any trading suspension, interruption or termination. Noteholders should be aware that they may not be able to sell their Notes in such instances and should also note that during periods of suspension or interruption of trading, stock exchange quotations may not adequately reflect the price of the Notes.

## **RESPONSIBILITY STATEMENT**

The Issuer, E-Stream Energy GmbH & Co KG, having its office at Wilhelmshofallee 83, 47800 Krefeld, Germany, accepts responsibility for the information contained in this Base Prospectus. The Issuer, having taken all reasonable care to ensure that such is the case, declares that the information contained in this Base Prospectus is, to the best of its knowledge, in accordance with the facts and no omission is likely to affect its import.

The Issuer states, that

- a) the Base Prospectus has been approved by the Liechtenstein Financial Market Authority (the **FMA**), as competent authority under Regulation (EU) 2017/1129;
- b) the FMA only approves this Base Prospectus as meeting the standards of completeness, comprehensibility and consistency imposed by Regulation (EU) 2017/1129;
- c) such approval should not be considered as an endorsement of the Issuer that is the subject of this Base Prospectus;
- d) investors should make their own assessment as to the suitability of investing in the Notes.

## **CONSENT TO THE USE OF THE BASE PROSPECTUS**

The Issuer hereby consents to the use of the Base Prospectus (under which the offer of the Notes takes place) and the applicable Final Terms in connection with a subsequent resale or final placement of the Notes to the extent and the conditions as set out in the Base Prospectus and the Final Terms during the term of its validity in accordance with Article 5 of the Prospectus Regulation.

The Issuer accepts responsibility for the information given in the Base Prospectus, in any supplement thereto as well as in the Final Terms also with respect to the subsequent resale or final placement of the Notes by financial intermediaries, who obtained the consent to use the Base Prospectus, any supplement thereto as well as the Final Terms.

Such consent can be given to all (so-called general consent) or only one or several specified financial intermediaries (so-called individual consent) and will be determined in the Final Terms.

Such consent can be given in relation to the following member states, in which the Base Prospectus is valid or into which it has been passported as specified in the Final Terms: the Republic of Austria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the French Republic, the Federal Republic of Germany, Hungary, the Republic of Ireland, the Italian Republic, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland.

The Issuer's consent to the use of the Base Prospectus is given under the condition that each financial intermediary complies with the applicable selling restrictions and the terms and conditions of the offer. Furthermore, in connection with the consent to the use of the Base Prospectus the Issuer may impose the condition that the financial intermediary using the Base Prospectus commits itself towards its customers to a responsible distribution of the Notes. This commitment is made by the publication of the financial intermediary on its website stating that the Base Prospectus is used with the consent of the Issuer and subject to the conditions set forth with the consent. The consent to the use of the Base Prospectus will be given for the period as set out in the Final Terms.

The distribution of this Base Prospectus, any supplement thereto and the Final Terms as well as the offer, sale and the delivery of the Notes may be restricted by law in some jurisdictions. Each financial intermediary and/or each person, who is in the possession of this Base Prospectus, a supplement thereto and the Final Terms, must

be informed of and comply with such restrictions. The Issuer reserves the right to withdraw its consent to the use of this Base Prospectus in relation to certain financial intermediaries.

**In the event of an offer being made by a financial intermediary the financial intermediary shall provide information to investors on the terms and conditions of the Notes at the time of that offer.**

**Any financial intermediary using the Base Prospectus shall state on its website that it uses the Base Prospectus in accordance with this consent and the conditions attached to this consent.**

New information with respect to financial intermediaries unknown at the time of the approval of the Base Prospectus or the filing of the Final Terms, as the case may, will be published and will be found on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)) (or any successor website, in which case an automatic redirection will be ensured by the Issuer).

## **ADDITIONAL INFORMATION**

### **DISSEMINATION OF INFORMATION**

No person is authorised to disseminate or make any representations in connection with the issue and offering of Notes other than the information contained in this Base Prospectus and the relevant Final Terms. If such information is nevertheless disseminated or assured, such information must not be regarded as authorised by the Issuer or any paying agent or other person mentioned in this Base Prospectus.

Neither the provision of this Base Prospectus in accordance with these Rules nor the offering, sale or delivery of Notes constitutes a guarantee that

(i) the information contained in this Base Prospectus is accurate at a time after the date of publication of this Prospectus or at a time after the publication of a supplement or a supplement thereto approved by the FMA, or

(ii) no material adverse change in the Issuer's business or financial condition which is material in connection with the issue and sale of the Notes occurred at any time after the date of publication of this Prospectus or at any time after the publication of any addendum to or supplement to this Prospectus approved by the FMA,

(iii) any other information relating to the issue of the Notes was accurate at any time other than the time it was notified or dated. The Distributors, Paying Agent(s) and other person mentioned in this Base Prospectus expressly refrain from reviewing the assets, liabilities, financial position and profit or loss of the Issuer during the term of the Notes or from advising investors on any information that becomes available to the Distributors, Paying Agent(s) or other person mentioned in this Base Prospectus.

Neither the Distributors, Paying Agent(s) nor any other person mentioned in this Base Prospectus other than the Issuer is responsible for any information or documents contained or incorporated by reference in this Base Prospectus and to the extent permitted by applicable law in any jurisdiction excludes liability and warranty for the accuracy and completeness of the information contained in such documents.

The Distributors, Paying Agent(s) or any other person mentioned in this Base Prospectus has not independently verified this information and assumes no liability for its accuracy.

If, after approval of this Base Prospectus and before the close of the public offering, important new circumstances or material inaccuracies arise with regard to the information contained in the Base Prospectus which could influence the assessment of the securities, the Issuer is obliged under the Liechtenstein Securities Prospectus Act to supplement the Base Prospectus accordingly.

This Base Prospectus must be read and construed together with all supplements, if any, and together with all documents incorporated by reference in this Base Prospectus. Any new information regarding financial intermediaries unknown at the time of the approval of the Prospectus or the transmission of the Final Terms is available at [www.estream-energy.com](http://www.estream-energy.com). All websites included in the Prospectus are for information purposes only and are not part of the Base Prospectus.

The Notes are not suitable for all investors. Investors should make their own enquiries about the Issuer's net assets, financial position and results of operations before deciding to purchase the Notes and should make their own assessments of the Issuer's creditworthiness and their own assessment of the Notes. Neither this Base Prospectus nor any other information given in connection with the Notes constitutes a recommendation by the Issuer or Distributors, Paying Agent(s) nor any other person mentioned in this Base Prospectus to the investor to purchase the Notes.

This Base Prospectus does not constitute an offer and may not be used for the purpose of making an offer in any jurisdiction in which such offer is unlawful or to any person to whom such offer would be unlawful.

The Issuer, Distributors, Paying Agent(s) or any other person mentioned in this Base Prospectus make no representation that this Base Prospectus will be lawfully distributed or that the Notes will be lawfully offered in accordance with the requirements of the applicable laws in accordance with applicable registration requirements or other legal requirements or applicable exemptions and assume no liability for the support of the Offer or the distribution. In particular, the Issuer, Distributors, Paying Agent(s) or any other person mentioned in this Base Prospectus have not taken any action in those jurisdictions where such action is necessary for the purpose of the Offer or dissemination.

## **FORWARD LOOKING STATEMENTS**

This Base Prospectus contains certain forward-looking statements. Forward-looking statements are statements that relate not to historical facts, but to future events or circumstances. They can be identified by words such as "believe", "assume", "wait", "expect", "estimate", "plan", "intend", "hope", "may" or similar expressions. Forward-looking statements are based on current estimates and assumptions made by the Issuer to the best of its knowledge, and are subject to risks and uncertainties that could cause the actual financial condition and results of operations of E-Stream Energy GmbH & Co KG to differ materially (in particular to the negative) from those expressed or implied in the forward-looking statements. The Issuer is under no obligation to update any forward-looking statements or to conform them to future events or developments to the extent otherwise required by law.

## **FIGURES AND CURRENCY INFORMATION**

Figures in this Base Prospectus in units of thousand / million / billion and percentages have been rounded according to commercial practice. Totals or subtotals contained in tables may differ slightly from the unrounded amounts stated elsewhere in this Base Prospectus due to commercial rounding. Furthermore, due to rounding, individual figures and percentages may not add up exactly to totals or subtotals contained in tables or elsewhere in this Base Prospectus. With respect to the financial information contained in this Base Prospectus, "n/a" means that the relevant figure is not available, while a zero ("0") means that the relevant figure is available but has been rounded to zero.

This Base Prospectus contains currency denominations in Euro. Currency denominations have been identified and abbreviated as either "Euro" or "EUR" before the amount.

## **INFORMATION PROVIDED BY THIRD PARTIES AND REFERENCES TO SPECIFIED INTERNET PAGES**

The Issuer declares that information provided by third parties and incorporated in this Base Prospectus will be used accurately to the extent known to the Issuer and inferred from information published by such third party.

The contents of the websites mentioned in this Base Prospectus are for information purposes only and are not part of this Base Prospectus.

## **PUBLICATION OF THIS BASE PROSPECTUS**

This Prospectus, once approved by the FMA, shall be filed with the FMA and published on the website of the Issuer at [www.estream-energy.com](http://www.estream-energy.com) or any successor website thereof.

Paper copies of this Base Prospectus may also be obtained free of charge during normal business hours from E-Stream Energy GmbH & Co KG, Huettentallee 83, 47800 Krefeld, Germany.

## **IDENTIFICATION OF THE TARGET MARKET**

With regard to the product governance requirements under (i) Directive 2014/65/EU of the European Parliament and of the Council of 15 June 2014/65/EU, the Commission (ii) Articles 9 and 10 of Commission Delegate Regulation (EU) 2017/593 supplementing MiFID II and (iii) local implementing measures (together the "MiFID II requirements") and rejecting any liability, whether in tort, contract or otherwise which any "manufacturer" (for the purposes of MiFID II requirements) is subject to in relation to the Notes offered, the Notes have been subject to a product release process. As a result, it was determined that the Notes are directed at retail investors, professional clients and eligible counterparties (each as defined in MiFID II) (the "Target Market Determination") and the Notes are eligible for distribution under MiFID II using all eligible distribution channels. Irrespective of the target market regulation, the market price of the Bonds may fall and investors may lose all or part of their invested capital. The bonds offer no guaranteed income and no capital protection. An investment in the Notes is only acceptable to investors who do not require guaranteed income or capital protection, who are able (alone or in conjunction with a suitable financial or other advisor) to evaluate the merits and risks of such an investment and who have sufficient financial resources to compensate for any losses. The target market will be determined without prejudice to any contractual, statutory or regulatory restrictions on the sale of the Notes offered, see "Selling Restrictions". For the avoidance of doubt, the Target Market Definition does not constitute (i) an assessment of suitability or appropriateness (for the purposes of MiFID II) nor (ii) a recommendation to any investor or group of investors to subscribe for the Notes or take any other action with respect to the Notes.



## DESCRIPTION OF THE NOTES

This section entitled "*Description of the Notes*" is an abstract description of the possible structures of instruments the Issuer may issue under this Base Prospectus. An overview of certain elements of the Notes is set out below.

All capitalised terms in this section entitled "*Description of the Notes*" which are not otherwise defined herein have the same meaning as in the respective Terms and Conditions.

### 1. GENERAL FEATURES OF THE NOTES

#### *Form of the Notes*

##### *Form and Securitisation of bearer Notes*

The Notes will be issued in bearer form only and may be represented by a Permanent Global Note or a Temporary Global Note exchangeable for a Permanent Global Note. Notes in definitive form and interest coupons will not be issued.

##### *Form and Ownership of registered Notes*

The Notes are in registered form. Ownership in respect of the Notes is established by the registration in the Issuer Register. Rights and title of the Noteholders (and its assignees in and to the Notes) shall be transferable only upon notation of such transfer in the Register.

##### *Form and Ownership of registered Notes in dematerialized Form*

The Notes are in registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic Register maintained on behalf of the Issuer at the CSD. Ownership in respect of the Notes is established by the appropriate entry in the Electronic Register. For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.

#### *Payment of Distributions*

The Notes to be issued under this Base Prospectus pay fixed amounts of distributions specified in the relevant Final Terms. The Notes provide for only one Rate of Distributions for each applicable period. Distributions will be scheduled to be paid either annually, semi-annually or quarterly in arrears. The respective amount of distributions falls due for payment on the relevant Distribution Payment Date.

#### *Meetings of Noteholders*

The Notes contain provisions pursuant to which Noteholders may agree by resolution to amend the Terms and Conditions and to decide upon certain other matters regarding the Notes. Resolutions of Noteholders properly adopted by vote taken in a meeting in accordance with the Terms and Conditions are binding upon all Noteholders.

## 2. SPECIAL FEATURES OF CONTINGENT CAPITAL FIXED RATE NOTES

### *Status*

The Notes issued in connection with the Terms & Conditions for Option X and Option XI constitute direct, unsecured and subordinated obligations of the Issuer, and Tier 2 Instruments. As a consequence of the before-mentioned, the obligations of the Issuer under the Notes will rank (i) junior to all present or future unsubordinated instruments or obligations of the Issuer, (ii) *pari passu* among themselves, and with all present or future obligations under any other Tier 2 Instruments, and (iii) senior to all present or future obligations under any AT 1 Instruments, and all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes or *pari passu* with obligations under any AT 1 Instruments.

### *Redemption*

In case of Notes providing for a Maturity Date, the Notes may be redeemed at their Current Principal Amount at their stated maturity.

### *Early Redemption*

If specified in the relevant Final Terms, the Notes may be redeemed prior to maturity for regulatory reasons or reasons of taxation, in each case subject to certain conditions as set out in the Terms and Conditions.

Moreover, and subject to the fulfilment of certain regulatory requirements, the Notes may, and will with respect to perpetual Notes, include a call option of the Issuer. A call option gives the Issuer the right (but not the obligation) to redeem the Notes on specified call redemption date(s). The respective call redemption amount payable on exercise of the call option will be set out in the applicable Final Terms.

### *Write-Down and Write-up*

If the Issuer incurs an Annual Balance Sheet Loss as calculated in accordance with German GAAP or (EU- or full) IFRS, as applicable or chosen by the Issuer, in any fiscal year, the Noteholder shares in such loss in the proportion which their Current Principal Amount bears in relation to the aggregate book value of all going concern loss sharing components of the Issuer's regulatory liable capital, and the Current Principal Amount shall be written down accordingly. For the purpose of such calculation, the Issuer's loss sharing liable capital shall include any and all outstanding CET 1 Instruments and AT 1 Instruments and Similar Instruments. Following an Annual Balance Sheet Loss, there will be a corresponding reduction in the nominal amount of the Current Principal Amount equivalent to the amount of the Noteholder's share in such Annual Balance Sheet Loss. Following a reduction, the Current Principal Amount will be written up in subsequent fiscal years of the Issuer in which an Annual Balance Sheet Profit is recorded in accordance with German GAAP or (EU- or full) IFRS, as applicable. The Current Principal Amount will be written-up prior to the writing-up of AT 1 Instruments. A writing-up of shareholders' equity and allocation to reserves may only occur after the Current Principal Amount has been fully written-up again to its initial Principal Amount.

### *Governing Law*

The Notes shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions regarding the provisions (i) *Ranking*, whereby in case the Notes contain the qualified subordination clause as set out in the Terms and Conditions such qualified subordination clause shall be applying *mutatis mutandis* in the meaning to the laws of Germany and (ii) *Meetings of Noteholders* as set out in the Terms and Conditions which shall be subject to the laws of Germany.

### **3. SPECIAL FEATURES OF (NON-GUARANTEED AND NON-CONTINGENT CAPITAL) FIXED RATE NOTES**

#### ***Status***

The Notes of the Issuer issued in connection with the Terms and Conditions for Option I, Option IV, Option V and Option XII are unsecured and, if not otherwise specified in the relevant Final Terms, unsubordinated ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and unsubordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.

In deviation to the above, the Notes may be set up as subordinated Notes. In this scenario, the Notes constitute direct, unsecured and subordinated obligations of the Issuer. This means that the obligations of the Issuer under the Notes will rank (i) junior to all present or future unsubordinated instruments or obligations of the Issuer, (ii) pari passu among themselves, and (iii) senior to all present or future obligations under any CRR Instruments, and all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

#### ***Redemption***

In case of Notes with a stated Maturity Date and subject to certain special events as determined in the applicable Final Terms, the Notes may be redeemed at their Principal Amount at their stated maturity.

#### ***Early Redemption***

If specified in the relevant Final Terms, the Notes may be redeemed prior to maturity for reasons of taxation or upon the occurrence of an event of default.

Moreover, the Notes may, and will in case they are set up as perpetual Notes, include a call option of the Issuer. A call option gives the Issuer the right (but not the obligation) to redeem the Notes on specified call redemption date(s). The respective call redemption amount payable on exercise of the call option will be set out in the applicable Final Terms.

In addition, the relevant Final Terms may specify a put option of the Noteholders. A put option gives the Noteholder the right to require the Issuer to redeem its Notes on a specified Put Redemption Date.

#### ***Governing Law***

The Notes shall be governed by, and shall be construed exclusively in accordance with, German law (Option I), or Luxembourg law (as regards to Option IV and Option V except for the provisions of Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*) of the respective Terms and Conditions which shall be subject to the laws of Germany), or Maltese law (as regards to Option XII except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) of the respective Terms and Conditions which shall be subject to the laws of Germany).

### **4. SPECIAL FEATURES OF GUARANTEED NOTES**

#### ***Status***

The Notes of the Issuer issued in connection with the Terms and Conditions of Option II, Option III, Option VI, Option VII, Option VIII, Option IX, Option XIII, Option XIV, Option XV and Option XVI are guaranteed by the Guarantor. Timberland Securities Investment plc has given its unconditional and irrevocable Guarantee (or Guarantee II, Guarantee III or Guarantee IV, as applicable and as set out in the relevant Final Terms) for the due payment of the amounts corresponding to the principal of and interest on the guaranteed Notes issued by the Issuer in an amount as set out in the relevant Final

Terms. Guarantee I and Guarantee II will be governed by German law and Guarantee III and Guarantee IV will be governed by Maltese law.

In addition, the guaranteed Notes may be either unsecured and, if not otherwise specified in the relevant Final Terms, unsubordinated ranking *pari passu* without any preference among themselves and *pari passu* with all other, present and future, unsecured and unsubordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law. In deviation to the latter, the guaranteed Notes may be set up as subordinated Notes. In this scenario, the guaranteed Notes constitute direct, unsecured and subordinated obligations of the Issuer. This means that the obligations of the Issuer under the guaranteed Notes will rank (i) junior to all present or future unsubordinated instruments or obligations of the Issuer, (ii) *pari passu* among themselves, and (iii) senior to all present or future obligations under any CRR Instruments, and all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the guaranteed Notes.

### ***Redemption***

In case of Notes with a stated Maturity Date and subject to certain special events as determined in the applicable Final Terms, the guaranteed Notes may be redeemed at their Principal Amount at their stated maturity.

### ***Early Redemption***

If specified in the relevant Final Terms, the guaranteed Notes may be redeemed prior to maturity for reasons of taxation or upon the occurrence of an event of default.

Moreover, the guaranteed Notes may, and will in case they are set up as perpetual Notes, include a call option of the Issuer. A call option gives the Issuer the right (but not the obligation) to redeem the guaranteed Notes on specified call redemption date(s). The respective call redemption amount payable on exercise of the call option will be set out in the applicable Final Terms.

In addition, the relevant Final Terms may specify a put option of the Noteholders. A put option gives the Noteholder the right to require the Issuer to redeem its guaranteed Notes on a specified Put Redemption Date.

### ***Governing Law***

The guaranteed Notes shall be governed by, and shall be construed exclusively in accordance with, German law (Option II and Option III), or Luxembourg law (as regards to Option VI, Option VII, Option VIII and Option IX of the respective Terms and Conditions which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany)), or Maltese law (as regards to Option XIII, Option XIV, Option XV and Option XVI except for the provisions of Clause 4 (*Ranking*) of the respective Terms and Conditions which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany)).

## **5. FEATURES OF NOTES IF NAMED AS "GREEN"**

### ***Green Notes / Green Bonds***

Green Notes/Green Bonds are designated bonds intended to encourage sustainability and to support climate-related or other types of special environmental projects. More specifically, green bonds aimed *inter alia* at energy efficiency, pollution prevention, clean transportation and the cultivation of environmentally friendly technologies.

Green Bonds are intended for capital-raising and investment for new and existing projects with environmental benefits in regard inter alia but not limited to the Green Bond Principles of ICMA. The Green Bond Principles (**GBP**) of ICMA, updated as of June 2018 by ICMA, are voluntary process guidelines that recommend transparency and disclosure and promote integrity in the development of the Green Bond market by clarifying the approach for issuance of a Green Bond. The GBP are intended for broad use by the market: they provide issuers guidance on the key components involved in launching a credible Green Bond.

In case the specific Notes are described as Green, Green Notes or Green Bonds, the Notes qualify in the view of the Issuer either as green bonds in terms of the "Green Bonds Principles (GBP)" definition of ICMA (International Capital Markets Association) or are in any other connection to a kind of green investment.

All other features of the relevant Notes are subject to the relevant section in this section entitled "*Description of the Notes*".

## SUBSCRIPTION FOR NOTES

Any terms and expressions not expressly defined in this section shall have the meaning given to such terms and expressions in the Terms and Conditions.

### 1. BEARER NOTES

Any bearer Note issued but not subscribed for by investors on its Issue Date will be subscribed for by the Issuer for no consideration and held by it for sale on the secondary market during the Offer Period. So long as any bearer Notes are held by the Issuer, any rights attached to such bearer Notes (such as financial rights and voting rights) will be suspended. All outstanding bearer Notes still held by the Issuer after the expiry of the Offer Period will be cancelled forthwith.

Each investor in the bearer Notes which pays the issue price in Euro will, when subscribing for the bearer Notes offered by the Issuer, arrange for the payment of the amount to be invested in the bearer Notes to the account of the Issuer (the **Issuer's Account**) held with the Issuer's Account Bank (as defined in section "*Description of the Parties*" of this Base Prospectus). The amount of bearer Notes to be allocated to each investor will be determined on the subscription date by dividing the Issuer's Account Credit Amount (as defined below) by the issue price. Such amount will be rounded down to the nearest integral multiple of 1 (one). The Total Amount of Notes (as defined below) multiplied by the issue price will equal the aggregate Euro amount of bearer Notes subscribed by the relevant investor. The remainder between the Issuer's Account Credit Amount and the Total Subscription Amount (as defined below) (if any) will be reimbursed to the relevant investor.

Each investor in the bearer Notes which pays the issue price in a currency other than Euro (a **Foreign Currency**) will, when subscribing for the bearer Notes offered by the Issuer, arrange for the payment of the amount to be invested in the bearer Notes in such Foreign Currency to an account held with a local branch of the Collecting Bank or an affiliated subsidiary or correspondent bank of the Collecting Bank in the relevant jurisdiction (each being referred to hereafter as a **Branch**) in the name and on behalf of the Issuer. The relevant Branch will arrange for the transfer of the subscription monies to an account of the Issuer held with the Collecting Bank (as defined in section "*Description of the Parties*" of this Base Prospectus). Upon instruction of the Issuer, the Collecting Bank will immediately convert the subscription monies into a Euro amount (the **Euro Amount**) taking into consideration the then applicable spot rate. Upon instruction of the Issuer, the Collecting Bank will transfer the Euro Amount to the Issuer's Account held with the Issuer's Account Bank. The amount of bearer Notes to be allocated to each investor will be determined on the subscription date by dividing the Issuer's Account Credit Amount by the issue price. Such amount will be rounded down to the nearest integral multiple of 1 (one). The Total Amount of Notes (as defined below) multiplied by the issue price will equal the aggregate Euro amount of bearer Notes subscribed by the relevant investor. The remainder between the Issuer's Account Credit Amount and the Total Subscription Amount (as defined below) (if any) will be reimbursed to the relevant investor.

The Issuer will regularly inform the Noteholders about the number of bearer Notes issued for no consideration or subscribed for by investors during the Offer Period by publishing the relevant information on its website ([www.estream-energy.com](http://www.estream-energy.com)). Such information is available free of charge, subject to prior registration on the website. The Issuer will notify the FMA of the result of the offering of bearer Notes at the end of the Offer Period.

Any bearer Note rank pari passu with the other outstanding liabilities of the Issuer, unless the Final Terms of the relevant Securities provide otherwise (for example, Subordinated or Qualified Subordinate).

## 2. REGISTERED NOTES

Subject to registered Notes issued in dematerialised form, any registered Note issued but not subscribed for by investors on its Issue Date will be subscribed for by the Issuer for no consideration and held by it for sale on the secondary market during the Offer Period. So long as registered Notes are held by the Issuer, any rights attached to such registered Notes (such as financial rights and voting rights) will be suspended. All outstanding registered Notes still held by the Issuer after the expiry of the Offer Period will be cancelled forthwith.

Each investor in the registered Notes which pays the issue price in Euro will, when subscribing for the registered Notes offered by the Issuer, pay the amount to be invested in the registered Notes to an account held with the Collecting Bank in the name and on behalf of the Issuer. Upon instruction of the Issuer, the Collecting Bank will transfer the subscription monies to the Issuer's Account held with the Account Bank (any amount credited to an Issuer's Account being referred to hereafter as the **Issuer's Account Credit Amount**). The amount of registered Notes to be allocated to each investor will be determined on the subscription date by dividing the Issuer's Account Credit Amount by the issue price. Such amount will be rounded down to the nearest integral multiple of 1 (one) (this amount being referred to hereafter as the **Total Amount of Notes**). The Total Amount of Notes multiplied by the issue price will equal the aggregate Euro amount of registered Notes subscribed by the relevant investor (this amount being referred to hereafter as the **Total Subscription Amount**). The remainder between the Issuer's Account Credit Amount and the Total Subscription Amount (if any) will be reimbursed to the relevant investor.

Each investor in the registered Notes which pays the issue price in a currency other than the Foreign Currency will, when subscribing for the registered Notes offered by the Issuer, pay the amount to be invested in the registered Notes in such Foreign Currency to an account held with a Branch in the name and on behalf of the Issuer. The relevant Branch will transfer the subscription monies to an account of the Issuer held with the Collecting Bank. Upon instruction of the Issuer, the Collecting Bank will immediately convert the subscription monies into a Euro Amount taking into consideration the then applicable spot rate. Upon instruction of the Issuer, the Collecting Bank will transfer the Euro Amount to the Issuer's Account held with the Issuer's Account Bank. The amount of registered Notes to be allocated to each investor will be determined on the subscription date by dividing the Issuer's Account Credit Amount by the issue price. Such amount will be rounded down to the nearest integral multiple of 1 (one). The Total Amount of Notes multiplied by the issue price will equal the aggregate Euro amount of registered Notes subscribed by the relevant investor. The remainder between the Issuer's Account Credit Amount and the Total Subscription Amount (if any) will be reimbursed to the relevant investor.

The Issuer will regularly inform Noteholders about the number of registered Notes issued for no consideration or subscribed for by investors during the Offer Period by publishing the relevant information on its website ([www.estream-energy.com](http://www.estream-energy.com)). Such information is available free of charge, subject to prior registration on the website. The Issuer will notify the FMA of the result of the offering of registered Notes at the end of the Offer Period.

Any registered Note rank pari passu with the other outstanding liabilities of the Issuer, unless the Final Terms of the relevant Securities provide otherwise (for example, Subordinated or Qualified Subordinate).

## TERMS AND CONDITIONS OF THE NOTES

### Option I – Terms and Conditions of the Fixed Rate Bearer Notes under German law

The following is the text of the terms and conditions of the notes (the "**Terms and Conditions**") applicable to the Notes. The final Terms and Conditions of the Notes will be an integral part of the respective Global Notes.

The Terms and Conditions are written in the German and English language. The German text shall be the legally binding version. The English language translation is provided for convenience only.

Anleihebedingungen (die "Anleihebedingungen")	Terms and Conditions of the Notes (the "Terms and Conditions")
<p><b>§ 1 Gesamtnennbetrag, Nennbetrag, Stückelung und Form</b></p> <p>(a) Diese Anleihe der E-Stream Energy GmbH &amp; Co KG (die "<b>Emittentin</b>") im Gesamtnennbetrag von [bis zu] [EUR][●] [●] (in Worten: [Euro][●] [●]) (der "<b>Gesamtnennbetrag</b>"), ist in auf den Inhaber lautende, untereinander gleichberechtigte Schuldverschreibungen (die "<b>Schuldverschreibungen</b>") im Nennbetrag von jeweils [EUR][●] [1.000,00][●] (in Worten: [Euro][●] [ein Tausend][●]) (der "<b>Nennbetrag</b>") eingeteilt.</p> <p>[Im Falle von Tefra D einfügen:</p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit zunächst durch eine vorläufige Inhaber-Globalschuldverschreibung (die "<b>vorläufige Globalurkunde</b>") ohne Zinsscheine verbrieft, die nicht früher als 40 Tage und nicht später als 180 Tage nach dem Begebungstag (wie nachstehend definiert) durch eine Inhaber-Dauerglobalurkunde (die "<b>Dauerglobalurkunde</b>", die vorläufige Globalurkunde und die Dauerglobalurkunde gemeinsam die "<b>Globalurkunde</b>") ohne Zinsscheine ausgetauscht wird. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine US-Person(en) ist</p>	<p><b>§ 1 Aggregate Principal Amount, Principle Amount, Denomination and Form</b></p> <p>(a) This bond of E-Stream Energy GmbH &amp; Co KG (the "<b>Issuer</b>") in the aggregate principal amount of [up to] [EUR][●] [●] (in words: [Euro][●] [●]) ("<b>the Aggregate Principal Amount</b>"), is divided into partial notes (the "<b>Notes</b>") payable to the bearer and ranking <i>pari passu</i> among themselves in the denomination of [EUR] [●] [1,000.00][●] each (in words: [Euro][●] [one thousand][●]) (the "<b>Principal Amount</b>").</p> <p>[In case of Tefra D insert:</p> <p>(b) The Notes will initially be represented for the whole life of the Notes by a temporary global bearer note (the "<b>Temporary Global Note</b>") without interest coupons, which will be exchanged not earlier than 40 days and not later than 180 days after the Issue Date (as defined below) against a permanent global bearer note (the "<b>Permanent Global Note</b>", the Temporary Global Note and the Permanent Global Note together the "<b>Global Note</b>") without interest coupons. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions) in accordance</p>



<p>bzw. sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten), jeweils im Einklang mit den Regeln und Verfahren der [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] ("<b>Clearingsystem</b>"). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß diesem Absatz (b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten von Amerika geliefert werden.][●]</p> <p><i>[im Falle ohne Tefra D einfügen:</i></p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit durch eine Inhaberdauerglobalurkunde (die "<b>Dauerglobalurkunde</b>" bzw. die "<b>Globalurkunde</b>") verbrieft. Die Globalurkunde wird von [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] oder einem Funktionsnachfolger verwahrt ("<b>Clearingsystem</b>").][●]</p> <p>(c) Die <i>[im Falle von Tefra D einfügen:</i> vorläufige Globalurkunde und] die</p>	<p>with the rules and operating procedures of [in case of Clearstream Banking Frankfurt insert: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, business address: Mergenthalerallee 61, 65760 Eschborn][in case of another Central Securities Depository insert: [●]] ("<b>Clearing System</b>"). Payments of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Notes represented by the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this subparagraph (b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.][●]</p> <p><i>[in case without Tefra D insert:</i></p> <p>(b) The Notes will be represented for the whole life of the Notes by a permanent global bearer Note (die "<b>Permanent Global Note</b>" respectively the "<b>Global Note</b>"). The Global Note will be kept in custody by [in case of Clearstream Banking Frankfurt insert: Clearstream Banking AG, Mergenthaler Allee 61, 65760 Eschborn, Federal Republic of Germany][in case of another Central Securities Depository insert: [●]], or any successor in such capacity ("<b>Clearing System</b>").][●]</p> <p>(c) The <i>[in case with Tefra D insert:</i> Temporary Global Note and the Permanent] Global Note</p>
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Dauerglobalurkunde sind nur wirksam, wenn sie jeweils die eigenhändige Unterschrift eines Vertreters der Emittentin tragen. Die Globalurkunde wird bei dem Clearingsystem hinterlegt. Der Anspruch der Anleihegläubiger auf Ausgabe einzelner Schuldverschreibungen oder Zinsscheine ist ausgeschlossen.

(d) Den Inhabern der Anleihen (die "Anleihegläubiger") stehen Miteigentumsanteile oder Rechte an der Globalurkunde zu, die nach Maßgabe des anwendbaren Rechts und der Regeln und Bestimmungen des Clearingsystems übertragen werden können.

## § 2 Status der Schuldverschreibungen [und Negativverpflichtung]

(a) Status. Die Schuldverschreibungen begründen unmittelbare, unbedingte, [nicht] nachrangige und nicht besicherte Verbindlichkeiten der Emittentin[ und stehen im gleichen Rang untereinander und mindestens im gleichen Rang mit allen anderen gegenwärtigen und zukünftigen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin, soweit bestimmte zwingende gesetzliche Bestimmungen nichts anderes vorschreiben].

[(b) Negativverpflichtung. [Die Emittentin verpflichtet sich und hat dafür Sorge zu tragen, dass ihre Tochtergesellschaften (wie nachstehend definiert), solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Hauptzahlstelle zur Verfügung gestellt worden sind, keine Grundpfandrechte, Pfandrechte, Belastungen oder sonstigen Sicherungsrechte (jedes solches Sicherungsrecht eine "Sicherheit") in Bezug auf ihren gesamten oder Teil ihres Geschäftsbetriebes, Vermögen oder Einkünfte, jeweils gegenwärtig oder zukünftig, zur Sicherung von anderen

shall only be valid if it bears the handwritten signature of a representative of the Issuer. The Global Note will be deposited with the Clearing System. The right to require the issue of definitive Notes or interest coupons has been excluded.

(d) The holder of the notes (the "Noteholders") will receive co-ownership participations in the Global Note, which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.

## § 2 Status of the Notes [and Negative Pledge]

(a) Status. The Notes constitute direct, unconditional, [un]subordinated and unsecured obligations of the Issuer[ and rank *pari passu* without any preference among themselves and at least *pari passu* with all other unsubordinated and unsecured obligations of the Issuer, present and future save for certain mandatory exceptions provided by law].

[(b) Negative Pledge. [The Issuer undertakes, so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Principal Paying Agent, not to create or permit to subsist, and to procure that none of its Subsidiaries (as defined below) will create or permit to subsist, any mortgage, lien, pledge, charge or other security interest (each such right a "Security") over the whole or any part of its undertakings, assets or revenues, present or future, to secure any Capital Market Indebtedness (as defined below) or to secure any guarantee or indemnity given by the Issuer or any of its subsidiaries in respect of

<p>Kapitalmarktverbindlichkeiten (wie nachstehend definiert) oder zur Sicherung einer von der Emittentin oder einer ihrer Tochtergesellschaften gewährten Garantie oder Freistellung bezüglich einer Kapitalmarktverbindlichkeit einer anderen Person zu bestellen oder fortbestehen zu lassen, ohne gleichzeitig oder zuvor alle unter den Schuldverschreibungen zahlbaren Beträge in gleicher Weise und in gleichem Rang Sicherheiten zu bestellen oder für alle unter den Schuldverschreibungen zahlbaren Beträge solch eine andere Sicherheit zu bestellen, die von einer unabhängigen, international anerkannten Wirtschaftsprüfungsgesellschaft als gleichwertig anerkannt wird.][●]</p> <p>[Diese Verpflichtung gilt jedoch nicht:</p> <p>(i) für Sicherheiten, die gesetzlich vorgeschrieben sind, oder die als Voraussetzung für staatliche Genehmigungen verlangt werden;</p> <p>(ii) für zum Zeitpunkt des Erwerbs von Vermögenswerten durch die Emittentin bereits an solchen Vermögenswerten bestehende Sicherheiten, soweit solche Sicherheiten nicht im Zusammenhang mit dem Erwerb oder in Erwartung des Erwerbs des jeweiligen Vermögenswertes bestellt wurden und der durch die Sicherheit besicherte Betrag nicht nach Erwerb des betreffenden Vermögenswertes erhöht wird;</p> <p>(iii) Sicherheiten, die von einer Tochtergesellschaft der Emittentin an Forderungen bestellt werden, die ihr aufgrund der Weiterleitung von aus dem Verkauf von Kapitalmarktverbindlichkeiten erzielten Erlösen gegen die Emittentin zustehen, sofern solche Sicherheiten der Besicherung von Verpflichtungen aus den jeweiligen Kapitalmarktverbindlichkeiten der betreffenden Tochtergesellschaft dienen.][●]</p>	<p>any Capital Market Indebtedness of any other person, without, at the same time or prior thereto, securing all amounts payable under the Notes either with equal and rateable Security or providing all amounts payable under the Notes such other Security as shall be approved by an independent accounting firm of internationally recognized standing as being equivalent security.][●]</p> <p>[This undertaking shall not apply with respect to:</p> <p>(i) any Security which is provided for by law or which has been required as a condition precedent for public permissions;</p> <p>(ii) any Security existing on assets at the time of the acquisition thereof by the Issuer, provided that such Security was not created in connection with or in contemplation of such acquisition and that the amount secured by such Security is not increased subsequently to the acquisition of the relevant assets;</p> <p>(iii) any Security which is provided by any subsidiary of the Issuer with respect to any receivables of such subsidiary against the Issuer which receivables exist as a result of the transfer of the proceeds from the sale by the subsidiary of any Capital Market Indebtedness, provided that any such security serves to secure obligations under such Capital Market Indebtedness of the relevant subsidiary.][●]</p>
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[Im Sinne dieser Anleihebedingungen bedeutet "**Kapitalmarktverbindlichkeit**" jede gegenwärtige oder zukünftige Verbindlichkeit hinsichtlich der Rückzahlung geliehener Geldbeträge, die durch besicherte oder unbesicherte Schuldverschreibungen, Anleihen oder sonstige Wertpapiere, die an einer Börse oder in einem anderen anerkannten Wertpapier- oder außerbörslichen Markt zugelassen sind, notiert oder gehandelt werden oder zugelassen, notiert oder gehandelt werden können.

"**Tochtergesellschaft**" ist jede voll konsolidierte Tochtergesellschaft einer Person.

Ein nach diesem § 2(b) zu leistendes Sicherungsrecht kann auch zugunsten der Person eines Treuhänders der Anleihegläubiger bestellt werden.][●]]

[[ (b) ] [ (c) ] [Qualifizierter] Rangrücktritt. Im Fall der Insolvenz oder Liquidation der Emittentin sind die Verpflichtungen der Emittentin aus den Schuldverschreibungen:

(1) nachrangig gegenüber allen ihren bestehenden oder künftigen, nicht-nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin[.]; wobei

[(i) alle Forderungen aus den Schuldverschreibungen, darunter insbesondere die Ansprüche auf Zahlung des [Vorzeitigen Rückzahlungsbetrages] [,] [Vorzeitigen Rückzahlungsbetrages Call-Option] [,] [Vorzeitigen Rückzahlungsbetrages Put-Option] [und] des Nennbetrages [,] [und] auf Einlösung des Kupons, in Anwendung des § 19 Absatz 2 Satz 2 InsO (Insolvenzordnung) gegenüber allen Forderungen anderer bestehender oder künftiger Gläubiger dergestalt im Rang nachgehen, dass Tilgungs- und Zinszahlungen auf den Schuldverschreibungen erst nach Befriedigung aller anderen Gläubiger, die die in § 39 Absatz 1

[For the purposes of these Terms and Conditions, "**Capital Market Indebtedness**" shall mean any present or future obligation for the repayment of borrowed monies which is in the form of, or represented or evidenced by bonds, notes, debentures, loan stock or other securities which are, or are capable of being, quoted, listed, dealt in or traded on any stock exchange, or other recognized over-the-counter or securities market.

"**Subsidiary**" means any fully consolidated subsidiary of any person.

A security pursuant to this § 2(b) may also be provided to a trustee of the noteholders.][●]]

[[ (b) ] [ (c) ] [Qualified] subordination clause. In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

(1) junior to all present or future unsubordinated instruments or obligations of the Issuer[.]; whereby:

[(i) All claims under the Notes, including but not limited to the claims for payment of the [Early Redemption Amount][,] [Call Early Redemption Amount] [,][Put Early Redemption Amount] [and] the Principal Amount[,], [and] the payment of the Coupon, applying in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position

<p>Nr. 1 InsO vereinbarte Rangfolge, d.h. den in § 39 Absatz 2 InsO vereinbarten Nachrang, einnehmen, verlangt werden können. Ein Verzicht auf die Forderungen ist nicht möglich.]</p> <p>[[ (ii) ] [•] Anleihezahlungen können nur aus künftigen Jahresüberschüssen, aus etwaigen Liquidationserlösen oder aus anderen verfügbaren Vermögenswerten verlangt werden.]</p> <p>[[ (iii) ] [•] Die Anleihegläubiger können keine Befriedigung ihrer Forderungen verlangen, wenn hierdurch in Anwendung des deutschen Insolvenzrechts die Überschuldung oder Zahlungsunfähigkeit der Emittentin herbeigeführt wird oder droht.]</p> <p>[[ (iv) ] [•] Die Absätze (i) bis (iii) gelten sowohl vor wie auch nach der Eröffnung des Insolvenzverfahrens.]</p> <p>[[ (v) ] [•] Im Übrigen sind die Anleihegläubiger ohne Einschränkungen berechtigt, ihre Rechte aus den Schuldverschreibungen geltend zu machen und Erfüllung zu verlangen.]</p> <p>[[ (vi) ] [•] Zur Klarstellung: Diese Regelung stellt einen Vertrag zugunsten der Gläubigersamtheit der Emittentin in Anwendung des § 328 Absatz 2 BGB (Bürgerliches Gesetzbuch) dar. Eine Kündigung dieser Rangrücktrittsvereinbarung ohne Mitwirkung der Gläubiger ist daher nur zulässig, wenn die Insolvenzkriterien (Absatz (iii)) in Bezug auf die Emittentin nicht oder nicht länger erfüllt sind.]</p> <p>[•] [•]</p> <p>[(2) gleichrangig (a) untereinander und (b) mit allen bestehenden oder künftigen Verpflichtungen aus anderen Tier-2-Instrumenten; und</p>	<p>stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]</p> <p>[[ (ii) ] [•] Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]</p> <p>[[ (iii) ] [•] The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (überschuldet) or unable to pay its debts (<i>zahlungsunfähig</i>) within applying the meaning of German insolvency law.]</p> <p>[[ (iv) ] [•] Paragraphs (i) to (iii) apply both before and after the opening of insolvency proceedings.]</p> <p>[[ (v) ] [•] In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.</p> <p>[[ (vi) ] [•] For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (<i>Gläubigersamtheit</i>) applying within the meaning of section 328 (2) of the German Civil Code (<i>Bürgerliches Gesetzbuch</i>). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]</p> <p>[•] [•]</p> <p>[(2) pari passu (a) among themselves, and (b) with all present or future obligations under any other Tier 2 Instruments; and</p>
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[(3) vorrangig gegenüber [allen bestehenden oder künftigen (a) Verpflichtungen aus AT-1-Instrumenten und (b)] allen übrigen nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin, die [(x)] gegenüber ihren Verpflichtungen der Emittentin aus den Schuldverschreibungen im Rang nachgehen[.] [oder (y) mit Verpflichtungen der Emittentin aus AT-1-Instrumenten im Rang gleichgestellt sind.][●][●]

[[d]][e] Keine Aufrechnung oder Sicherheit. Eine Aufrechnung der Forderungen der Emittentin gegen die Rückzahlungsverpflichtungen der Emittentin aus diesen Schuldverschreibungen ist nicht zulässig, und weder die Emittentin noch Dritte sind berechtigt, vertragliche Sicherheiten für das mit den Schuldverschreibungen begründete Schuldverhältnis zu stellen. [Die Schuldverschreibungen sind weder besichert noch Gegenstand einer Garantie, die den Vorrang der Anleiheforderungen erhöht.] [Die Schuldverschreibungen unterliegen weder vertraglichen noch sonstigen Vereinbarungen, die den Vorrang der Anleiheforderungen erhöhen.] [Die unter Buchstabe (c) geregelte Nachrangigkeit darf durch nachträgliche Vereinbarungen nicht berührt oder beeinträchtigt werden.]]

### **[§ 3 Finanzielle Verpflichtungen**

#### **[(a)][●] Eigenkapitalquote**

[Die Emittentin stellt sicher, dass sie eine Eigenkapitalquote (wie nachstehend definiert) von wenigstens [fünfundzwanzig][●] [(25)][●] Prozent aufrechterhalten wird. [Die Eigenkapitalquote errechnet sich in Übereinstimmung mit [HGB] [oder] [IFRS] [nach Wahl der Emittentin].]

Sofern die Emittentin am jeweiligen Stichtag eine niedrigere Eigenkapitalquote als nach

[(3) senior to [all present or future (a) obligations under any AT 1 Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank [(x)] subordinated to the obligations of the Issuer under the Notes[.] [or (y) pari passu with obligations under any AT 1 Instruments.][●][●]

[[d]][e] No Set-off or Security. Claims of the Issuer are not permitted to be set-off against repayment obligations of the Issuer under these Notes, and no contractual collateral may be provided by the Issuer or any third person for the liabilities constituted by the Notes. [The Notes are neither secured nor subject to a guarantee that enhances the seniority of the claims under the Notes.] [The Notes are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claims under the Notes.] [No subsequent agreement may limit the subordination pursuant to this Clause (c).]]

### **[§ 3 Financial Covenants**

#### **[(a)][●] Equity Capital Ratio**

[The Issuer ensures that itself maintains an Equity Capital Ratio (as defined below) of at least [twenty-five][●] [(25)][●] percent. [The Equity Capital Ratio shall be calculated in accordance with [local GAP] [or] [IFRS] [at the Issuer' option].]

In case the Issuer determines a lower Equity Capital Ratio (as mentioned in the above

<p>vorstehendem Absatz ermittelt und im Einklang mit § 4(d) bekannt gibt, ist auf die Schuldverschreibungen ein Erhöhter Zinssatz (wie in § 4(d) definiert) anwendbar.</p> <p>Wobei gilt:</p> <p><b>"Eigenkapitalquote"</b> bedeutet [das bilanzielle Eigenkapital dividiert durch die Bilanzsumme][●], wobei alle Zahlen aus dem letzten geprüften Jahresabschluss der Emittentin zu ermitteln sind [und die Emittentin berechtigt ist, für Zwecke der Berechnung der Eigenkapitalquote die zum Zeitpunkt der Emission genutzten Bilanzierungsmethoden – ggf. auch abweichend vom testierten [Jahresabschluss] [bzw.] [Halbjahresabschluss] – fortzuführen][●].</p> <p><b>"Stichtag"</b> bedeutet [[den 31. Dezember 2019][●] [und jeden weiteren 31. Dezember][●] [bis zum Fälligkeitstermin]][●].</p> <p><b>[(b)][●] Liquiditätsreserve</b></p> <p>Die Emittentin verpflichtet sich darauf hinzuwirken, dass ihre Tochtergesellschaften [ggf. Namen der Tochtergesellschaft(en) einfügen: [●]], sofern erforderlich und sofern sie Gewinne erwirtschaften, eine ausschüttungsfähige Liquidität aufweisen und zumindest so viele Mittel an die Emittentin ausschütten, dass die Emittentin stets in der Lage ist, ihre Verpflichtungen aus diesen Anleihebedingungen zu erfüllen.]</p> <p><b>[(c)][●] Informationspflichten</b></p> <p>Die Emittentin verpflichtet sich, den Anleihegläubigern in der Form des § [14][●] oder durch Veröffentlichung auf ihrer Internetseite (www.estream-energy.com) [bzw. einer Nachfolgewebseite][●] zur Verfügung zu stellen:</p> <p>[(i)] den geprüften Abschluss zum [31. Dezember 2019][●] sobald verfügbar,</p>	<p>paragraphs on a relevant Reporting Date and publishes said Equity Capital Ratio in accordance with § 4(d), and Increased Coupon (as defined in § 4(d)) shall apply to the Notes.</p> <p>Whereby:</p> <p><b>"Equity Capital Ratio"</b> means [the balance sheet equity divided by the balance sheet total][●], whereby all figures are to be determined from the last audited annual financial statements of the Issuer [and the Issuer is entitled, for the purpose of calculating the equity ratio, to continue the accounting methods used at the time of the issue – eventually also deviating from the audited [annual] [or] [semi-annual] financial statements][●].</p> <p><b>"Reporting Date"</b> means [[the 31 December 2019][●] [and each further 31 December][●] [until the Redemption Date]][●].</p> <p><b>[(b)][●] Liquidity Reserve</b></p> <p>The Issuer undertakes to ensure that its subsidiaries [insert name of the subsidiaries, if any: [●]], if necessary and if they generate profits, have distributable liquidity and distribute at least sufficient funds to the Issuer that the Issuer is always in a position to meet its obligations under these Terms and Conditions.]</p> <p><b>[(c)][●] Information Obligation</b></p> <p>The Issuer undertakes to provide the Noteholders in the form of § [14][●] or by publication on its website (www.estream-energy.com) [or on a successor website][●] with:</p> <p>[(i)] the audited financial statements as at [31 December 2019][●] as available but not later</p>
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<p>jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres [2019][●] sowie die geprüften Abschlüsse für die darauf folgenden Geschäftsjahre sobald verfügbar, jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres[.]; und</p> <p>[[ii)] sobald verfügbar, jedoch nicht später als [6][●] Monate nach dem Ende jedes Geschäftshalbjahres einen erstellten ungeprüften Halbjahresabschluss.]]</p> <p>[[d)]●] <b>Börsennotierung</b></p> <p>Die Emittentin wird dafür Sorge tragen, eine Notierung der Schuldverschreibungen in [den Open Market (Freiverkehr)][●] der [Frankfurter Wertpapierbörse][●] [oder einer anderen Wertpapierbörse] [in Deutschland] [oder] [in der EU] [oder] [●] herbeizuführen und bis zur Endfälligkeit der Schuldverschreibungen, längstens jedoch bis zu dem Zeitpunkt aufrechtzuerhalten, in dem sämtliche Schuldverschreibungen zurückbezahlt oder zurückgekauft wurden.]</p> <p>[[e)]●] [Weitere] [Finanzielle Verpflichtung[en]</p> <p>[●]]</p> <p>§ [4][●] <b>Verzinsung</b></p> <p>(a) [Die Schuldverschreibungen werden ab dem [●] (einschließlich) (der "<b>Begebungstag</b>") bezogen auf ihren Nennbetrag mit [●] % jährlich (der "<b>Zinssatz</b>") verzinst. Die Zinsen sind jährlich nachträglich jeweils am [●] eines jeden Jahres (jeweils ein "<b>Zinszahlungstag</b>" und der Zeitraum ab dem Begebungstag (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) jeweils eine "<b>Zinsperiode</b>") zahlbar. Die erste Zinszahlung</p>	<p>than [9][●] months after the end of each financial year [2019][●] and the audited financial statements for subsequent financial years as available but not later than [9][●] months after the end of each financial year[.]; and</p> <p>[[ii)] as soon as available, but not later than [6][●] months after the end of each half-year, an unaudited half-year financial statement.]]</p> <p>[[d)]●] <b>Listing</b></p> <p>The Issuer will ensure that the Notes are listed on [the Open Market (Freiverkehr)][●] of [the Frankfurt Stock Exchange][●] [or another stock exchange] [in Germany] [or] [in the EU] [or] [●] and will maintain such listing until final maturity of the Notes, but at the latest until all Notes have been redeemed or repurchased.]</p> <p>[[e)]●] [Additional] Financial Covenant[s]</p> <p>[●]]</p> <p>§ [4][●] <b>Interest</b></p> <p>(a) [The Notes will bear interest on their principal amount at a rate of [●] % per annum (the "<b>Coupon</b>") as from [●] (the "<b>Issue Date</b>"). Interest is payable in arrears on [●] of each year (the "<b>Interest Payment Date</b>" and the period from the Issue Date (inclusive) up to the first Interest Payment Date (exclusive) and thereafter as from any Interest Payment Date (inclusive) up to the next following Interest Payment Date (exclusive) being an "<b>Interest Period</b>"). The first interest payment will be due on [●].][<i>Other applicable Interest: [●]</i></p>
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<p>wird am [●] fällig.][<i>Andere anwendbare Verzinsung:</i> [●]]</p> <p>(b) Die Verzinsung der Schuldverschreibungen endet mit Beginn des Tages, an dem sie zur Rückzahlung fällig werden, oder, sollte die Emittentin eine Zahlung aus diesen Schuldverschreibungen bei Fälligkeit nicht leisten, mit Beginn des Tages der tatsächlichen Zahlung. Der Zinssatz erhöht sich in diesem Fall um [5][●] Prozentpunkte p.a.</p> <p>(c) [Sind Zinsen im Hinblick auf einen Zeitraum zu berechnen, der kürzer als eine Zinsperiode ist, so werden sie berechnet auf der Grundlage der Anzahl der tatsächlichen verstrichenen Tage im relevanten Zeitraum (gerechnet vom letzten Zinszahlungstag (einschließlich)) dividiert durch die tatsächliche Anzahl der Tage der Zinsperiode (365 Tage bzw. 366 Tage im Falle eines Schaltjahrs) (Actual/Actual).][<i>Andere Zinsperiodenberechnung:</i> [●]]</p> <p>[(d) Die Emittentin verpflichtet sich, sofern die Emittentin im Wege einer Veröffentlichungsmitteilung (wie nachstehend definiert) bekannt gibt, dass</p> <p>[- die Eigenkapitalquoten (ermittelt nach den Vorgaben gemäß § 3[(a)]) zum jeweiligen Stichtag, die in § 3[(a)]) benannte Quote unterschritten wurde; [oder]]</p> <p>[- die Informationspflichten nach § 3[(c)][●] zu den dort genannten Zeitpunkten nicht erfüllt wurden; [oder]]</p> <p>[- die Verpflichtung nach § 3[(d)][●] zur Börsennotierung nicht erfüllt wurde[,];] [oder]]</p> <p>[●]</p> <p>die Schuldverschreibungen in der jeweils Maßgeblichen Zinsperiode (wie nachstehend</p>	<p>(b) The Notes shall cease to bear interest from the beginning of the day they are due for redemption, or, in case the Issuer fails to make any payment under the Notes when due, from the beginning of the day on which such payment is made. In such case, the rate of interest shall be increased by [5][●] percentage points per annum.</p> <p>(c) [Where interest is to be calculated in respect of a period which is shorter than an Interest Period the interest will be calculated on the basis of the actual number of days elapsed in the relevant period (from and including the most recent Interest Payment Date) divided by the actual number of days of the Interest Period (365 days and 366 days, respectively, in case of a leap year) (Actual/Actual).][<i>Other applicable Interest-Period-Calculation:</i> [●]]</p> <p>[(d) The Issuer undertakes, in the event that Issuer notifies by way of a Disclosure Notification (as defined below) that</p> <p>[- the Equity Capital Ratio (determined in accordance with § 3[(a)]) as of the relevant Reporting Date is below the ratio as set out in § 3[(a)]; [or]]</p> <p>[- the information obligation in accordance with § 3[(c)][●] has not been fulfilled in time at the relevant date; [or]]</p> <p>[- the obligation in accordance with § 3[(d)][●] relating to the listing has not been fulfilled[,];] [or]]</p> <p>[●]</p> <p>to pay an Increased Coupon (per annum) (as defined below) on the Notes during the Relevant</p>
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<p>definiert) mit einem Erhöhten Zinssatz (per annum) (wie nachstehend definiert) zu verzinsen. Die Emittentin verpflichtet sich, eine jede Veröffentlichungsmitteilung mindestens [20][●] Tage vor einem jeden Zinszahlungstag auf der Webseite der Emittentin unter [www.estream-energy.com][●] [im Bereich ["Anleihe[n]"][●]] zu veröffentlichen.]]</p> <p>[Mit Bezug auf einen Fall nach § 3[(a)] gilt, dass eine Unterschreitung der Eigenkapitalquote als eingetreten, wenn auf Basis des jeweils maßgeblichen festgestellten Jahresabschlusses die Verminderung der Eigenkapitalquote festgestellt wurde.]</p> <p>Wobei gilt:</p> <p><b>"Erhöhter Zinssatz"</b> bedeutet [einen Zinssatz (per annum), zu zahlen auf die Schuldverschreibungen, korrespondierend mit der Summe aus Zinssatz und [0,5][●] Prozentpunkten][●].</p> <p><b>"Maßgebliche Zinsperiode"</b> bedeutet [diejenige Zinsperiode, beginnend mit dem ersten Tag dieser Zinsperiode (einschließlich) und endend mit dem letzten Tag dieser Zinsperiode (ausschließlich), [in welcher der jeweilige Stichtag fällt][welcher derjenigen Zinsperiode folgt, in den der jeweilige Stichtag fällt]][●].</p> <p><b>"Veröffentlichungsmitteilung"</b> bedeutet [eine Mitteilung über [die Höhe der Eigenkapitalquote nach § 3[(a)] zum jeweils letzten Stichtag] [und] [der Verletzung der Informationspflichten nach § 3[(c)][●]] [und] [der Verletzung der Pflicht zur Börsennotierung nach § 3[(d)][●]] [und [●]].[●]]</p> <p><b>§ [5][●] Fälligkeit, Rückzahlung, [vorzeitige Rückzahlung aus steuerlichen Gründen,] [nach Wahl [der Emittentin] [oder] [der Anleihegläubiger]] [sowie Rückkauf] [und Entwertung]</b></p>	<p>Interest Period (as defined below). The Issuer undertakes to publish any Disclosure Notification at least [20][●] days prior to each Interest Payment Date on the Issuer's website [www.estream-energy.com][●] [in the section ["Anleihe[n]"][●]].]]</p> <p>[With respect to § 3[(a)] a shortfall in the Equity Capital Ratio is deemed to have occurred if the reduction in the Equity Capital Ratio was determined on the basis of the relevant adopted annual financial statements.]</p> <p>Whereby:</p> <p><b>"Increased Coupon"</b> means [an interest rate (per annum) to be applied on the Notes and which reflects the sum of the Coupon and [0.5][●] percentage points][●].</p> <p><b>"Relevant Interest Period"</b> means [the interest period from the first day of this interest period (inclusive) to the last day of this interest period (exclusive) [during which the respective Reporting Date is determined][which follows the Interest Period in which the respective Reporting Date falls]][●].</p> <p><b>"Disclosure Notification"</b> means [a notification regarding [the Equity Capital Ratio in accordance with § 3[(a)] as per the each recent Reporting Date] [and] [the breach of the information obligation in accordance with § 3[(c)][●]] [and] [the breach of the listing obligation in accordance with § 3[(d)][●]] [and [●]].[●]]</p> <p><b>§ [5][●] Maturity, Redemption[, Early Redemption for Tax Reasons][, at the Option] of [the Issuer] [or] [the Noteholders,] [and Repurchase] [and Cancellation]</b></p>
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<p>(a) Die Schuldverschreibungen werden am [●] (der "<b>Fälligkeitstermin</b>") zum Nennbetrag zurückgezahlt. Eine vorzeitige Rückzahlung findet außer in den nachstehend genannten Fällen nicht statt.</p> <p>Für Zwecke dieser Anleihebedingungen bezeichnet "<b>Vorzeitiger Rückzahlungsbetrag</b>" den Nennbetrag der Schuldverschreibungen.</p> <p>[(b) Vorzeitige Rückzahlung aus steuerlichen Gründen. Sollte die Emittentin zu irgendeinem Zeitpunkt in der Zukunft aufgrund einer Änderung des in der Bundesrepublik Deutschland geltenden Rechts oder seiner amtlichen Anwendung verpflichtet sein oder zu dem nächstfolgenden Zahlungstermin für Kapital oder Zinsen verpflichtet werden, die in § [7(a)][●] genannten zusätzlichen Beträge zu zahlen, und diese Verpflichtung nicht durch das Ergreifen vernünftiger, der Emittentin zur Verfügung stehender Maßnahmen vermeiden können, so ist die Emittentin mit einer Frist von wenigstens [30][●] Tagen und höchstens [60] [●] Tagen berechtigt, durch Bekanntmachung gemäß § [14][●] die Schuldverschreibungen insgesamt zur vorzeitigen Rückzahlung zum Vorzeitigen Rückzahlungsbetrag zuzüglich aufgelaufener Zinsen zu kündigen.</p> <p>Eine Kündigung gemäß diesem § [5(b)][●] darf allerdings nicht (i) früher als [90][●] Tage vor dem frühest möglichen Termin erfolgen, an dem die Emittentin verpflichtet wäre, solche zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erfolgt, die Verpflichtung zur Zahlung von zusätzlichen Beträgen nicht mehr wirksam ist.</p>	<p>(a) The Notes will be redeemed at par on [●] (the "<b>Redemption Date</b>"). There will be no early redemption except in the following cases.</p> <p>In these Terms and Conditions "<b>Early Redemption Amount</b>" means the principal amount of the Notes.</p> <p>[(b) Early Redemption for Tax Reasons. If at any future time as a result of a change of the laws applicable in the Federal Republic of Germany or a change in their official application, the Issuer is required, or at the time of the next succeeding payment due in respect of principal or interest will be required, to pay additional amounts as provided in this § [7(a)][●], and such obligation cannot be avoided taking reasonable measures available to the Issuer, the Issuer will be entitled, upon not less than [30][●] days' and not more than [60][●] days' notice to be given by publication in accordance with § [14][●], prior to the Redemption Date to redeem all Notes at the Early Redemption Amount plus accrued interest.</p> <p>No notice of redemption pursuant to this § [5(b)][●] shall be made given (i) earlier than [90][●] days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts if a payment in respect of the Notes was then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.</p>
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<p>Eine solche Kündigung ist unwiderruflich und muss den für die Rückzahlung festgelegten Termin nennen sowie eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umstände darlegt.]</p> <p>[[c)][•] Vorzeitige Rückzahlung nach Wahl der Emittentin. Die Emittentin ist berechtigt, frühestens zum [•] ausstehende Schuldverschreibungen mit einer Frist von mindestens [10][•] und höchstens [20][•] Tagen durch Bekanntmachung gemäß § [14][•] insgesamt zu kündigen und vorzeitig zum Vorzeitigen Rückzahlungsbetrag (Call) (wie nachfolgend definiert) zurückzuzahlen. Eine solche Kündigungserklärung ist unwiderruflich. Der Tag der vorzeitigen Rückzahlung muss ein Geschäftstag im Sinne von § [6][•](c) sein. Im Hinblick auf die gekündigten Schuldverschreibungen endet die Verzinsung mit dem letzten Tag vor dem vorzeitigen Rückzahlungstag.</p> <p>[Der Emittentin steht dieses Wahlrecht nicht in Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits ein Anleihegläubiger in Ausübung seines Wahlrechts nach § [5(d)][•] verlangt hat.]</p> <p><b>["Vorzeitiger Rückzahlungsbetrag (Call)"]</b> bezeichnet im Falle einer vorzeitigen Rückzahlung gemäß diesem § [5(c)][•] ab dem [•] bis einschließlich des [•] [104][•] % des Nennbetrages und innerhalb eines Zeitraums ab dem [•] bis zum Fälligkeitstermin [102][•] % des Nennbetrages.][<i>Anderer Vorzeitiger Rückzahlungsbetrag:</i> [•]]</p> <p>[[d)][•] Vorzeitige Rückzahlung nach Wahl der Anleihegläubiger bei einem Kontrollwechsel. Wenn ein Kontrollwechsel (wie nachfolgend definiert) eintritt, ist jeder Anleihegläubiger</p>	<p>Any such notice shall be irrevocable and must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.]</p> <p>[[c)][•] Early Redemption at the Option of the Issuer. The Issuer shall be entitled, by giving not less than [10][•] nor more than [20][•] days' notice by publication in accordance with § [14][•], to redeem outstanding Notes, in whole, no earlier than per [•] at the Call Early Redemption Amount (as defined below). Such notice shall be irrevocable and shall state the date of early redemption. The date of early redemption must be a Business Day within the meaning of § [6][•](c). In respect of the Notes which are subject to redemption the entitlement to interest shall end with the day immediately preceding the early redemption date.</p> <p>[The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under § [5(d)][•].]</p> <p><b>["Call Early Redemption Amount"]</b> shall mean, in the event of an early redemption pursuant to this § [5(c)][•] within the period commencing on [•] and ending [•] (inclusive) [104][•] % of the Principal Amount and within a period commencing on [•] and ending on the Call Redemption Day [102][•] % of the Principal Amount.][<i>Other Call Early Redemption Amount:</i> [•]]</p> <p>[[d)][•] Early Redemption at the Option of the Noteholders upon a Change of Control. If a Change of Control (as defined below) occurs, each Noteholder shall have the right to require the</p>
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<p>berechtigt, von der Emittentin die Rückzahlung oder, nach Wahl der Emittentin, den Ankauf seiner Schuldverschreibungen durch die Emittentin (oder auf ihre Veranlassung durch einen Dritten) zum Vorzeitigen Rückzahlungsbetrag (Put) (wie nachfolgend definiert) insgesamt oder teilweise zu verlangen (die "<b>Put Option</b>"). Eine solche Ausübung der Put Option wird jedoch nur dann wirksam, wenn innerhalb des Rückzahlungszeitraums (wie nachstehend definiert) Anleihegläubiger von Schuldverschreibungen im Nennbetrag von mindestens [90][●] % des Gesamtnennbetrages der zu diesem Zeitpunkt noch insgesamt ausstehenden Schuldverschreibungen von der Put Option Gebrauch gemacht haben. Die Put Option ist wie nachfolgend unter § [5(e)][●] beschrieben auszuüben.</p> <p><b>"Vorzeitiger Rückzahlungsbetrag (Put)"</b> bezeichnet [101][●] % des Nennbetrages.</p> <p>Ein "<b>Kontrollwechsel</b>" liegt vor, wenn eines der folgenden Ereignisse eintritt:</p> <p>[(i) die Emittentin erlangt Kenntnis davon, dass eine Dritte Person (wie nachstehend definiert) oder gemeinsam handelnde Dritte Personen im Sinne von § 2 Absatz 5 Wertpapiererwerbs- und Übernahmegesetz (jeweils ein "<b>Erwerber</b>") der rechtliche Eigentümer von mehr als 50 % der Stimmrechte der Emittentin geworden ist; oder</p> <p>(ii) die Verschmelzung der Emittentin mit einer oder auf eine Dritte Person (wie nachfolgend definiert) oder die Verschmelzung einer Dritten Person mit oder auf die Emittentin, oder der Verkauf aller oder im Wesentlichen aller Vermögensgegenstände (konsolidiert betrachtet) der Emittentin an eine Dritte Person. Dies gilt nicht für Verschmelzungen oder Verkäufe im Zusammenhang mit Rechtsgeschäften, in deren Folge (A) im Falle einer Verschmelzung die</p>	<p>Issuer to redeem or, at the Issuer's option, purchase (or procure the purchase by a third party of) in whole or in part his Notes at the Put Early Redemption Amount (as defined below) (the "<b>Put Option</b>"). An exercise of the Put option shall, however, only become valid if during the Put Period (as defined below) Noteholders of Notes with a Principal Amount of at least [90][●] % of the Aggregate Principal Amount of the Notes then outstanding have exercised the Put Option. The Put Option shall be exercised as set out below under § [5(e)][●].</p> <p><b>"Put Early Redemption Amount"</b> shall mean [101][●] % of the Principal Amount.</p> <p><b>"Change of Control"</b> means the occurrence of any of the following events:</p> <p>[(i) the Issuer becomes aware that any Third Person (as defined below) or group of Third Persons acting in concert within the meaning of § 2 (5) of the German Securities Acquisition and Takeover Act (<i>Wertpapiererwerbs- und Übernahmegesetz, WpÜG</i>) (each an "<b>Acquirer</b>") has become the legal owner of more than 50 % of the voting rights of the Issuer; or</p> <p>(ii) the merger of the Issuer with or into a Third Person (as defined below) or the merger of a Third Person with or into the Issuer, or the sale of all or substantially all of the assets (determined on a consolidated basis) of the Issuer to a Third Person, other than in a transaction following which (A) in the case of a merger holders that represented 100 % of the voting rights of the Issuer own directly or indirectly at least a majority of the voting rights of the surviving</p>
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<p>Inhaber von 100 % der Stimmrechte der Emittentin wenigstens die Mehrheit der Stimmrechte an dem überlebenden Rechtsträger unmittelbar nach einer solchen Verschmelzung halten und (B) im Fall des Verkaufs von allen oder im Wesentlichen allen Vermögensgegenständen der erwerbende Rechtsträger eine Tochtergesellschaft der Emittentin ist oder wird und Garantin bezüglich der Schuldverschreibungen wird.][●]</p> <p>[Als Kontrollwechsel ist es nicht anzusehen, wenn sich nach der Zulassung der Anteile der Emittentin zum Handel an [einem regulierten Markt][, oder MTF-Markt] [oder OTF-Markt] einer deutschen Wertpapierbörse oder einem vergleichbaren Marktsegment einer ausländischen Wertpapierbörse weniger als 50 % der Stimmrechte an der Emittentin im Eigentum einer Holdinggesellschaft der Emittentin befinden. Als Kontrollwechsel ist es ebenfalls nicht anzusehen, wenn Anteile an der Emittentin im Wege der Erbfolge übergehen.][●]</p> <p><b>"Dritte Person"</b> im Sinne dieses § [5(d)(i) und (ii)][●] ist jede Person außer einer verbundenen Person der Emittentin (wie nachstehend definiert).</p> <p><b>"Verbundene Person"</b> bezeichnet jede Tochtergesellschaft oder Holdinggesellschaft einer Person sowie jede andere Tochtergesellschaft dieser Holdinggesellschaft.</p> <p>Wenn ein Kontrollwechsel eintritt, wird die Emittentin unverzüglich nachdem sie hiervon Kenntnis erlangt den Anleihegläubigern Mitteilung vom Kontrollwechsel gemäß § [14(a)][●] machen (die <b>"Put-Rückzahlungsmittelung"</b>), in der die Umstände des Kontrollwechsels sowie das Verfahren für die Ausübung der in diesem § [5(d)][●] genannten Put Option angegeben sind.]</p>	<p>person immediately after such merger and (B) in the case of a sale of all or substantially all of the assets, each transferee becomes a guarantor in respect of the Notes and is or becomes a subsidiary of the Issuer.][●]</p> <p>[It shall not be qualified as a Change of Control, however, if following the admission of the Issuer's shares to trading on [the regulated market] [, or MTF-market] [or OTF-market] of a German stock exchange or an equivalent market segment of a foreign stock exchange less than 50 % of the voting rights of the Issuer are owned by a Holding Company of the Issuer. It shall also not be qualified as a Change of Control, if shares of the issuer or any other participating interest will be transferred by testamentary or hereditary succession.][●]</p> <p><b>"Third Person"</b> shall for the purpose of this § [5(d)(i) and (ii)][●] mean any person other than an Affiliated Company of the Issuer (as defined below).</p> <p><b>"Affiliated Company"</b> means in respect to any person, a subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.</p> <p>If a Change of Control occurs, then the Issuer shall, without undue delay, after becoming aware thereof, give notice of the Change of Control (a <b>"Put Event Notice"</b>) to the Noteholders in accordance with § [14(a)][●] specifying the nature of the Change of Control and the procedure for exercising the Put Option contained in this § [5(d)][●].]</p>
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[[e]][•] Die Ausübung der Put Option gemäß § [5(d)][•] muss durch den Anleihegläubiger innerhalb eines Zeitraums (der "**Put-Rückzahlungszeitraum**") von [30][•] Tagen, nachdem die Put-Rückzahlungsmittelteilung veröffentlicht wurde, schriftlich gegenüber der depotführenden Stelle des Anleihegläubigers erklärt werden (die "**Put-Ausübungserklärung**"). Die Emittentin wird nach ihrer Wahl die maßgebliche(n) Schuldverschreibung(en) [seven][•] Tage nach Ablauf des Rückzahlungszeitraums (der "**Put-Rückzahlungstag**") zurückzahlen oder erwerben (bzw. erwerben lassen), soweit sie nicht bereits vorher zurückgezahlt oder erworben und entwertet wurde(n). Die Abwicklung erfolgt über die Emittentin. Eine einmal gegebene Put-Ausübungserklärung ist für den Anleihegläubiger unwiderruflich.]

[[f]][•] Das ordentliche Kündigungsrecht der Anleihegläubiger ist ausgeschlossen.]

[[g]][•] [Die Emittentin kann jederzeit und zu jedem Preis im Markt oder auf andere Weise Schuldverschreibungen ankaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Zahlstelle zwecks Entwertung eingereicht werden.] [•]]

[[h]][•] [Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.] [•]]

#### § [6][•] Zahlungen, Hinterlegung

(a) Die Emittentin verpflichtet sich, Kapital und Zinsen auf die Schuldverschreibungen bei Fälligkeit in [Euro][•] zu zahlen. Die Zahlung von Kapital und Zinsen erfolgt, vorbehaltlich geltender steuerrechtlicher und sonstiger gesetzlicher Regelungen und Vorschriften, über

[[e]][•] The exercise of the Put Option pursuant to § [5(d)][•], must be declared by the Noteholder within [30][•] days after a Put Event Notice has been published (the "**Put Period**") to the Depository Bank of such Noteholder in writing (a "**Put Notice**"). The Issuer shall redeem or, at its option, purchase (or procure the purchase of) the relevant Note(s) on the date (the "**Put Redemption Date**") [seven][•] days after the expiration of the Put Period unless previously redeemed or purchased and cancelled. Payment in respect of any Note so delivered will be made in accordance with the customary procedures through the Issuer. A Put Notice, once given, shall be irrevocable.]

[[f]][•] The Noteholders' ordinary right to call is excluded.]

[[g]][•] [The Issuer may at any time purchase Notes in the market or otherwise. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Paying Agent for cancellation.] [•]]

[[h]][•] [All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.] [•]]

#### § [6][•] Payments, Depositing in Court

(a) The Issuer undertakes to pay, as and when due, principal and interest on the Notes in [Euros][•]. Payment of principal and interest on the Notes shall be made, subject to applicable fiscal and other laws and regulations, through the Principal Paying Agent for on-payment to the

<p>die Hauptzahlstelle zur Weiterleitung an das Clearingsystem oder nach dessen Weisung zur Gutschrift für die jeweiligen Kontoinhaber. Die Zahlung an das Clearingsystem oder nach dessen Weisung befreit die Emittentin in Höhe der geleisteten Zahlung von ihren entsprechenden Verbindlichkeiten aus den Schuldverschreibungen. Eine Bezugnahme in diesen Anleihebedingungen auf Kapital oder Zinsen der Schuldverschreibungen schließt jegliche Zusätzlichen Beträge gemäß § [7][●] ein.</p> <p>(b) Falls eine Zahlung auf Kapital oder Zinsen einer Schuldverschreibung an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht den betreffenden Anleihegläubigern weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu.</p> <p>(c) "<b>Geschäftstag</b>" im Sinne dieser Anleihebedingungen ist jeder Tag (außer einem Samstag oder Sonntag), an dem (i) das Trans-European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET) und (ii) the Clearingsystem geöffnet sind und Zahlungen weiterleiten</p> <p>(d) Bezugnahmen in diesen Anleihebedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Rückzahlungsbetrag der Schuldverschreibungen (wie in § [5(a)][●] definiert); [den vorzeitigen Rückzahlungsbetrag (wie in § [5(b)][●] definiert)] sowie jeden Aufschlag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § [7][●] zahlbaren Zusätzlichen Beträge einschließen.</p> <p>(e) Die Emittentin ist berechtigt, alle auf die</p>	<p>Clearing System or to its order for credit to the respective account holders. Payments to the Clearing System or to its order shall to the extent of amounts so paid constitute the discharge of the Issuer from its corresponding liabilities under the Terms and Conditions of the Notes. Any reference in these Terms and Conditions of the Notes to principal or interest will be deemed to include any Additional Amounts as set forth in § [7][●].</p> <p>(b) If any payment of principal or interest with respect to a Note is to be effected on a day other than a Business Day, payment will be effected on the next following Business Day. In this case, the relevant Noteholders will neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.</p> <p>(c) In these Terms and Conditions, "<b>Business Day</b>" means a day (other than a Saturday or Sunday) on which (i) the Trans-European Automated Real-time Gross settlement Express Transfer System 2 (TARGET) and (ii) the Clearing System are operating and settle payments.</p> <p>(d) References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: the Final Redemption Amount of the Notes (as defined in § [5(a)][●]); [the Put Early Redemption Amount (as defined in § [5(b)][●]);] and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § [7][●].</p> <p>(e) The Issuer may deposit with the local court</p>
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<p>Schuldverschreibungen zahlbaren Beträge, auf die Anleihegläubiger keinen Anspruch erhoben haben, bei dem Amtsgericht [Frankfurt am Main][●] zu hinterlegen. Soweit die Emittentin auf das Recht zur Rücknahme der hinterlegten Beträge verzichtet, erlöschen die betreffenden Ansprüche der Anleihegläubiger gegen die Emittentin.</p> <p><b>§ [7][●] Steuern</b></p> <p>(a) Sämtliche in Bezug auf die Schuldverschreibungen zu zahlenden Beträge werden ohne Abzug oder Einbehalt von oder wegen gegenwärtiger oder zukünftiger Steuern oder sonstiger Abgaben jedweder Art gezahlt, die durch oder für die Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde durch Abzug oder Einbehalt an der Quelle auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben.</p> <p>In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (die "<b>Zusätzlichen Beträge</b>") zahlen, die erforderlich sind, um sicherzustellen, dass der nach einem solchen Abzug oder Einbehalt verbleibende Nettobetrag denjenigen Beträgen entspricht, die ohne solchen Abzug oder Einbehalt zu zahlen gewesen wären.</p> <p>(b) Zusätzliche Beträge gemäß § [7(a)][●] sind nicht zahlbar wegen Steuern oder Abgaben, die:</p> <p>(i) von einer als Depotbank oder Inkassobeauftragter des Anleihegläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder</p>	<p>(<i>Amtsgericht</i>) in [Frankfurt am Main][●] any amounts payable on the Notes not claimed by Noteholders. To the extent that the Issuer waives its right to withdraw such deposited amounts, the relevant claims of the Noteholders against the Issuer shall cease.</p> <p><b>§ [7][●] Taxes</b></p> <p>(a) All amounts payable under the Notes will be paid without deduction or withholding for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding at source by or on behalf of the Federal Republic of Germany or by or on behalf of any political subdivision or authority thereof or therein having power to tax, unless such deduction or withholding is required by law.</p> <p>In such event the Issuer will pay such additional amounts (the "<b>Additional Amounts</b>") as may be necessary in order that the net amounts after such deduction or withholding will equal the amounts that would have been payable if no such deduction or withholding had been made.</p> <p>(b) No Additional Amounts will be payable pursuant to § [7(a)][●] with respect to taxes or duties which:</p> <p>(i) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or</p>
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<p>(ii) durch den Anleihegläubiger wegen einer anderen gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung zur Bundesrepublik Deutschland zu zahlen sind als der bloßen Tatsache, dass Zahlungen auf die Schuldverschreibungen aus Quellen in der Bundesrepublik Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind;</p> <p>(iii) aufgrund (A) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (B) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Bundesrepublik Deutschland oder die Europäische Union beteiligt ist, oder (C) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder</p> <p>(iv) aufgrund einer Rechtsänderung zu zahlen sind, welche später als [30][●] Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß § [14][●] wirksam wird.</p> <p>Die gegenwärtig in der Bundesrepublik Deutschland erhobene Kapitalertragsteuer und der darauf jeweils anfallende Solidaritätszuschlag sind keine Steuer oder sonstige Abgabe im oben genannten Sinn, für die zusätzliche Beträge seitens der Emittentin zu zahlen wären.</p> <p><b>§ [8][●] Kündigungsrecht der Anleihegläubiger</b></p> <p>(a) Jeder Anleihegläubiger ist berechtigt, seine Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zum Vorzeitigen Rückzahlungsbetrag zuzüglich</p>	<p>(ii) are payable by reason of the Noteholder having, or having had, another personal or business connection with the Federal Republic of Germany than the mere fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Federal Republic of Germany;</p> <p>(iii) are deducted or withheld pursuant to (A) any European Union Directive or Regulation concerning the taxation of interest income, or (B) any international treaty or understanding relating to such taxation and to which the Federal Republic of Germany or the European Union is a party, or (C) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or</p> <p>(iv) are payable by reason of a change in law that becomes effective more than [30][●] days after the relevant payment of principal or interest becomes due, or, if this occurs later, after all due amounts have been duly provided for and a notice to that effect has been published in accordance with § [14][●].</p> <p>The withholding tax (<i>Kapitalertragsteuer</i>) currently levied in the Federal Republic of Germany and the solidarity surcharge (<i>Solidaritatzuschlag</i>) imposed thereon do not constitute a tax or duty as described above in respect of which additional Amounts would be payable by the Issuer.</p> <p><b>§ [8][●] Events of Default</b></p> <p>(a) Each Noteholder will be entitled to declare his Notes due and demand immediate redemption of his Notes at the Early Redemption Amount plus accrued interest, if</p>
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<p>aufgelaufener Zinsen zu verlangen, falls</p> <p>(i) die Emittentin Kapital oder Zinsen nicht innerhalb von [7][●] Tagen nach dem betreffenden Fälligkeitstag zahlt;</p> <p>[(ii) die Emittentin irgendeine andere Verpflichtung aus den Schuldverschreibungen nicht ordnungsgemäß erfüllt und die Unterlassung, sofern sie nicht heilbar ist, länger als [30][●] Tage fort dauert; nachdem die Emittentin hierüber eine Benachrichtigung von einem Anleihegläubiger erhalten hat;]</p> <p>[[[(iii)][●] die Emittentin [oder eine wesentliche Tochtergesellschaft (wie nachstehend definiert)] schriftlich erklärt, dass sie ihre Schulden bei Fälligkeit nicht zahlen kann (<i>Zahlungseinstellung</i>);]</p> <p>[[[(iv)][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] eine Zahlungsverpflichtung in Höhe von insgesamt mehr als [EUR][●] [5.000.000][●] (in Worten: [Euro][●] [fünf Millionen][●]) aus einer Finanzverbindlichkeit (wie nachstehend definiert) oder aufgrund einer Bürgschaft oder Garantie, die für solche Verbindlichkeiten Dritter gegeben wurde, bei (ggf. vorzeitiger) Fälligkeit und nach Ablauf einer Frist von [30][●] Tagen nach Inanspruchnahme nicht erfüllt (<i>Drittverzug</i>);]</p> <p>[[[(v)][●] (A) ein Insolvenzverfahren über das Vermögen der Emittentin [oder einer Wesentlichen Tochtergesellschaft (wie nachstehend definiert)] eröffnet wird, oder (B) die Emittentin [oder eine Wesentliche Tochtergesellschaft] ein solches Verfahren einleitet oder beantragt, oder (C) ein Dritter ein Insolvenzverfahren gegen die Emittentin [oder eine Wesentliche Tochtergesellschaft] beantragt und ein solches Verfahren nicht innerhalb einer Frist von [30][●] Tagen aufgehoben oder ausgesetzt worden ist, es sei denn es wird</p>	<p>(i) the Issuer fails to provide principal or interest within [7][●] days from the relevant due date;</p> <p>[(ii) the Issuer fails to duly perform any other obligation arising from the Notes and such default, except where such default is incapable of remedy, continues unremedied for more than [30][●] days after the Issuer has received notice thereof from a Noteholder;]</p> <p>[[[(iii)][●] the Issuer [or a Material Subsidiary (as defined below)] states in writing that it is unable to pay its debts as they become due (<i>Cessation of payment</i>);]</p> <p>[[[(iv)][●] the Issuer [or a Material Subsidiary (as defined below)] fails to fulfil any payment obligation in excess of a total amount of [EUR][●] [5,000,000][●] (in words: [five million][●] [Euros][●]) under any Financial Indebtedness (as defined below), or under any guaranty or suretyship for any such indebtedness of a third party, when due (including in case of any acceleration) and within [30][●] days after being invoked (<i>Cross Default</i>);]</p> <p>[[[(v)][●] (A) the Issuer's [or a Material Subsidiary's (as defined below)] assets have been subjected to an insolvency proceeding, or (B) the Issuer [or a Material Subsidiary] applies for or institutes such proceedings or (C) a third party applies for insolvency proceedings against the Issuer [or a Material Subsidiary] and such proceedings are not discharged or stayed within [30][●] days, unless such proceeding is dismissed due to insufficient assets;]</p>
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<p>mangels Masse abgewiesen oder eingestellt;]</p> <p>[[vi)][●] die Emittentin ihre Geschäftstätigkeit ganz einstellt oder ihr gesamtes oder wesentliche Teile ihres Vermögens an Dritte (außer der Emittentin oder eine ihrer jeweiligen Tochtergesellschaften) abgibt und dadurch der Wert des Vermögens der Emittentin (auf Konzernebene) wesentlich vermindert wird. Eine solche wesentliche Wertminderung wird im Falle einer Veräußerung von Vermögen angenommen, wenn der Wert der veräußerten Vermögensgegenstände [50 %][●] der [konsolidierten] Bilanzsumme der Emittentin übersteigt;]</p> <p>[[vii)][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft oder im Zusammenhang mit einer Umwandlung und die andere oder neue Gesellschaft übernimmt im Wesentlichen alle Aktiva und Passiva der Emittentin [oder der Wesentlichen Tochtergesellschaft], einschließlich aller Verpflichtungen, die die Emittentin im Zusammenhang mit den Schuldverschreibungen hat;]</p> <p>[[viii)][●] die Emittentin eine "<b>Unzulässige Ausschüttung</b>" an ihre [Kommanditisten] [Aktionäre] [Kommanditaktionäre] in einem Geschäftsjahr vornimmt, die mehr als [50 % des Jahresüberschusses der Emittentin (nach Abzug von Anteilen Dritter am Jahresüberschuss)][●], der im jeweils vorangegangenen Geschäftsjahr, beginnend mit dem Jahresüberschuss für das Geschäftsjahr [2019][●], erwirtschaftet wurde, beträgt. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche Zahlungsansprüche[;][.]</p>	<p>[[vi)][●] the Issuer ceases its business operations in whole or sells or transfers its assets in whole or a material part thereof to a third party (except for the Issuer and any of its subsidiaries) and this causes a substantial reduction of the value of the assets of the Issuer (on a consolidated basis). In the event of a sale of assets such a substantial reduction shall be assumed if the value of the assets sold exceeds [50 %][●] of the [consolidated] total assets and liabilities of the Issuer;]</p> <p>[[vii)][●] the Issuer [or a Material Subsidiary (as defined below)] is wound up, unless this is effected in connection with a merger or another form of amalgamation with another company or in connection with a restructuring, and the other or the new company effectively assumes substantially all of the assets and liabilities of the Issuer [or the Material Subsidiary], including all obligations of the Issuer arising in connection with the Notes;]</p> <p>[[viii)][●] the Issuer makes a "<b>Prohibited Disbursement</b>" to its [limited partners] [shareholders] in a financial year that amount to more than [50 % of the Issuer's net income (after deduction of any third party interests in the net income)][●], which is generated in the preceding financial year, beginning with the net income for the financial year [2019][●]. Exceptions to this are statutory and corporate-law based payment claims[;][.]</p>
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[●]

["**Wesentliche Tochtergesellschaft**" bezeichnet [eine Tochtergesellschaft der Emittentin, (i) deren Umsatzerlöse [10][●] % der konsolidierten Umsatzerlöse der Emittentin übersteigen oder (ii) deren Bilanzsumme [10][●] % der konsolidierten Bilanzsumme der Emittentin übersteigt, wobei die Schwelle jeweils anhand der Daten in dem jeweils letzten geprüften oder, im Fall von Halbjahreskonzernabschlüssen, ungeprüften Konzernabschluss der Emittentin nach IFRS und in dem jeweils letzten geprüften (soweit verfügbar) oder (soweit nicht verfügbar) ungeprüften nicht konsolidierten Abschluss der betreffenden Tochtergesellschaft zu ermitteln ist.][●]

["**Finanzverbindlichkeit**" bezeichnet [(i) Verpflichtungen aus der Aufnahme von Darlehen, (ii) Verpflichtungen unter Schuldverschreibungen, Schuldscheinen oder ähnlichen Schuldtiteln, (iii) die Hauptverpflichtung aus Akzept-, Wechseldiskont und ähnlichen Krediten und (iv) Verpflichtungen unter Finanzierungsleasing und Sale und Leaseback Vereinbarungen sowie Factoring Vereinbarungen.][●]

(b) Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

[●]

["**Material Subsidiary**" means [a Subsidiary of the Issuer (i) whose revenues exceed [10][●] % of the consolidated revenues of the Issuer or (ii) whose total assets and liabilities exceed [10][●] % of the consolidated total assets and liabilities of the Issuer, where each threshold shall be calculated on the basis of the last audited or, in case of half yearly accounts, unaudited consolidated financial statements of the Issuer in accordance with the International Financial Reporting Standards (IFRS) and in the last audited (if available) or (if unavailable) unaudited unconsolidated financial statements of the Subsidiary.][●]

["**Financial Indebtedness**" shall mean [(i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) the principal component of obligations in respect of letters of credit, bankers' acceptances and similar instruments, and (iv) capitalized lease obligations and attributable indebtedness related to sale/leaseback transactions and factoring agreements.][●]

(b) The right to declare the Notes due and demand immediate redemption shall cease if the reason for the termination has been rectified before the exercise of the termination right.

<p>(c) Eine Benachrichtigung oder Kündigung gemäß § [8(a)][●] ist durch den Anleihegläubiger schriftlich in deutscher oder englischer Sprache gegenüber der Emittentin zu erklären und zusammen mit dem Nachweis in Form einer Bescheinigung der Depotbank gemäß § [15(d)][●] oder in einer anderen geeigneten Weise, dass der Benachrichtigende zum Zeitpunkt der Benachrichtigung Anleihegläubiger ist, persönlich oder durch eingeschriebenen Brief an die Emittentin zu übermitteln. Eine Benachrichtigung oder Kündigung wird jeweils mit Zugang bei der Emittentin wirksam.</p> <p><b>§ [9][●] Beschränkung hinsichtlich bestimmter Zahlungen</b></p> <p>[Die Emittentin verpflichtet sich, weder selbst noch über eine Tochtergesellschaft eine Dividendenzahlung oder sonstige Ausschüttungen an einen direkten oder indirekten Gesellschafter vorzunehmen, die [50][●] % des im konsolidierten und geprüften Jahresabschluss der Emittentin festgestellten Gewinns übersteigen. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche Zahlungsansprüche.][<i>Andere optionale Regelung: [●]</i>]</p> <p><b>§ [10][●] Vorlegungsfrist, Verjährung</b></p> <p>Die Vorlegungsfrist gemäß § 801 Absatz 1 Satz 1 Bürgerliches Gesetzbuch ("<b>BGB</b>") für die Schuldverschreibungen beträgt, abweichend von der gesetzlichen Regelung, zehn Jahre. Die Verjährungsfrist für Ansprüche aus den Schuldverschreibungen, die innerhalb der Vorlegungsfrist zur Zahlung vorgelegt wurden, beträgt zwei Jahre von dem Ende der betreffenden Vorlegungsfrist an.</p> <p><b>§ [11][●] Zahlstelle</b></p>	<p>(c) A notification or termination pursuant to § [8(a)][●] has to be effected by the Noteholder in writing in the German or English language <i>vis-a-vis</i> the Issuer together with a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof or in any other adequate manner evidencing that the notifying person is a Noteholder as per the notification, to be delivered personally or by registered mail to the Issuer. A notification or termination will become effective upon receipt thereof by the Issuer.</p> <p><b>§ [9][●] Limitation on Certain Payments</b></p> <p>[The issuer undertakes, neither directly nor through any of its subsidiaries, to pay out any dividend or to make any other distribution to a direct or indirect shareholder, which exceeds [50][●] % of the result after taxation determined by the consolidated and audited Annual Report of the Issuer of the respective year, save for any legally or contractually binding payments.][<i>Other optional scheme: [●]</i>]</p> <p><b>§ [10][●] Presentation Period, Prescription</b></p> <p>Waiving the statutory provisions, the period for presentation of the Notes (§ 801 paragraph 1 sentence 1 German Civil Code ("<b>BGB</b>") will be ten years. The period of limitation for claims under the Notes presented during the period for presentation will be two years calculated from the expiration of the relevant presentation period.</p> <p><b>§ [11][●] Paying Agent</b></p>
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<p>(a) Die [Flatex Bank AG, eingetragen im Handelsregister des Amtsgerichts Frankfurt am Main unter der Nummer HRB 105687 und der Geschäftsanschrift: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, eingetragen im Handelsregister des Amtsgerichts München unter der Nummer HRB 121537 und der Geschäftsanschrift: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB Großbritannien][●], (die "<b>Zahlstelle</b>") ist Hauptzahlstelle. Die Zahlstelle in ihrer Eigenschaft als Hauptzahlstelle und jede an ihre Stelle tretende Hauptzahlstelle werden in diesen Anleihebedingungen auch als "<b>Hauptzahlstelle</b>" bezeichnet. Die Hauptzahlstelle behält sich das Recht vor, jederzeit ihre bezeichneten Geschäftsstellen durch eine andere Geschäftsstelle in derselben Stadt zu ersetzen.</p> <p>(b) Die Emittentin wird dafür Sorge tragen, dass stets eine Hauptzahlstelle vorhanden ist. Die Emittentin ist berechtigt, andere Banken von internationalem Standing als Hauptzahlstelle zu bestellen. Die Emittentin ist weiterhin berechtigt, die Bestellung einer Bank zur Hauptzahlstelle zu widerrufen. Im Falle einer solchen Abberufung oder falls die bestellte Bank nicht mehr als Hauptzahlstelle tätig werden kann oder will, bestellt die Emittentin eine andere Bank von internationalem Standing als Hauptzahlstelle. Eine solche Bestellung oder ein solcher Widerruf der Bestellung ist gemäß § [14][●] oder, falls dies nicht möglich sein sollte, durch eine öffentliche Bekanntmachung in sonstiger Weise bekannt zu machen.</p> <p>(c) Die Hauptzahlstelle ist in dieser Funktion ausschließlich Beauftragte der Emittentin. Zwischen der Hauptzahlstelle und den</p>	<p>(a) [Flatex Bank AG, registered in the commercial register kept with the local court (<i>Amtsgericht</i>) Frankfurt am Main, registration number HRB 105687 with business address at: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, registered in the commercial register kept with the local court (<i>Amtsgericht</i>) München registration number HRB 121537 with business address: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB United Kingdom][●], (the "<b>Paying Agent</b>") will be the Paying Agent. The Principal Agent in its capacity as Principal Paying Agent and any successor Principal Paying Agent are also referred to in these Terms and Conditions as "<b>Principal Paying Agent</b>". The Principal Paying Agent reserves the right at any time to change its specified offices to some other office in the same city.</p> <p>(b) The Issuer will procure that there will at all times be a Principal Paying Agent. The Issuer is entitled to appoint banks of international standing as Principal Paying Agent. Furthermore, the Issuer is entitled to terminate the appointment of the Principal Paying Agent. In the event of such termination or such bank being unable or unwilling to continue to act as Principal Paying, the Issuer will appoint another bank of international standing as Principal Paying Agent. Such appointment or termination will be published without undue delay in accordance with § [14][●], or, should this not be possible, be published in another way.</p> <p>(c) The Principal Paying Agent acting in such capacity, act only as agents of the Issuer. There is no agency or fiduciary relationship between the Paying Agent and the Noteholders.</p>
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<p>Anleihegläubigern besteht kein Auftrags- oder Treuhandverhältnis.</p> <p>(d) Die Hauptzahlstelle ist von den Beschränkungen des § 181 BGB und etwaigen gleichartigen Beschränkungen des anwendbaren Rechts anderer Länder befreit.</p> <p><b>§ [12][●] Begebung weiterer Schuldverschreibungen</b></p> <p>Die Emittentin behält sich vor, jederzeit ohne Zustimmung der Anleihegläubiger weitere Schuldverschreibungen mit im wesentlichen gleicher Ausstattung wie die Schuldverschreibungen (gegebenenfalls mit Ausnahme des Begebungstages, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit den Schuldverschreibungen zu einer einheitlichen Serie von Schuldverschreibungen konsolidiert werden können und ihren Gesamtnennbetrag erhöhen. Der Begriff "<b>Schuldverschreibung</b>" umfasst im Falle einer solchen Konsolidierung auch solche zusätzlich begebenen Schuldverschreibungen. Die Begebung weiterer Schuldverschreibungen, die mit den Schuldverschreibungen keine Einheit bilden und die über andere Ausstattungsmerkmale verfügen, sowie die Begebung von anderen Schuldtiteln bleiben der Emittentin unbenommen.</p> <p><b>§ [13][●] Änderung der Anleihebedingungen durch Beschluss der Anleihegläubiger; gemeinsamer Vertreter</b></p> <p>(a) Änderung der Anleihebedingungen. Die Anleihebedingungen können durch die Emittentin mit Zustimmung der Anleihegläubiger aufgrund Mehrheitsbeschlusses nach Maßgabe der §§ 5 ff. des Gesetzes über Schuldverschreibungen aus Gesamtemissionen ("<b>SchVG</b>") in seiner jeweiligen gültigen Fassung geändert werden.</p>	<p>(d) The Principal Paying Agent is hereby granted exemption from the restrictions of § 181 BGB and any similar restrictions of the applicable laws of any other country.</p> <p><b>§ [12][●] Further Issues</b></p> <p>The Issuer reserves the right to issue from time to time, without the consent of the Noteholders, additional notes with substantially identical terms as the Notes (as the case may be, except for the issue date, interest commencement date and/or issue price), in a manner that the same can be consolidated to form a single Series of Notes and increase the aggregate principal amount of the Notes. The term "<b>Note</b>" will, in the event of such consolidation, also comprise such additionally issued Notes. The Issuer shall, however, not be limited in issuing additional notes, which are not consolidated with the Notes and which provide for different terms, as well as in issuing any other debt securities.</p> <p><b>§ [13][●] Amendments to the Terms and Conditions by resolution of the Noteholders; Joint Representative</b></p> <p>(a) Amendments to the Terms and Conditions. The Issuer may amend the Terms and Conditions with consent by a majority resolution of the Noteholders pursuant to § 5 et seq. of the German Act on Issues of Debt Securities (<i>Gesetz über Schuldverschreibungen aus Gesamtemissionen – "SchVG"</i>), as amended from time to time. In particular, the Noteholders may consent to</p>
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<p>Die Anleihegläubiger können insbesondere einer Änderung wesentlicher Inhalte der Anleihebedingungen, einschließlich der in § 5 Absatz 3 SchVG vorgesehenen Maßnahmen, mit den in dem nachstehenden § [13(b)][●] genannten Mehrheiten zustimmen. Ein ordnungsgemäß gefasster Mehrheitsbeschluss ist für alle Anleihegläubiger verbindlich. Ein Mehrheitsbeschluss der Anleihegläubiger, der nicht gleiche Bedingungen für alle Anleihegläubiger vorsieht, ist unwirksam, es sei denn die benachteiligten Anleihegläubiger stimmen ihrer Benachteiligung ausdrücklich zu.</p> <p>(b) Qualifizierte Mehrheit. Vorbehaltlich des nachstehenden Satzes und der Erreichung der erforderlichen Beschlussfähigkeit, beschließen die Anleihegläubiger mit der einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen, insbesondere in den Fällen des § 5 Absatz 3 Nummern 1 bis 9 SchVG, geändert wird, bedürfen zu ihrer Wirksamkeit einer Mehrheit von mindestens 75 % der an der Abstimmung teilnehmenden Stimmrechte (eine "<b>qualifizierte Mehrheit</b>").</p> <p>(c) Beschlussfassung. Beschlüsse der Anleihegläubiger werden entweder in einer Gläubigerversammlung nach § [13(c)(i)][●] oder im Wege der Abstimmung ohne Versammlung nach § [13(c)(ii)][●] getroffen.</p>	<p>amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under § 5(3) of the SchVG, by resolutions passed by such majority of the votes of the Noteholders as stated under § [13(b)][●] below. A duly passed majority resolution shall be binding upon all Noteholders. Resolutions which do not provide for identical conditions for all Noteholders are void, unless Noteholders who are disadvantaged have expressly consented to their being treated disadvantageously.</p> <p>(b) Qualified Majority. Except as provided by the following sentence and provided that the quorum requirements are being met, the Noteholders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of § 5(3) numbers 1 through 9 of the SchVG, may only be passed by a majority of at least 75 % of the voting rights participating in the vote (a "<b>Qualified Majority</b>").</p> <p>(c) Passing of Resolutions. Resolutions of the Noteholders shall be made either in a Noteholder's meeting in accordance with § [13(c)(i)][●] or by means of a vote without a meeting (<i>Abstimmung ohne Versammlung</i>) in accordance § [13(c)(ii)][●].</p>
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(i) Beschlüsse der Anleihegläubiger im Rahmen einer Gläubigerversammlung werden nach §§ 9 ff. SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Gläubigerversammlung nach Maßgabe von § 9 SchVG verlangen. Die Einberufung der Gläubigerversammlung regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Einberufung der Gläubigerversammlung werden in der Tagesordnung die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben. Für die Teilnahme an der Gläubigerversammlung oder die Ausübung der Stimmrechte ist eine Anmeldung der Anleihegläubiger vor der Versammlung erforderlich. Die Anmeldung muss unter der in der Einberufung mitgeteilten Adresse spätestens am dritten Kalendertag vor der Gläubigerversammlung zugehen.

(ii) Beschlüsse der Anleihegläubiger im Wege der Abstimmung ohne Versammlung werden nach § 18 SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Abstimmung ohne Versammlung nach Maßgabe von § 9 i.V.m. § 18 SchVG verlangen. Die Aufforderung zur Stimmabgabe durch den Abstimmungsleiter regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Aufforderung zur Stimmabgabe werden die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben.

(d) Stimmrecht. An Abstimmungen der Anleihegläubiger nimmt jeder Gläubiger nach

(i) Resolutions of the Noteholders in a Noteholder's meeting shall be made in accordance with § 9 et seq. of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, to convene a Noteholders' meeting pursuant to § 9 of the SchVG. The convening notice of a Noteholders' meeting will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions will be notified to Noteholders in the agenda of the meeting. The attendance at the Noteholders' meeting or the exercise of voting rights requires a registration of the Noteholders prior to the meeting. Any such registration must be received at the address stated in the convening notice by no later than the third calendar day preceding the Noteholders' meeting.

(ii) Resolutions of the Noteholders by means of a voting not requiring a physical meeting (*Abstimmung ohne Versammlung*) shall be made in accordance § 18 of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, the holding of a vote without a meeting pursuant to § 9 in connection with § 18 of the SchVG. The request for voting as submitted by the chairman (*Abstimmungsleiter*) will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions shall be notified to Noteholders together with the request for voting.

(d) Voting Right. Each Noteholder participating in any vote shall cast votes in accordance with the

<p>Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil. Das Stimmrecht ruht, solange die Anteile der Emittentin oder einem mit ihr verbundenen Unternehmen (§ 271 Absatz 2 Handelsgesetzbuch) zustehen oder für Rechnung der Emittentin oder eines mit ihr verbundenen Unternehmens gehalten werden. Die Emittentin darf Schuldverschreibungen, deren Stimmrechte ruhen, einem anderen nicht zu dem Zweck überlassen, die Stimmrechte an ihrer Stelle auszuüben; dies gilt auch für ein mit der Emittentin verbundenes Unternehmen. Niemand darf das Stimmrecht zu dem in Satz 3 erster Halbsatz bezeichneten Zweck ausüben.</p> <p>(e) Nachweise. Anleihegläubiger haben die Berechtigung zur Teilnahme an der Abstimmung zum Zeitpunkt der Stimmabgabe durch besonderen Nachweis der Depotbank gemäß § [15(d)][●] und die Vorlage eines Sperrvermerks der Depotbank zugunsten der von der Emittentin mit der Tagesordnung für die Abstimmung benannten Hinterlegungsstelle, die nicht die Zahlstelle sein wird, für den Abstimmungszeitraum nachzuweisen.</p> <p>(f) Gemeinsamer Vertreter. Die Anleihegläubiger können durch Mehrheitsbeschluss zur Wahrung ihrer Rechte nach Maßgabe des SchVG einen gemeinsamen Vertreter für alle Gläubiger (der "<b>gemeinsame Vertreter</b>") bestellen.</p> <p>(i) Der gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Anleihegläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Anleihegläubiger zu befolgen. Soweit er zur Geltendmachung von Rechten der Anleihegläubiger ermächtigt ist, sind die einzelnen Anleihegläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn der Mehrheitsbeschluss sieht dies</p>	<p>nominal amount or the notional share of its entitlement to the outstanding Notes. As long as the entitlement to the Notes lies with, or the Notes are held for the account of, the Issuer or any of its affiliates (§ 271(2) of the German Commercial Code (<i>Handelsgesetzbuch</i>)), the right to vote in respect of such Notes shall be suspended. The Issuer may not transfer Notes, of which the voting rights are so suspended, to another person for the purpose of exercising such voting rights in the place of the Issuer; this shall also apply to any affiliate of the Issuer. No person shall be permitted to exercise such voting right for the purpose stipulated in sentence 3, first half sentence, herein above.</p> <p>(e) Proof of Eligibility. Noteholders must demonstrate their eligibility to participate in the vote at the time of voting by means of a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof and by submission of a blocking instruction by the Depository Bank for the benefit of the depository (<i>Hinterlegungsstelle</i>), as specified by the Issuer together with agenda for the vote and being different from the Paying Agent, for the voting period.</p> <p>(f) Joint Representative. The Noteholders may by majority resolution appoint a common representative (the "<b>Common Representative</b>") in accordance with the SchVG to exercise the Noteholders' rights on behalf of all Noteholders.</p> <p>(i) The Common Representative shall have the duties and powers provided by law or granted by majority resolution of the Noteholders. The Common Representative shall comply with the instructions of the Noteholders. To the extent that the Common Representative has been authorized to assert certain rights of the Noteholders, the Noteholders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Common</p>
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<p>ausdrücklich vor. Über seine Tätigkeit hat der gemeinsame Vertreter den Anleihegläubigern zu berichten. Die Bestellung eines gemeinsamen Vertreters bedarf einer qualifizierten Mehrheit, wenn er ermächtigt wird, wesentlichen Änderungen der Anleihebedingungen gemäß § [13(b)][●] zuzustimmen.</p> <p>(ii) Der gemeinsame Vertreter kann von den Anleihegläubigern jederzeit ohne Angabe von Gründen abberufen werden. Der gemeinsame Vertreter kann von der Emittentin verlangen, alle Auskünfte zu erteilen, die zur Erfüllung der ihm übertragenen Aufgaben erforderlich sind. Die durch die Bestellung eines gemeinsamen Vertreters entstehenden Kosten und Aufwendungen, einschließlich einer angemessenen Vergütung des gemeinsamen Vertreters, trägt die Emittentin.</p> <p>(iii) Der gemeinsame Vertreter haftet den Anleihegläubigern als Gesamtgläubiger für die ordnungsgemäße Erfüllung seiner Aufgaben; bei seiner Tätigkeit hat er die Sorgfalt eines ordentlichen und gewissenhaften Geschäftsleiters anzuwenden. Die Haftung des gemeinsamen Vertreters kann durch Beschluss der Gläubiger beschränkt werden. Über die Geltendmachung von Ersatzansprüchen der Anleihegläubiger gegen den gemeinsamen Vertreter entscheiden die Anleihegläubiger.</p> <p>(g) Bekanntmachungen. Bekanntmachungen betreffend diesen § [13][●] erfolgen gemäß den §§ 5 ff. SchVG sowie nach § [14][●].</p> <p><b>§ [14][●] Bekanntmachungen</b></p> <p>(a) Die Schuldverschreibungen betreffende Bekanntmachungen werden im Bundesanzeiger und auf der Webseite der Emittentin unter [www.estream-energy.com][●] im Bereich ["Anleihe[n]"][●] veröffentlicht. Eine Mitteilung gilt mit dem Tag ihrer Veröffentlichung (oder bei</p>	<p>Representative shall provide reports to the Noteholders on its activities. The appointment of a Common Representative by a Qualified Majority if such Common Representative is to be authorised to consent to a material change in the substance of the Terms and Conditions as set out in § [13(b)][●] hereof.</p> <p>(ii) The Common Representative may be removed from office at any time by the Noteholders without specifying any reasons. The Common Representative may demand from the Issuer to furnish all information required for the performance of the duties entrusted to it. The Issuer shall bear the costs and expenses arising from the appointment of a Common Representative, including reasonable remuneration of the Common Representative.</p> <p>(iii) The Common Representative shall be liable for the performance of its duties towards the Noteholders who shall be joint and several creditors (<i>Gesamtgläubiger</i>); in the performance of its duties it shall act with the diligence and care of a prudent business manager. The liability of the Common Representative may be limited by a resolution passed by the Noteholders. The Noteholders shall decide upon the assertion of claims for compensation of the Noteholders against the Common Representative.</p> <p>(g) Notices. Any notices concerning this § [13][●] shall be made in accordance with § 5 et seq. of the SchVG and § [14][●].</p> <p><b>§ [14][●] Notices</b></p> <p>(a) Notices relating to the Notes will be published in in the Federal Gazette (<i>Bundesanzeiger</i>) and on the Issuer's website [www.estream-energy.com][●] under the heading "<b>Bond[s]</b>". A notice will be deemed to be made on the day of its publication (or in the case of more than one</p>
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<p>mehreren Mitteilungen mit dem Tage der ersten Veröffentlichung) als erfolgt.</p> <p>(b) Sofern die Regularien der Börse, an der die Schuldverschreibungen notiert sind, dies zulassen, ist die Emittentin berechtigt, Bekanntmachungen auch durch eine Mitteilung an das Clearingsystem zur Weiterleitung an die Anleihegläubiger oder durch eine schriftliche Mitteilung direkt an die Anleihegläubiger zu bewirken. Bekanntmachungen über das Clearingsystem gelten [sieben][●] Tage nach der Mitteilung an das Clearingsystem, direkte Mitteilungen an die Anleihegläubiger mit ihrem Zugang als bewirkt.</p> <p><b>[§ 15][●] Ersetzung der Emittentin</b></p> <p>(a) Ersetzung. [Für den Fall, dass die Tilgung der Schuldverschreibungen ohne Verzug erfolgt, ist die Emittentin jederzeit berechtigt, ohne Zustimmung der Anleihegläubiger an ihrer Statt eine andere Person (Ersatzemittent) als Hauptschuldner der Schuldverschreibungen für alle sich aus den Schuldverschreibungen ergebenden Anleiheverpflichtungen einzusetzen, die zum Zeitpunkt der Ersetzung und nach Ansicht der [Emittentin][●] ihrem Rang und ihrer Bonität nach der Emittentin mindestens gleichgestellt ist, vorausgesetzt:</p> <p>(i) der Ersatzemittent ist zahlungsfähig und kann allen Verpflichtungen aus den Schuldverschreibungen fristgemäß nachkommen,</p> <p>(ii) gegen den Ersatzemittenten sind weder ein Liquidations-, Abwicklungs-, Insolvenz- oder ähnliches Sanierungsverfahren eröffnet oder angedroht worden;</p> <p>(iii) der Ersatzemittent hat von den zuständigen Behörden seines Sitzstaates alle erforderlichen Genehmigungen erteilt bekommen (zur Klarstellung: ausgenommen hiervon ist die</p>	<p>publication on the day of the first publication).</p> <p>(b) The Issuer shall also be entitled to make notifications to the Clearing System for communication by the Clearing System to the Noteholders or directly to the Noteholders provided this complies with the rules of the stock exchange on which the Notes are listed. Notifications <i>vis-à-vis</i> the Clearing System will be deemed to be effected [seven][●] days after the notification to the Clearing System, direct notifications of the Noteholders will be deemed to be effected upon their receipt.</p> <p><b>[§ 15][●] Substitution of the Issuer</b></p> <p>(a) Substitution. [The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the Substitute Issuer) as principle debtor) under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer][●], of at least the equivalent standing and creditworthiness to the Issuer provided that:</p> <p>(i) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;</p> <p>(ii) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;</p> <p>(iii) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the</p>
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<p>Billigung zur Veröffentlichung des Anleiheprospekts);</p> <p>(iv) die Ersetzung der Emittentin durch den Ersatzemittenten hat nicht zur Folge, dass den Anleihegläubigern unmittelbar oder mittelbar zusätzliche Steuern, Zölle oder Abgaben auferlegt werden, wobei der Ersatzemittent sich verpflichtet hat, jeden Anleihegläubiger von allen Steuern, Zöllen, Veranlagungen oder Abgaben freizustellen, die dem Anleihegläubiger aufgrund oder infolge des Ersetzung auferlegt werden].[●]</p> <p>Die Ersetzung ist den Anleihegläubigern in Übereinstimmung mit § [14][●] der Anleihebedingungen anzuzeigen.</p> <p>[Emittentin übernimmt keine Garantien für die Verpflichtungen des Ersatzemittenten aus den Schuldverschreibungen nach der Ersetzung. Es wird unterstellt, dass die Anleihegläubiger durch Zeichnung oder Erwerb der Schuldverschreibungen (i) sowohl dem in Übereinstimmung mit § [15][●] der Anleihebedingungen durchgeführten Ersetzung als auch der Freistellung der Emittentin von sämtlichen Verpflichtungen aus den betroffenen Schuldverschreibungen und der vorliegenden Urkunde zugestimmt haben und (ii) die Ersetzung und die sich hieraus ergebenden Folgen akzeptiert haben.][●]</p> <p>[Nach Ersetzung der Emittentin durch einen Ersatzemittenten ist § [15][●] der Anleihebedingungen erneut anzuwenden. Im Falle einer Ersetzung wird unterstellt, dass jede Bezugnahme auf die Emittentin in diesen Anleihebedingungen den Ersatzemittenten einschließt.][●]</p> <p>(b) Änderung der Bezugnahme. Im Fall einer Ersetzung wird ab diesem Zeitpunkt unterstellt, dass mit jeder Bezugnahme auf die Emittentin in diesen Anleihebedingungen auf den</p>	<p>public offering of the Notes) from the authorities of the country in which it has its registered office;</p> <p>(iv) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.][●]</p> <p>Notice of any such substitution shall be given to the Noteholders in accordance with § [14][●].</p> <p>[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this § [15][●] and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.][●]</p> <p>[After the substitution(s) of the Issuer by a Substitute Issuer this § [15][●] shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer.][●]</p> <p>(b) Change of References. In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any</p>
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Ersatzemittenten verwiesen wird und dass mit jeder Bezugnahme auf das Land, in dem die emittentin ihren Sitz hat oder steueransässig ist, auf das Land verwiesen wird, in dem der Ersatzemittentr seinen Sitz hat oder steueransässig ist.

[(c) Weitere Ersetzungen. [Nach einer Ersetzung gemäß § [15(a)][●] der Anleihebedingungen kann der Ersatzemittent ohne Zustimmung der Anleihegläubiger eine weitere Ersetzung vornehmen. Alle in den § [15(a)][●] und § [15(b)][●] der Anleihebedingungen enthaltenen Bestimmungen sind entsprechend anzuwenden, wobei unterstellt wird, dass jede Bezugnahme auf die Emittentin in diesen Anleihebedingungen jeden weiteren Ersatzemittenten einschließt, falls der Zusammenhang dies erfordert.][●]]

[(d) Rückgängigmachung der Ersetzung. [Nach einer Ersetzung gemäß § [15(a)][●] [or § [15(c)][●]] der Anleihebedingungen kann jeder Ersatzemittent ohne Zustimmung der Anleihegläubiger die Ersetzung entsprechend rückgängig machen.][●]]

#### **§ [16] [●] Schlussbestimmungen**

(a) Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Anleihegläubiger, der Emittentin, und der Hauptzahlstelle bestimmen sich in jeder Hinsicht nach dem Recht der Bundesrepublik Deutschland.

(b) Erfüllungsort ist Duisburg.

(c) Gerichtsstand ist Duisburg. Für Entscheidungen gemäß § 9 Absatz 2, § 13 Absatz 3 und § 18 Absatz 2 SchVG in Verbindung mit § 9 Abs. 3 SchVG ist das Amtsgericht Duisburg zuständig. Für Entscheidungen über die Anfechtung von Beschlüssen der Anleihegläubiger ist gemäß § 20 Absatz 3 SchVG das Landgericht Duisburg ausschließlich

reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

[(c) Further substitution. [After a substitution pursuant to § [15(a)][●], the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in § [15(a)][●] and § [15(b)][●] shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.][●]]

[(d) Reverse substitution. [After a substitution pursuant to § [15(a)][●] [or § [15(c)][●]] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.][●]]

#### **§ [16] [●] Final Provisions**

(a) The form and content of the Notes and the rights and duties of the Noteholders, the Issuer and the Principal Paying Agent shall in all respects be governed by the laws of the Federal Republic of Germany.

(b) Place of performance is Duisburg.

(c) Place of jurisdiction shall be Duisburg. The local court (*Amtsgericht*) Duisburg will have jurisdiction for all judgments pursuant to § 9(2), § 13(3) and § 18(2) SchVG in accordance with § 9(3) SchVG. The regional court (*Landgericht*) Duisburg will have exclusive jurisdiction for all judgments over contested resolutions by Noteholders in accordance with § 20(3) SchVG.

<p>zuständig.</p> <p>(d) Jeder Anleihegläubiger kann in Rechtsstreitigkeiten gegen die Emittentin oder in Rechtsstreitigkeiten, an denen der Anleihegläubiger und die Emittentin beteiligt sind, im eigenen Namen seine Rechte aus den von ihm gehaltenen Schuldverschreibungen geltend machen unter Vorlage einer Bescheinigung seiner Depotbank, die (i) den vollen Namen und die volle Anschrift des Anleihegläubigers enthält, (ii) den Gesamtnennbetrag der Schuldverschreibungen angibt, die am Tag der Ausstellung dieser Bescheinigung dem bei dieser Depotbank bestehenden Depot des Anleihegläubigers gutgeschrieben sind. Im Sinne der vorstehenden Bestimmungen ist "<b>Depotbank</b>" ein Bank- oder sonstiges Finanzinstitut (einschließlich des Clearingsystems), das eine Genehmigung für das Wertpapier-Depotgeschäft hat und bei dem der Anleihegläubiger Schuldverschreibungen im Depot verwahren lässt.</p> <p>(e) Für die Kraftloserklärung abhanden gekommener oder vernichteter Schuldverschreibungen sind ausschließlich die Gerichte der Bundesrepublik Deutschland zuständig.</p> <p>(f) Die [deutsche][englische] Fassung dieser Anleihebedingungen ist rechtsverbindlich.</p>	<p>(d) Any Noteholder may in any proceedings against the Issuer or to which the Noteholder and the Issuer are parties protect and enforce in its own name its rights arising under its Notes by submitting the following documents: a certificate issued by its Depository Bank (i) stating the full name and address of the Noteholder, (ii) specifying an aggregate principal amount of Notes credited on the date of such statement to such Noteholders' securities deposit account maintained with such Depository Bank. For purposes of the foregoing, "<b>Depository Bank</b>" means any bank or other financial institution authorized to engage in securities deposit business with which the Noteholder maintains a securities deposit account in respect of any Notes, and includes the Clearing System.</p> <p>(e) The courts of the Federal Republic of Germany shall have exclusive jurisdiction over the annulment of lost or destroyed Notes.</p> <p>(f) The [German][English] version of these Terms and Conditions shall be binding.</p>
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## Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law

The following is the text of the terms and conditions of the notes (the "**Terms and Conditions**") applicable to the Notes. The final Terms and Conditions of the Notes will be an integral part of the respective Global Notes.

The Terms and Conditions are written in the German and English language. The German text shall be the legally binding version. The English language translation is provided for convenience only.

<p style="text-align: center;"><b>Anleihebedingungen</b> (die "<b>Anleihebedingungen</b>")</p>	<p style="text-align: center;"><b>Terms and Conditions of the Notes</b> (the "<b>Terms and Conditions</b>")</p>
<p><b>§ 1 Gesamtnennbetrag, Nennbetrag, Stückelung und Form</b></p> <p>(a) Diese Anleihe der E-Stream Energy GmbH &amp; Co KG, Duisburg (die "<b>Emittentin</b>") im Gesamtnennbetrag von [bis zu] [EUR][●][●] (in Worten: [EUR][●][●]) (der "<b>Gesamtnennbetrag</b>"), ist in auf den Inhaber lautende, untereinander gleichberechtigte Schuldverschreibungen (die "<b>Schuldverschreibungen</b>") im Nennbetrag von jeweils [EUR][●][1.000,00][●] (in Worten: [Euro][●][ein Tausend][●]) (der "<b>Nennbetrag</b>") eingeteilt.</p> <p>[Im Falle von Tefra D einfügen:</p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit zunächst durch eine vorläufige Inhaber-Globalschuldverschreibung (die "<b>vorläufige Globalurkunde</b>") ohne Zinsscheine verbrieft, die nicht früher als 40 Tage und nicht später als 180 Tage nach dem Begebungstag (wie nachstehend definiert) durch eine Inhaber-Dauerglobalurkunde (die "<b>Dauerglobalurkunde</b>", die vorläufige Globalurkunde und die Dauerglobalurkunde gemeinsam die "<b>Globalurkunde</b>") ohne Zinsscheine ausgetauscht wird. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine US-Person(en) ist</p>	<p><b>§ 1 Aggregate Principal Amount, Principle Amount, Denomination and Form</b></p> <p>(a) This bond of E-Stream Energy GmbH &amp; Co KG, Duisburg (the "<b>Issuer</b>") in the aggregate principal amount of [up to] [EUR][●][●] (in words: [EUR][●][●]) ("<b>the Aggregate Principal Amount</b>"), is divided into partial notes (the "<b>Notes</b>") payable to the bearer and ranking <i>pari passu</i> among themselves in the denomination of [EUR][●][1,000.00][●] each (in words: [Euro][●][one thousand][●]) (the "<b>Principal Amount</b>").</p> <p>[In case of Tefra D insert:</p> <p>(b) The Notes will initially be represented for the whole life of the Notes by a temporary global bearer note (the "<b>Temporary Global Note</b>") without interest coupons, which will be exchanged not earlier than 40 days and not later than 180 days after the Issue Date (as defined below) against a permanent global bearer note (the "<b>Permanent Global Note</b>", the Temporary Global Note and the Permanent Global Note together the "<b>Global Note</b>") without interest coupons. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions) in accordance</p>

<p>bzw. sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten), jeweils im Einklang mit den Regeln und Verfahren der [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] ("<b>Clearingsystem</b>"). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß diesem Absatz (b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten von Amerika geliefert werden.][●]</p> <p><i>[im Falle ohne Tefra D einfügen:</i></p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit durch eine Inhaber-Dauerglobalurkunde (die "<b>Dauerglobalurkunde</b>" bzw. die "<b>Globalurkunde</b>") verbrieft. Die Globalurkunde wird von [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] oder einem Funktionsnachfolger verwahrt ("<b>Clearingsystem</b>").][●]</p> <p>(c) Die <i>[im Falle von Tefra D einfügen:</i> vorläufige Globalurkunde und] die</p>	<p>with the rules and operating procedures of [in case of Clearstream Banking Frankfurt insert: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, business address: Mergenthalerallee 61, 65760 Eschborn] [in case of another Central Securities Depository insert: [●]] ("<b>Clearing System</b>"). Payments of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Notes represented by the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this subparagraph (b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.][●]</p> <p><i>[in case without Tefra D insert:</i></p> <p>(b) The Notes will be represented for the whole life of the Notes by a permanent global bearer Note (die "<b>Permanent Global Note</b>" respectively the "<b>Global Note</b>"). The Global Note will be kept in custody by [in case of Clearstream Banking Frankfurt insert: Clearstream Banking AG, Mergenthaler Allee 61, 65760 Eschborn, Federal Republic of Germany][in case of another Central Securities Depository insert: [●]], or any successor in such capacity ("<b>Clearing System</b>").][●]</p> <p>(c) The <i>[in case with Tefra D insert:</i> Temporary Global Note and the Permanent] Global Note</p>
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<p>Dauerglobalurkunde sind nur wirksam, wenn sie jeweils die eigenhändige Unterschrift eines Vertreters der Emittentin tragen. Die Globalurkunde wird bei dem Clearingsystem hinterlegt. Der Anspruch der Anleihegläubiger auf Ausgabe einzelner Schuldverschreibungen oder Zinsscheine ist ausgeschlossen.</p> <p>(d) Den Inhabern der Anleihen (die "<b>Anleihegläubiger</b>") stehen Miteigentumsanteile oder Rechte an der Globalurkunde zu, die nach Maßgabe des anwendbaren Rechts und der Regeln und Bestimmungen des Clearingsystems übertragen werden können.</p> <p><b>§ 2 Status der Schuldverschreibungen [und Garantie] [und Negativverpflichtung]</b></p> <p>(a) Status. Die Schuldverschreibungen begründen unmittelbare, unbedingte, [nicht] nachrangige und nicht besicherte Verbindlichkeiten der Emittentin[ und stehen im gleichen Rang untereinander und mindestens im gleichen Rang mit allen anderen gegenwärtigen und zukünftigen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin, soweit bestimmte zwingende gesetzliche Bestimmungen nichts anderes vorschreiben].</p> <p>(b) Die Timberland Securities Investment plc (die "<b>Garantin</b>") hat ihre bedingungslose und unwiderrufliche Garantie (die "<b>Garantie</b>") mit Datum vom [●] für die fällige und pünktliche Zahlung des Kapitals und der Zinsen sowie aller sonstigen Beträge, die unter einer Schuldverschreibung zu zahlen sind, in einem Gesamtbetrag von [bis zu] [dem Gesamtkapitalbetrag der Schuldverschreibungen] [angegebene Währung einfügen] [Betrag einfügen] abgegeben. Die Garantie begründet jeweils einen Vertrag zugunsten der Anleihegläubiger als Drittbegünstigte gemäß § 328 Abs. 1 BGB, aus</p>	<p>shall only be valid if it bears the handwritten signature of a representative of the Issuer. The Global Note will be deposited with the Clearing System. The right to require the issue of definitive Notes or interest coupons has been excluded.</p> <p>(d) The holder of the notes (the "<b>Noteholders</b>") will receive co-ownership participations in the Global Note, which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.</p> <p><b>§ 2 Status of the Notes [and Guarantee] [and Negative Pledge]</b></p> <p>(a) Status. The Notes constitute direct, unconditional, [un]subordinated and unsecured obligations of the Issuer[ and rank <i>pari passu</i> without any preference among themselves and at least <i>pari passu</i> with all other unsubordinated and unsecured obligations of the Issuer, present and future save for certain mandatory exceptions provided by law].</p> <p>(b) Timberland Securities Investment plc (the "<b>Guarantor</b>") has given its unconditional and irrevocable guarantee (the "<b>Guarantee</b>") dated [●] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of [up to] [the aggregate principal amount of the Notes] [insert specified currency] [insert amount]. The Guarantee constitutes a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (Bürgerliches Gesetzbuch), giving rise to the right of each Noteholder to require performance of the</p>
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<p>dem sich das Recht jedes Anleihegläubigers ergibt, die Leistung aus der Garantie direkt von der Garantin zu verlangen und die Garantie direkt gegen die Garantin durchzusetzen.</p> <p>[(c) Negativverpflichtung. [Die Emittentin verpflichtet sich und hat dafür Sorge zu tragen, dass ihre Tochtergesellschaften (wie nachstehend definiert), solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Hauptzahlstelle zur Verfügung gestellt worden sind, keine Grundpfandrechte, Pfandrechte, Belastungen oder sonstigen Sicherungsrechte (jedes solches Sicherungsrecht eine "<b>Sicherheit</b>") in Bezug auf ihren gesamten oder Teil ihres Geschäftsbetriebes, Vermögen oder Einkünfte, jeweils gegenwärtig oder zukünftig, zur Sicherung von anderen Kapitalmarktverbindlichkeiten (wie nachstehend definiert) oder zur Sicherung einer von der Emittentin oder einer ihrer Tochtergesellschaften gewährten Garantie oder Freistellung bezüglich einer Kapitalmarktverbindlichkeit einer anderen Person zu bestellen oder fortbestehen zu lassen, ohne gleichzeitig oder zuvor alle unter den Schuldverschreibungen zahlbaren Beträge in gleicher Weise und in gleichem Rang Sicherheiten zu bestellen oder für alle unter den Schuldverschreibungen zahlbaren Beträge solch eine andere Sicherheit zu bestellen, die von einer unabhängigen, international anerkannten Wirtschaftsprüfungsgesellschaft als gleichwertig anerkannt wird.][●]</p> <p>[Diese Verpflichtung gilt jedoch nicht:</p> <p>(i) für Sicherheiten, die gesetzlich vorgeschrieben sind, oder die als Voraussetzung für staatliche Genehmigungen verlangt werden;</p> <p>(ii) für zum Zeitpunkt des Erwerbs von Vermögenswerten durch die Emittentin bereits an solchen Vermögenswerten bestehende</p>	<p>Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor.</p> <p>[(c) Negative Pledge. [The Issuer undertakes, so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Principal Paying Agent, not to create or permit to subsist, and to procure that none of its Subsidiaries (as defined below) will create or permit to subsist, any mortgage, lien, pledge, charge or other security interest (each such right a "<b>Security</b>") over the whole or any part of its undertakings, assets or revenues, present or future, to secure any Capital Market Indebtedness (as defined below) or to secure any guarantee or indemnity given by the Issuer or any of its subsidiaries in respect of any Capital Market Indebtedness of any other person, without, at the same time or prior thereto, securing all amounts payable under the Notes either with equal and rateable Security or providing all amounts payable under the Notes such other Security as shall be approved by an independent accounting firm of internationally recognized standing as being equivalent security.][●]</p> <p>[This undertaking shall not apply with respect to:</p> <p>(i) any Security which is provided for by law or which has been required as a condition precedent for public permissions;</p> <p>(ii) any Security existing on assets at the time of the acquisition thereof by the Issuer, provided that such Security was not created in connection</p>
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<p>Sicherheiten, soweit solche Sicherheiten nicht im Zusammenhang mit dem Erwerb oder in Erwartung des Erwerbs des jeweiligen Vermögenswerts bestellt wurden und der durch die Sicherheit besicherte Betrag nicht nach Erwerb des betreffenden Vermögenswertes erhöht wird;</p> <p>(iii) Sicherheiten, die von einer Tochtergesellschaft der Emittentin an Forderungen bestellt werden, die ihr aufgrund der Weiterleitung von aus dem Verkauf von Kapitalmarktverbindlichkeiten erzielten Erlösen gegen die Emittentin zustehen, sofern solche Sicherheiten der Besicherung von Verpflichtungen aus den jeweiligen Kapitalmarktverbindlichkeiten der betreffenden Tochtergesellschaft dienen.][●]</p> <p>[Im Sinne dieser Anleihebedingungen bedeutet "<b>Kapitalmarktverbindlichkeit</b>" jede gegenwärtige oder zukünftige Verbindlichkeit hinsichtlich der Rückzahlung geliehener Geldbeträge, die durch besicherte oder unbesicherte Schuldverschreibungen, Anleihen oder sonstige Wertpapiere, die an einer Börse oder in einem anderen anerkannten Wertpapier- oder außerbörslichen Markt zugelassen sind, notiert oder gehandelt werden oder zugelassen, notiert oder gehandelt werden können.</p> <p>"<b>Tochtergesellschaft</b>" ist jede voll konsolidierte Tochtergesellschaft einer Person.</p> <p>Ein nach diesem § 2(c) zu leistendes Sicherungsrecht kann auch zugunsten der Person eines Treuhänders der Anleihegläubiger bestellt werden.][●]</p> <p>[[c)][(d)] [Qualifizierter] Rangrücktritt. Im Fall der Insolvenz oder Liquidation der Emittentin sind die Verpflichtungen der Emittentin aus den Schuldverschreibungen:</p>	<p>with or in contemplation of such acquisition and that the amount secured by such Security is not increased subsequently to the acquisition of the relevant assets;</p> <p>(iii) any Security which is provided by any subsidiary of the Issuer with respect to any receivables of such subsidiary against the Issuer which receivables exist as a result of the transfer of the proceeds from the sale by the subsidiary of any Capital Market Indebtedness, provided that any such security serves to secure obligations under such Capital Market Indebtedness of the relevant subsidiary.][●]</p> <p>[For the purposes of these Terms and Conditions, "<b>Capital Market Indebtedness</b>" shall mean any present or future obligation for the repayment of borrowed monies which is in the form of, or represented or evidenced by bonds, notes, debentures, loan stock or other securities which are, or are capable of being, quoted, listed, dealt in or traded on any stock exchange, or other recognized over-the-counter or securities market.</p> <p>"<b>Subsidiary</b>" means any fully consolidated subsidiary of any person.</p> <p>A security pursuant to this § 2(c) may also be provided to a trustee of the noteholders.][●]</p> <p>[[c)][(d)] [Qualified] subordination clause. In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:</p>
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<p>(1) nachrangig gegenüber allen ihren bestehenden oder künftigen, nicht-nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin[.]; wobei</p> <p>[(i) alle Forderungen aus den Schuldverschreibungen, darunter insbesondere die Ansprüche auf Zahlung des [Vorzeitigen Rückzahlungsbetrages] [,] [Vorzeitigen Rückzahlungsbetrages Call-Option] [,] [Vorzeitigen Rückzahlungsbetrages Put-Option] [und] des Nennbetrages [,] [und] auf Einlösung des Kupons, in Anwendung des § 19 Absatz 2 Satz 2 InsO (Insolvenzordnung) gegenüber allen Forderungen anderer bestehender oder künftiger Gläubiger dergestalt im Rang nachgehen, dass Tilgungs- und Zinszahlungen auf den Schuldverschreibungen erst nach Befriedigung aller anderen Gläubiger, die die in § 39 Absatz 1 Nr. 1 InsO vereinbarte Rangfolge, d.h. den in § 39 Absatz 2 InsO vereinbarten Nachrang, einnehmen, verlangt werden können. Ein Verzicht auf die Forderungen ist nicht möglich.]</p> <p>[[[(ii)][●] Anleihezahlungen können nur aus künftigen Jahresüberschüssen, aus etwaigen Liquidationserlösen oder aus anderen verfügbaren Vermögenswerten verlangt werden.]</p> <p>[[[(iii)][●] Die Anleihegläubiger können keine Befriedigung ihrer Forderungen verlangen, wenn hierdurch in Anwendung des deutschen Insolvenzrechts die Überschuldung oder Zahlungsunfähigkeit der Emittentin herbeigeführt wird oder droht.]</p> <p>[[[(iv)][●] Die Absätze (i) bis (iii) gelten sowohl vor wie auch nach der Eröffnung des Insolvenzverfahrens.]</p> <p>[[[(v)][●] Im Übrigen sind die Anleihegläubiger ohne Einschränkungen berechtigt, ihre Rechte aus den Schuldverschreibungen geltend zu machen und Erfüllung zu verlangen.]</p>	<p>(1) junior to all present or future unsubordinated instruments or obligations of the Issuer[.]; whereby:</p> <p>[(i) All claims under the Notes, including but not limited to the claims for payment of the [Early Redemption Amount][,] [Call Early Redemption Amount] [,][Put Early Redemption Amount] [and] the Principal Amount[,], [and] the payment of the Coupon, applying in accordance with section 19 (2) sentence 2 of the German Insolvency Code (<i>Insolvenzordnung</i>, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]</p> <p>[[[(ii)][●] Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]</p> <p>[[[(iii)][●] The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (<i>überschuldet</i>) or unable to pay its debts (<i>zahlungsunfähig</i>) within applying the meaning of German insolvency law.]</p> <p>[[[(iv)][●] Paragraphs (i) to (iii) apply both before and after the opening of insolvency proceedings.]</p> <p>[[[(v)][●] In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]</p>
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<p>[[vi]][•] Zur Klarstellung: Diese Regelung stellt einen Vertrag zugunsten der Gläubigergesamtheit der Emittentin in Anwendung des § 328 Absatz 2 BGB (Bürgerliches Gesetzbuch) dar. Eine Kündigung dieser Rangrücktrittsvereinbarung ohne Mitwirkung der Gläubiger ist daher nur zulässig, wenn die Insolvenz Kriterien (Absatz (iii)) in Bezug auf die Emittentin nicht oder nicht länger erfüllt sind.]</p> <p>[•][•]</p> <p>[(2) gleichrangig (a) untereinander und (b) mit allen bestehenden oder künftigen Verpflichtungen aus anderen Tier-2-Instrumenten; und</p> <p>[(3) vorrangig gegenüber [allen bestehenden oder künftigen (a) Verpflichtungen aus AT-1-Instrumenten und (b)] allen übrigen nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin, die [(x)] gegenüber ihren Verpflichtungen der Emittentin aus den Schuldverschreibungen im Rang nachgehen[.] [oder (y) mit Verpflichtungen der Emittentin aus AT-1-Instrumenten im Rang gleichgestellt sind.][•][•]</p> <p>[[d]][(e)] Keine Aufrechnung oder Sicherheit. Eine Aufrechnung der Forderungen der Emittentin gegen die Rückzahlungsverpflichtungen der Emittentin aus diesen Schuldverschreibungen ist nicht zulässig, und weder die Emittentin noch Dritte sind berechtigt, vertragliche Sicherheiten für das mit den Schuldverschreibungen begründete Schuldverhältnis zu stellen. [Die Schuldverschreibungen sind weder besichert noch Gegenstand einer Garantie, die den Vorrang der Anleiheforderungen erhöht.] [Die Schuldverschreibungen unterliegen weder vertraglichen noch sonstigen Vereinbarungen,</p>	<p>[[vi]][•] For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (<i>Gläubigergesamtheit</i>) applying within the meaning of section 328 (2) of the German Civil Code (<i>Bürgerliches Gesetzbuch</i>). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]</p> <p>[•][•]</p> <p>[(2) pari passu (a) among themselves, and (b) with all present or future obligations under any other Tier 2 Instruments; and</p> <p>[(3) senior to [all present or future (a) obligations under any AT 1 Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank [(x)] subordinated to the obligations of the Issuer under the Notes[.] [or (y) pari passu with obligations under any AT 1 Instruments.][•][•]</p> <p>[[d]][(e)] No Set-off or Security. Claims of the Issuer are not permitted to be set-off against repayment obligations of the Issuer under these Notes, and no contractual collateral may be provided by the Issuer or any third person for the liabilities constituted by the Notes. [The Notes are neither secured nor subject to a guarantee that enhances the seniority of the claims under the Notes.] [The Notes are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claims under the Notes.] [No subsequent agreement may limit the subordination pursuant to this Clause (c).]</p>
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<p>die den Vorrang der Anleiheforderungen erhöhen.] [Die unter Buchstabe (c) geregelte Nachrangigkeit darf durch nachträgliche Vereinbarungen nicht berührt oder beeinträchtigt werden.]]</p> <p><b>[§ 3 Finanzielle Verpflichtungen</b></p> <p><b>[[a)][•] Eigenkapitalquote</b></p> <p>[Die Emittentin stellt sicher, dass sie eine Eigenkapitalquote (wie nachstehend definiert) von wenigstens [fünfundzwanzig][•] [(25)][•] Prozent aufrechterhalten wird. [Die Eigenkapitalquote errechnet sich in Übereinstimmung mit [HGB] [oder] [IFRS] [nach Wahl der Emittentin].]</p> <p>Sofern die Emittentin am jeweiligen Stichtag eine niedrigere Eigenkapitalquote als nach vorstehendem Absatz ermittelt und im Einklang mit § 4(d) bekannt gibt, ist auf die Schuldverschreibungen ein Erhöhter Zinssatz (wie in § 4(d) definiert) anwendbar.</p> <p>Wobei gilt:</p> <p><b>"Eigenkapitalquote"</b> bedeutet [das bilanzielle Eigenkapital dividiert durch die Bilanzsumme][•], wobei alle Zahlen aus dem letzten geprüften Jahresabschluss der Emittentin zu ermitteln sind [und die Emittentin berechnigt ist, für Zwecke der Berechnung der Eigenkapitalquote die zum Zeitpunkt der Emission genutzten Bilanzierungsmethoden – ggf. auch abweichend vom testierten [Jahresabschluss] [bzw.] [Halbjahresabschluss] – fortzuführen][•].</p> <p><b>"Stichtag"</b> bedeutet [[den 31. Dezember 2019][•] [und jeden weiteren 31. Dezember][•] [bis zum Fälligkeitstermin]][•].]</p>	<p><b>[§ 3 Financial Covenants</b></p> <p><b>[[a)][•] Equity Capital Ratio</b></p> <p>[The Issuer ensures that itself maintains an Equity Capital Ratio (as defined below) of at least [twenty-five][•] [(25)][•] percent. [The Equity Capital Ratio shall be calculated in accordance with [local GAP] [or] [IFRS] [at the Issuer' option].]</p> <p>In case the Issuer determines a lower Equity Capital Ratio (as mentioned in the above paragraphs on a relevant Reporting Date and publishes said Equity Capital Ratio in accordance with § 4(d), and Increased Coupon (as defined in § 4(d)) shall apply to the Notes.</p> <p>Whereby:</p> <p><b>"Equity Capital Ratio"</b> means [the balance sheet equity divided by the balance sheet total][•], whereby all figures are to be determined from the last audited annual financial statements of the Issuer [and the Issuer is entitled, for the purpose of calculating the equity ratio, to continue the accounting methods used at the time of the issue – eventually also deviating from the audited [annual] [or] [semi-annual] financial statements][•].</p> <p><b>"Reporting Date"</b> means [[the 31 December 2019][•] [and each further 31 December][•] [until the Redemption Date]][•].]</p>
<p><b>[[b)][•] Liquiditätsreserve</b></p>	<p><b>[[b)][•] Liquidity Reserve</b></p> <p>The Issuer undertakes to ensure that its</p>



<p>Die Emittentin verpflichtet sich darauf hinzuwirken, dass ihre Tochtergesellschaften [ggf. Namen der Tochtergesellschaft(en) einfügen: [●]], sofern erforderlich und sofern sie Gewinne erwirtschaften, eine ausschüttungsfähige Liquidität aufweisen und zumindest so viele Mittel an die Emittentin ausschütten, dass die Emittentin stets in der Lage ist, ihre Verpflichtungen aus diesen Anleihebedingungen zu erfüllen.]</p> <p><b>[[c)][●] Informationspflichten</b></p> <p>Die Emittentin verpflichtet sich, den Anleihegläubigern in der Form des § [14][●] oder durch Veröffentlichung auf ihrer Internetseite (www.estream-energy.com) [bzw. einer Nachfolgewebseite][●] zur Verfügung zu stellen:</p> <p>[(i)] den geprüften Abschluss zum [31. Dezember 2019][●] sobald verfügbar, jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres [2019][●] sowie die geprüften Abschlüsse für die darauf folgenden Geschäftsjahre sobald verfügbar, jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres[.]; und]</p> <p>[[ii)] sobald verfügbar, jedoch nicht später als [6][●] Monate nach dem Ende jedes Geschäftshalbjahres einen erstellten ungeprüften Halbjahresabschluss.]]</p> <p><b>[[d)][●] Börsennotierung</b></p> <p>Die Emittentin wird dafür Sorge tragen, eine Notierung der Schuldverschreibungen in [den Open Market (Freiverkehr)][●] der [Frankfurter Wertpapierbörse][●] [oder einer anderen Wertpapierbörse] [in Deutschland] [oder] [in der EU] [oder] [●] herbeizuführen und bis zur Endfälligkeit der Schuldverschreibungen, längstens jedoch bis zu dem Zeitpunkt aufrechtzuerhalten, in dem sämtliche</p>	<p>subsidiaries [insert name of the subsidiaries, if any: [●]], if necessary and if they generate profits, have distributable liquidity and distribute at least sufficient funds to the Issuer that the Issuer is always in a position to meet its obligations under these Terms and Conditions.]</p> <p><b>[[c)][●] Information Obligation</b></p> <p>The Issuer undertakes to provide the Noteholders in the form of § [14][●] or by publication on its website (www.estream-energy.com) [or on a successor website][●] with:</p> <p>[(i)] the audited financial statements as at [31 December 2019][●] as available but not later than [9][●] months after the end of each financial year [2019][●] and the audited financial statements for subsequent financial years as available but not later than [9][●] months after the end of each financial year[.]; and]</p> <p>[[ii)] as soon as available, but not later than [6][●] months after the end of each half-year, an unaudited half-year financial statement.]]</p> <p><b>[[d)][●] Listing</b></p> <p>The Issuer will ensure that the Notes are listed on [the Open Market (Freiverkehr)][●] of [the Frankfurt Stock Exchange][●] [or another stock exchange] [in Germany] [or] [in the EU] [or] [●] and will maintain such listing until final maturity of the Notes, but at the latest until all Notes have been redeemed or repurchased.]</p>
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Schuldverschreibungen zurückbezahlt oder zurückgekauft wurden.]

[[e]][•] [Weitere] [Finanzielle Verpflichtung[en]

[•]]

#### § 4][•] Verzinsung

(a) [Die Schuldverschreibungen werden ab dem [•] (einschließlich) (der "**Begebungstag**") bezogen auf ihren Nennbetrag mit [•] % jährlich (der "**Zinssatz**") verzinst. Die Zinsen sind jährlich nachträglich jeweils am [•] eines jeden Jahres (jeweils ein "**Zinszahlungstag**" und der Zeitraum ab dem Begebungstag (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) jeweils eine "**Zinsperiode**") zahlbar. Die erste Zinszahlung wird am [•] fällig.][Andere anwendbare Verzinsung: [•]]

(b) Die Verzinsung der Schuldverschreibungen endet mit Beginn des Tages, an dem sie zur Rückzahlung fällig werden, oder, sollte die Emittentin eine Zahlung aus diesen Schuldverschreibungen bei Fälligkeit nicht leisten, mit Beginn des Tages der tatsächlichen Zahlung. Der Zinssatz erhöht sich in diesem Fall um [5][•] Prozentpunkte p.a.

[(c) [Sind Zinsen im Hinblick auf einen Zeitraum zu berechnen, der kürzer als eine Zinsperiode ist, so werden sie berechnet auf der Grundlage der Anzahl der tatsächlichen verstrichenen Tage im relevanten Zeitraum (gerechnet vom letzten Zinszahlungstag (einschließlich)) dividiert durch die tatsächliche Anzahl der Tage der Zinsperiode (365 Tage bzw. 366 Tage im Falle eines Schaltjahrs) (Actual/Actual).][Andere Zinsperiodenberechnung: [•]]

[[e]][•] [Additional] Financial Covenant[s]

[•]]

#### § 4][•] Interest

(a) [The Notes will bear interest on their principal amount at a rate of [•] % per annum (the "**Coupon**") as from [•] (the "**Issue Date**"). Interest is payable in arrears on [•] of each year (the "**Interest Payment Date**" and the period from the Issue Date (inclusive) up to the first Interest Payment Date (exclusive) and thereafter as from any Interest Payment Date (inclusive) up to the next following Interest Payment Date (exclusive) being an "**Interest Period**"). The first interest payment will be due on [•].][Other applicable Interest: [•]]

(b) The Notes shall cease to bear interest from the beginning of the day they are due for redemption, or, in case the Issuer fails to make any payment under the Notes when due, from the beginning of the day on which such payment is made. In such case, the rate of interest shall be increased by [5][•] percentage points per annum.

[(c) [Where interest is to be calculated in respect of a period which is shorter than an Interest Period the interest will be calculated on the basis of the actual number of days elapsed in the relevant period (from and including the most recent Interest Payment Date) divided by the actual number of days of the Interest Period (365 days and 366 days, respectively, in case of a leap year) (Actual/Actual).][Other applicable Interest-Period-Calculation: [•]]

[(d) Die Emittentin verpflichtet sich, sofern die Emittentin im Wege einer Veröffentlichungsmitteilung (wie nachstehend definiert) bekannt gibt, dass

[- die Eigenkapitalquoten (ermittelt nach den Vorgaben gemäß § 3[(a)]) zum jeweiligen Stichtag, die in § 3[(a)]) benannte Quote unterschritten wurde; [oder]]

[- die Informationspflichten nach § 3[(c)][●] zu den dort genannten Zeitpunkten nicht erfüllt wurden; [oder]]

[- die Verpflichtung nach § 3[(d)][●] zur Börsennotierung nicht erfüllt wurde[,;] [oder]]

[●]

die Schuldverschreibungen in der jeweils Maßgeblichen Zinsperiode (wie nachstehend definiert) mit einem Erhöhten Zinssatz (per annum) (wie nachstehend definiert) zu verzinsen. Die Emittentin verpflichtet sich, eine jede Veröffentlichungsmitteilung mindestens [20][●] Tage vor einem jeden Zinszahlungstag auf der Webseite der Emittentin unter [www.estream-energy.com][●] [im Bereich ["Anleihe[n]"][●]] zu veröffentlichen.]]

[Mit Bezug auf einen Fall nach § 3[(a)] gilt, dass eine Unterschreitung der Eigenkapitalquote gilt als eingetreten, wenn auf Basis des jeweils maßgeblichen festgestellten Jahresabschlusses die Verminderung der Eigenkapitalquote festgestellt wurde.]

Wobei gilt:

"**Erhöhter Zinssatz**" bedeutet [einen Zinssatz (per annum), zu zahlen auf die Schuldverschreibungen, korrespondierend mit der Summe aus Zinssatz und [0,5][●] Prozentpunkten][●].

[(d) The Issuer undertakes, in the event that Issuer notifies by way of a Disclosure Notification (as defined below) that

[- the Equity Capital Ratio (determined in accordance with § 3[(a)]) as of the relevant Reporting Date is below the ratio as set out in § 3[(a)]; [or]]

[- the information obligation in accordance with § 3[(c)][●] has not been fulfilled in time at the relevant date; [or]]

[- the obligation in accordance with § 3[(d)][●] relating to the listing has not been fulfilled[,;] [or]]

[●]

to pay an Increased Coupon (per annum) (as defined below) on the Notes during the Relevant Interest Period (as defined below). The Issuer undertakes to publish any Disclosure Notification at least [20][●] days prior to each Interest Payment Date on the Issuer's website [www.estream-energy.com][●] [in the section ["Anleihe[n]"][●]].]]

[With respect to § 3[(a)] a shortfall in the Equity Capital Ratio is deemed to have occurred if the reduction in the Equity Capital Ratio was determined on the basis of the relevant adopted annual financial statements.]

Whereby:

"**Increased Coupon**" means [an interest rate (per annum) to be applied on the Notes and which reflects the sum of the Coupon and [0.5][●] percentage points][●].

**"Maßgebliche Zinsperiode"** bedeutet [diejenige Zinsperiode, beginnend mit dem ersten Tag dieser Zinsperiode (einschließlich) und endend mit dem letzten Tag dieser Zinsperiode (ausschließlich), [in welcher der jeweilige Stichtag fällt][welcher derjenigen Zinsperiode folgt, in den der jeweilige Stichtag fällt]][●].

**"Veröffentlichungsmittelung"** bedeutet [eine Mitteilung über [die Höhe der Eigenkapitalquote nach § 3[(a)] zum jeweils letzten Stichtag] [und] [der Verletzung der Informationspflichten nach § 3[(c)][●]] [und] [der Verletzung der Pflicht zur Börsennotierung nach § 3[(d)][●]] [und [●]].[●]]

§ [5][●] **Fälligkeit, Rückzahlung, [vorzeitige Rückzahlung aus steuerlichen Gründen,] [nach Wahl [der Emittentin] [oder] [der Anleihegläubiger]] [sowie Rückkauf] [und Entwertung]**

(a) Die Schuldverschreibungen werden am [●] (der "**Fälligkeitstermin**") zum Nennbetrag zurückgezahlt. Eine vorzeitige Rückzahlung findet außer in den nachstehend genannten Fällen nicht statt.

Für Zwecke dieser Anleihebedingungen bezeichnet "**Vorzeitiger Rückzahlungsbetrag**" den Nennbetrag der Schuldverschreibungen.

[(b) Vorzeitige Rückzahlung aus steuerlichen Gründen. Sollte die Emittentin zu irgendeinem Zeitpunkt in der Zukunft aufgrund einer Änderung des in der Bundesrepublik Deutschland geltenden Rechts oder seiner amtlichen Anwendung verpflichtet sein oder zu dem nächstfolgenden Zahlungstermin für Kapital oder Zinsen verpflichtet werden, die in § [7(a)][●] genannten zusätzlichen Beträge zu zahlen, und diese Verpflichtung nicht durch das Ergreifen vernünftiger, der Emittentin zur Verfügung stehender Maßnahmen vermeiden

**"Relevant Interest Period"** means [the interest period from the first day of this interest period (inclusive) to the last day of this interest period (exclusive) [during which the respective Reporting Date is determined][which follows the Interest Period in which the respective Reporting Date falls]][●].

**"Disclosure Notification"** means [a notification regarding [the Equity Capital Ratio in accordance with § 3[(a)] as per the each recent Reporting Date] [and] [the breach of the information obligation in accordance with § 3[(c)][●]] [and] [the breach of the listing obligation in accordance with § 3[(d)][●]] [and [●]].[●]]

§ [5][●] **Maturity, Redemption[, Early Redemption for Tax Reasons][, at the Option] of [the Issuer] [or] [the Noteholders,] [and Repurchase] [and Cancellation]**

(a) The Notes will be redeemed at par on [●] (the "**Redemption Date**"). There will be no early redemption except in the following cases.

In these Terms and Conditions "**Early Redemption Amount**" means the principal amount of the Notes.

[(b) Early Redemption for Tax Reasons. If at any future time as a result of a change of the laws applicable in the Federal Republic of Germany or a change in their official application, the Issuer is required, or at the time of the next succeeding payment due in respect of principal or interest will be required, to pay additional amounts as provided in this § [7(a)][●], and such obligation cannot be avoided taking reasonable measures available to the Issuer, the Issuer will be entitled, upon not less than [30][●] days' and not more than [60][●] days' notice to be given by

können, so ist die Emittentin mit einer Frist von wenigstens [30][●] Tagen und höchstens [60][●] Tagen berechtigt, durch Bekanntmachung gemäß § [14][●] die Schuldverschreibungen insgesamt zur vorzeitigen Rückzahlung zum Vorzeitigen Rückzahlungsbetrag (wie nachstehend definiert) zuzüglich aufgelaufener Zinsen zu kündigen.

Eine Kündigung gemäß diesem § [5(b)][●] darf allerdings nicht (i) früher als [90][●] Tage vor dem frühest möglichen Termin erfolgen, an dem die Emittentin verpflichtet wäre, solche zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erfolgt, die Verpflichtung zur Zahlung von zusätzlichen Beträgen nicht mehr wirksam ist.

Eine solche Kündigung ist unwiderruflich und muss den für die Rückzahlung festgelegten Termin nennen sowie eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umstände darlegt.]

[[c)][●] Vorzeitige Rückzahlung nach Wahl der Emittentin. Die Emittentin ist berechtigt, frühestens zum [●] ausstehende Schuldverschreibungen mit einer Frist von mindestens [10][●] und höchstens [20][●] Tagen durch Bekanntmachung gemäß § [14][●] insgesamt zu kündigen und vorzeitig zum Vorzeitigen Rückzahlungsbetrag (Call) (wie nachfolgend definiert) zurückzuzahlen. Eine solche Kündigungserklärung ist unwiderruflich. Der Tag der vorzeitigen Rückzahlung muss ein Geschäftstag im Sinne von § [6][●](c) sein. Im Hinblick auf die gekündigten Schuldverschreibungen endet die Verzinsung mit dem letzten Tag vor dem vorzeitigen Rückzahlungstag.

[Der Emittentin steht dieses Wahlrecht nicht in

publication in accordance with § [14][●], prior to the Redemption Date to redeem all Notes at the Early Redemption Amount (as defined below) plus accrued interest.

No notice of redemption pursuant to this § [5(b)][●] shall be made given (i) earlier than [90][●] days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts if a payment in respect of the Notes was then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

Any such notice shall be irrevocable and must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.]

[[c)][●] Early Redemption at the Option of the Issuer. The Issuer shall be entitled, by giving not less than [10][●] nor more than [20][●] days' notice by publication in accordance with § [14][●], to redeem outstanding Notes, in whole, no earlier than per [●] at the Call Early Redemption Amount (as defined below). Such notice shall be irrevocable and shall state the date of early redemption. The date of early redemption must be a Business Day within the meaning of § [6][●](c). In respect of the Notes which are subject to redemption the entitlement to interest shall end with the day immediately preceding the early redemption date.

[The Issuer may not exercise such option in

Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits ein Anleihegläubiger in Ausübung seines Wahlrechts nach § [5(d)][●] verlangt hat.]

**["Vorzeitiger Rückzahlungsbetrag (Call)"]** bezeichnet im Falle einer vorzeitigen Rückzahlung gemäß diesem § [5(c)][●] ab dem [●] bis einschließlich des [●] [104][●] % des Nennbetrages und innerhalb eines Zeitraums ab dem [●] bis zum Fälligkeitstermin [102][●] % des Nennbetrages.][*Anderer Vorzeitiger Rückzahlungsbetrag: [●]*]

[[d)][●] Vorzeitige Rückzahlung nach Wahl der Anleihegläubiger bei einem Kontrollwechsel. Wenn ein Kontrollwechsel (wie nachfolgend definiert) eintritt, ist jeder Anleihegläubiger berechtigt, von der Emittentin die Rückzahlung oder, nach Wahl der Emittentin, den Ankauf seiner Schuldverschreibungen durch die Emittentin (oder auf ihre Veranlassung durch einen Dritten) zum Vorzeitigen Rückzahlungsbetrag (Put) (wie nachfolgend definiert) insgesamt oder teilweise zu verlangen (die **"Put Option"**). Eine solche Ausübung der Put Option wird jedoch nur dann wirksam, wenn innerhalb des Rückzahlungszeitraums (wie nachstehend definiert) Anleihegläubiger von Schuldverschreibungen im Nennbetrag von mindestens [90][●] % des Gesamtnennbetrages der zu diesem Zeitpunkt noch insgesamt ausstehenden Schuldverschreibungen von der Put Option Gebrauch gemacht haben. Die Put Option ist wie nachfolgend unter § [5(e)][●] beschrieben auszuüben.

**"Vorzeitiger Rückzahlungsbetrag (Put)"]** bezeichnet [101][●] % des Nennbetrages.

Ein **"Kontrollwechsel"** liegt vor, wenn eines der folgenden Ereignisse eintritt:

respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under § [5(d)][●].]

**["Call Early Redemption Amount"]** shall mean, in the event of an early redemption pursuant to this § [5(c)][●] within the period commencing on [●] and ending [●] (inclusive) [104][●] % of the Principal Amount and within a period commencing on [●] and ending on the Redemption Day [102][●] % of the Principal Amount.][*Other Call Early Redemption Amount: [●]*]

[[d)][●] Early Redemption at the Option of the Noteholders upon a Change of Control. If a Change of Control (as defined below) occurs, each Noteholder shall have the right to require the Issuer to redeem or, at the Issuer's option, purchase (or procure the purchase by a third party of) in whole or in part his Notes at the Put Early Redemption Amount (as defined below) (the **"Put Option"**). An exercise of the Put option shall, however, only become valid if during the Put Period (as defined below) Noteholders of Notes with a Principal Amount of at least [90][●] % of the Aggregate Principal Amount of the Notes then outstanding have exercised the Put Option. The Put Option shall be exercised as set out below under § [5(e)][●].

**"Put Early Redemption Amount"]** shall mean [101][●] % of the Principal Amount.

**"Change of Control"** means the occurrence of any of the following events:

[(i) die Emittentin erlangt Kenntnis davon, dass eine Dritte Person (wie nachstehend definiert) oder gemeinsam handelnde Dritte Personen im Sinne von § 2 Absatz 5 Wertpapiererwerbs- und Übernahmegesetz (jeweils ein "Erwerber") der rechtliche Eigentümer von mehr als 50 % der Stimmrechte der Emittentin geworden ist; oder

(ii) die Verschmelzung der Emittentin mit einer oder auf eine Dritte Person (wie nachfolgend definiert) oder die Verschmelzung einer Dritten Person mit oder auf die Emittentin, oder der Verkauf aller oder im Wesentlichen aller Vermögensgegenstände (konsolidiert betrachtet) der Emittentin an eine Dritte Person. Dies gilt nicht für Verschmelzungen oder Verkäufe im Zusammenhang mit Rechtsgeschäften, in deren Folge (A) im Falle einer Verschmelzung die Inhaber von 100 % der Stimmrechte der Emittentin wenigstens die Mehrheit der Stimmrechte an dem überlebenden Rechtsträger unmittelbar nach einer solchen Verschmelzung halten und (B) im Fall des Verkaufs von allen oder im Wesentlichen allen Vermögensgegenständen der erwerbende Rechtsträger eine Tochtergesellschaft der Emittentin ist oder wird und Garantin bezüglich der Schuldverschreibungen wird.][●]

[Als Kontrollwechsel ist es nicht anzusehen, wenn sich nach der Zulassung der Anteile der Emittentin zum Handel an [einem regulierten Markt][, oder MTF-Markt] [oder OTF-Markt] einer deutschen Wertpapierbörse oder einem vergleichbaren Marktsegment einer ausländischen Wertpapierbörse weniger als 50 % der Stimmrechte an der Emittentin im Eigentum einer Holdinggesellschaft der Emittentin befinden. Als Kontrollwechsel ist es ebenfalls nicht anzusehen, wenn Anteile an der Emittentin im Wege der Erbfolge übergehen.][●]

[(i) the Issuer becomes aware that any Third Person (as defined below) or group of Third Persons acting in concert within the meaning of § 2 (5) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz, WpÜG*) (each an "Acquirer") has become the legal owner of more than 50 % of the voting rights of the Issuer; or

(ii) the merger of the Issuer with or into a Third Person (as defined below) or the merger of a Third Person with or into the Issuer, or the sale of all or substantially all of the assets (determined on a consolidated basis) of the Issuer to a Third Person, other than in a transaction following which (A) in the case of a merger holders that represented 100 % of the voting rights of the Issuer own directly or indirectly at least a majority of the voting rights of the surviving person immediately after such merger and (B) in the case of a sale of all or substantially all of the assets, each transferee becomes a guarantor in respect of the Notes and is or becomes a subsidiary of the Issuer.][●]

[It shall not be qualified as a Change of Control, however, if following the admission of the Issuer's shares to trading on [the regulated market] [, or MTF-market] [or OTF-market] of a German stock exchange or an equivalent market segment of a foreign stock exchange less than 50 % of the voting rights of the Issuer are owned by a Holding Company of the Issuer. It shall also not be qualified as a Change of Control, if shares of the issuer or any other participating interest will be transferred by testamentary or hereditary succession.][●]

"**Dritte Person**" im Sinne dieses § [5(d)(i) und (ii)][●] ist jede Person außer einer verbundenen Person der Emittentin (wie nachstehend definiert).

"**Verbundene Person**" bezeichnet jede Tochtergesellschaft oder Holdinggesellschaft einer Person sowie jede andere Tochtergesellschaft dieser Holdinggesellschaft.

Wenn ein Kontrollwechsel eintritt, wird die Emittentin unverzüglich nachdem sie hiervon Kenntnis erlangt den Anleihegläubigern Mitteilung vom Kontrollwechsel gemäß § [14(a)][●] machen (die "**Put-Rückzahlungsmitteilung**"), in der die Umstände des Kontrollwechsels sowie das Verfahren für die Ausübung der in diesem § [5(d)][●] genannten Put Option angegeben sind.]

[[e)][●] Die Ausübung der Put Option gemäß § [5(d)][●] muss durch den Anleihegläubiger innerhalb eines Zeitraums (der "**Put-Rückzahlungszeitraum**") von [30][●] Tagen, nachdem die Put-Rückzahlungsmitteilung veröffentlicht wurde, schriftlich gegenüber der depotführenden Stelle des Anleihegläubigers erklärt werden (die "**Put-Ausübungserklärung**"). Die Emittentin wird nach ihrer Wahl die maßgebliche(n) Schuldverschreibung(en) [sieben][●] Tage nach Ablauf des Rückzahlungszeitraums (der "**Put-Rückzahlungstag**") zurückzahlen oder erwerben (bzw. erwerben lassen), soweit sie nicht bereits vorher zurückgezahlt oder erworben und entwertet wurde(n). Die Abwicklung erfolgt über die Emittentin. Eine einmal gegebene Put-Ausübungserklärung ist für den Anleihegläubiger unwiderruflich.]

[[f)][●] Das ordentliche Kündigungsrecht der Anleihegläubiger ist ausgeschlossen.]

[[g)][●] [Die Emittentin kann jederzeit und zu

"**Third Person**" shall for the purpose of this § [5(d)(i) and (ii)][●] mean any person other than an Affiliated Company of the Issuer (as defined below).

"**Affiliated Company**" means in respect to any person, a subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

If a Change of Control occurs, then the Issuer shall, without undue delay, after becoming aware thereof, give notice of the Change of Control (a "**Put Event Notice**") to the Noteholders in accordance with § [14(a)][●] specifying the nature of the Change of Control and the procedure for exercising the Put Option contained in this § [5(d)][●].]

[[e)][●] The exercise of the Put Option pursuant to § [5(d)][●], must be declared by the Noteholder within [30][●] days after a Put Event Notice has been published (the "**Put Period**") to the Depository Bank of such Noteholder in writing (a "**Put Notice**"). The Issuer shall redeem or, at its option, purchase (or procure the purchase of) the relevant Note(s) on the date (the "**Put Redemption Date**") [seven][●] days after the expiration of the Put Period unless previously redeemed or purchased and cancelled. Payment in respect of any Note so delivered will be made in accordance with the customary procedures through the Issuer. A Put Notice, once given, shall be irrevocable.]

[[f)][●] The Noteholders' ordinary right to call is excluded.]

[[g)][●] [The Issuer may at any time purchase



jedem Preis im Markt oder auf andere Weise Schuldverschreibungen ankaufen. Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Zahlstelle zwecks Entwertung eingereicht werden.] [●]

[[h]][●] [Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.] [●]

### § [6][●] Zahlungen, Hinterlegung

(a) Die Emittentin verpflichtet sich, Kapital und Zinsen auf die Schuldverschreibungen bei Fälligkeit in [Euro][●] zu zahlen. Die Zahlung von Kapital und Zinsen erfolgt, vorbehaltlich geltender steuerrechtlicher und sonstiger gesetzlicher Regelungen und Vorschriften, über die Hauptzahlstelle zur Weiterleitung an das Clearingsystem oder nach dessen Weisung zur Gutschrift für die jeweiligen Kontoinhaber. Die Zahlung an das Clearingsystem oder nach dessen Weisung befreit die Emittentin in Höhe der geleisteten Zahlung von ihren entsprechenden Verbindlichkeiten aus den Schuldverschreibungen. Eine Bezugnahme in diesen Anleihebedingungen auf Kapital oder Zinsen der Schuldverschreibungen schließt jegliche Zusätzlichen Beträge gemäß § [7][●] ein.

(b) Falls eine Zahlung auf Kapital oder Zinsen einer Schuldverschreibung an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht den betreffenden Anleihegläubigern weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu.

(c) "**Geschäftstag**" im Sinne dieser Anleihebedingungen ist jeder Tag (außer einem Samstag oder Sonntag), an dem (i) das Trans-

Notes in the market or otherwise. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Paying Agent for cancellation.] [●]

[[h]][●] [All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.] [●]

### § [6][●] Payments, Depositing in Court

(a) The Issuer undertakes to pay, as and when due, principal and interest on the Notes in [Euros][●]. Payment of principal and interest on the Notes shall be made, subject to applicable fiscal and other laws and regulations, through the Principal Paying Agent for on-payment to the Clearing System or to its order for credit to the respective account holders. Payments to the Clearing System or to its order shall to the extent of amounts so paid constitute the discharge of the Issuer from its corresponding liabilities under the Terms and Conditions of the Notes. Any reference in these Terms and Conditions of the Notes to principal or interest will be deemed to include any Additional Amounts as set forth in § [7][●].

(b) If any payment of principal or interest with respect to a Note is to be effected on a day other than a Business Day, payment will be effected on the next following Business Day. In this case, the relevant Noteholders will neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.

(c) In these Terms and Conditions, "**Business Day**" means a day (other than a Saturday or Sunday) on which (i) the Trans-European

European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET) und (ii) das Clearingsystem geöffnet sind und Zahlungen weiterleiten.

(d) Bezugnahmen in diesen Anleihebedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Rückzahlungsbetrag der Schuldverschreibungen (wie in § [5(a)][●] definiert); [den vorzeitigen Rückzahlungsbetrag (wie in § [5(b)][●] definiert)] sowie jeden Aufschlag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § [7][●] zahlbaren Zusätzlichen Beträge einschließen.

(e) Die Emittentin ist berechtigt, alle auf die Schuldverschreibungen zahlbaren Beträge, auf die Anleihegläubiger keinen Anspruch erhoben haben, bei dem Amtsgericht [Frankfurt am Main][●] zu hinterlegen. Soweit die Emittentin auf das Recht zur Rücknahme der hinterlegten Beträge verzichtet, erlöschen die betreffenden Ansprüche der Anleihegläubiger gegen die Emittentin.

#### § [7][●] Steuern

(a) Sämtliche in Bezug auf die Schuldverschreibungen zu zahlenden Beträge werden ohne Abzug oder Einbehalt von oder wegen gegenwärtiger oder zukünftiger Steuern oder sonstiger Abgaben jedweder Art gezahlt, die durch oder für die Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde durch Abzug oder Einbehalt an der Quelle auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben.

Automated Real-time Gross settlement Express Transfer System 2 (TARGET) and (ii) the Clearing System are operating and settle payments.

(d) References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: the Final Redemption Amount of the Notes (as defined in § [5(a)][●]); [the Put Early Redemption Amount (as defined in § [5(b)][●]);] and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § [7][●].

(e) The Issuer may deposit with the local court (*Amtsgericht*) in [Frankfurt am Main][●] any amounts payable on the Notes not claimed by Noteholders. To the extent that the Issuer waives its right to withdraw such deposited amounts, the relevant claims of the Noteholders against the Issuer shall cease.

#### § [7][●] Taxes

(a) All amounts payable under the Notes will be paid without deduction or withholding for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding at source by or on behalf of the Federal Republic of Germany or by or on behalf of any political subdivision or authority thereof or therein having power to tax, unless such deduction or withholding is required by law.

In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (die "**Zusätzlichen Beträge**") zahlen, die erforderlich sind, um sicherzustellen, dass der nach einem solchen Abzug oder Einbehalt verbleibende Nettobetrag denjenigen Beträgen entspricht, die ohne solchen Abzug oder Einbehalt zu zahlen gewesen wären.

(b) Zusätzliche Beträge gemäß § [7(a)][●] sind nicht zahlbar wegen Steuern oder Abgaben, die:

(i) von einer als Depotbank oder Inkassobeauftragter des Anleihegläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder

(ii) durch den Anleihegläubiger wegen einer anderen gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung zur Bundesrepublik Deutschland zu zahlen sind als der bloßen Tatsache, dass Zahlungen auf die Schuldverschreibungen aus Quellen in der Bundesrepublik Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind;

(iii) aufgrund (A) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (B) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Bundesrepublik Deutschland oder die Europäische Union beteiligt ist, oder (C) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder

In such event the Issuer will pay such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts after such deduction or withholding will equal the amounts that would have been payable if no such deduction or withholding had been made.

(b) No Additional Amounts will be payable pursuant to § [7(a)][●] with respect to taxes or duties which:

(i) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or

(ii) are payable by reason of the Noteholder having, or having had, another personal or business connection with the Federal Republic of Germany than the mere fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Federal Republic of Germany;

(iii) are deducted or withheld pursuant to (A) any European Union Directive or Regulation concerning the taxation of interest income, or (B) any international treaty or understanding relating to such taxation and to which the Federal Republic of Germany or the European Union is a party, or (C) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(iv) aufgrund einer Rechtsänderung zu zahlen sind, welche später als [30][●] Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß § [14][●] wirksam wird.

Die gegenwärtig in der Bundesrepublik Deutschland erhobene Kapitalertragsteuer und der darauf jeweils anfallende Solidaritätszuschlag sind keine Steuer oder sonstige Abgabe im oben genannten Sinn, für die zusätzliche Beträge seitens der Emittentin zu zahlen wären.

#### **§ [8][●] Kündigungsrecht der Anleihegläubiger**

(a) Jeder Anleihegläubiger ist berechtigt, seine Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zum Vorzeitigen Rückzahlungsbetrag zuzüglich aufgelaufener Zinsen zu verlangen, falls

(i) die Emittentin oder die Garantin Kapital oder Zinsen nicht innerhalb von [sieben][●] Tagen nach dem betreffenden Fälligkeitstag zahlt;

[(ii) die Emittentin oder die Garantin irgendeine andere Verpflichtung aus den Schuldverschreibungen nicht ordnungsgemäß erfüllt und die Unterlassung, sofern sie nicht heilbar ist, länger als [30][●] Tage fort dauert; nachdem die Emittentin oder die Garantin hierüber eine Benachrichtigung von einem Anleihegläubiger erhalten hat;]

[[iii][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin schriftlich erklärt, dass sie ihre Schulden bei Fälligkeit nicht zahlen kann (*Zahlungseinstellung*);]

(iv) are payable by reason of a change in law that becomes effective more than [30][●] days after the relevant payment of principal or interest becomes due, or, if this occurs later, after all due amounts have been duly provided for and a notice to that effect has been published in accordance with § [14][●].

The withholding tax (*Kapitalertragsteuer*) currently levied in the Federal Republic of Germany and the solidarity surcharge (*Solidaritatzuschlag*) imposed thereon do not constitute a tax or duty as described above in respect of which additional Amounts would be payable by the Issuer.

#### **§ [8][●] Events of Default**

(a) Each Noteholder will be entitled to declare his Notes due and demand immediate redemption of his Notes at the Early Redemption Amount plus accrued interest, if

(i) the Issuer, or the Guarantor, fails to provide principal or interest within [seven][●] days from the relevant due date;

[(ii) the Issuer, or the Guarantor, fails to duly perform any other obligation arising from the Notes and such default, except where such default is incapable of remedy, continues unremedied for more than [30][●] days after the Issuer, or the Guarantor, has received notice thereof from a Noteholder;]

[[iii][●] the Issuer [or a Material Subsidiary (as defined below)] or the Guarantor states in writing that it is unable to pay its debts as they become due (*Cessation of payment*);]

<p>[[iv]] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin eine Zahlungsverpflichtung in Höhe von insgesamt mehr als [EUR] [5.000.000] (in Worten: [Euro] [fünf Millionen]) aus einer Finanzverbindlichkeit (wie nachstehend definiert) oder aufgrund einer Bürgschaft oder Garantie, die für solche Verbindlichkeiten Dritter gegeben wurde, bei (ggf. vorzeitiger) Fälligkeit und nach Ablauf einer Frist von [30] Tagen nach Inanspruchnahme nicht erfüllt (<i>Drittverzug</i>);]</p> <p>[[v]] (A) ein Insolvenzverfahren über das Vermögen der Emittentin [oder einer Wesentlichen Tochtergesellschaft (wie nachstehend definiert)] oder der Garantin eröffnet wird, oder (B) die Emittentin [oder eine wesentliche Tochtergesellschaft] oder die Garantin ein solches Verfahren einleitet oder beantragt, oder (C) ein Dritter ein Insolvenzverfahren gegen die Emittentin [oder eine Wesentliche Tochtergesellschaft] oder die Garantin beantragt und ein solches Verfahren nicht innerhalb einer Frist von [30] Tagen aufgehoben oder ausgesetzt worden ist, es sei denn es wird mangels Masse abgewiesen oder eingestellt;]</p> <p>[[vi]] die Emittentin oder die Garantin ihre Geschäftstätigkeit ganz einstellt oder ihr gesamtes oder wesentliche Teile ihres Vermögens an Dritte (außer der Emittentin oder einer ihrer jeweiligen Tochtergesellschaften oder die Garantin) abgibt und dadurch der Wert des Vermögens der Emittentin oder der Garantin (auf Konzernebene) wesentlich vermindert wird. Eine solche wesentliche Wertminderung wird im Falle einer Veräußerung von Vermögen angenommen, wenn der Wert der veräußerten Vermögensgegenstände [50 %] der [konsolidierten] Bilanzsumme der Emittentin oder der Garantin übersteigt;]</p>	<p>[[iv]] the Issuer [or a Material Subsidiary (as defined below)] or the Guarantor fails to fulfil any payment obligation in excess of a total amount of [EUR] [5,000,000] (in words: [five million] [Euros]) under any Financial Indebtedness (as defined below), or under any guaranty or suretyship for any such indebtedness of a third party, when due (including in case of any acceleration) and within [30] days after being invoked (<i>Cross Default</i>);]</p> <p>[[v]] (A) the Issuer's, [or a Material Subsidiary's (as defined below)] or the Guarantor's assets have been subjected to an insolvency proceeding, or (B) the Issuer, [or a Material Subsidiary] or the Guarantor applies for or institutes such proceedings or (C) a third party applies for insolvency proceedings against the Issuer [or a Material Subsidiary] or the Guarantor and such proceedings are not discharged or stayed within [30] days, unless such proceeding is dismissed due to insufficient assets;]</p> <p>[[vi]] the Issuer, or the Guarantor, ceases its business operations in whole or sells or transfers its assets in whole or a material part thereof to a third party (except for the Issuer and any of its subsidiaries, or the Guarantor) and this causes a substantial reduction of the value of the assets of the Issuer, or the Guarantor (on a consolidated basis). In the event of a sale of assets such a substantial reduction shall be assumed if the value of the assets sold exceeds [50 %] of the [consolidated] total assets and liabilities of the Issuer or the Guarantor;]</p>
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[[vii]][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft oder im Zusammenhang mit einer Umwandlung und die andere oder neue Gesellschaft übernimmt im Wesentlichen alle Aktiva und Passiva der Emittentin [oder der wesentlichen Tochtergesellschaft], oder der Garantin einschließlich aller Verpflichtungen, die die Emittentin im Zusammenhang mit den Schuldverschreibungen hat;]

[[viii]][●] die Emittentin eine "**Unzulässige Ausschüttung**" an ihre [Kommanditisten] [Aktionäre] [Kommanditaktionäre] in einem Geschäftsjahr vornimmt, die mehr als [50 % des Jahresüberschusses der Emittentin (nach Abzug von Anteilen Dritter am Jahresüberschuss)][●], der im jeweils vorangegangenen Geschäftsjahr, beginnend mit dem Jahresüberschuss für das Geschäftsjahr [2019][●], erwirtschaftet wurde, beträgt. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche Zahlungsansprüche[;][.]

[●]

["**Wesentliche Tochtergesellschaft**" bezeichnet [eine Tochtergesellschaft der Emittentin, (i) deren Umsatzerlöse [10][●] % der konsolidierten Umsatzerlöse der Emittentin übersteigen oder (ii) deren Bilanzsumme [10][●] % der konsolidierten Bilanzsumme der Emittentin übersteigt, wobei die Schwelle jeweils anhand der Daten in dem jeweils letzten geprüften oder, im Fall von Halbjahreskonzernabschlüssen, ungeprüften Konzernabschluss der Emittentin nach IFRS und in dem jeweils letzten geprüften (soweit verfügbar) oder (soweit nicht verfügbar) ungeprüften nicht konsolidierten Abschluss der betreffenden Tochtergesellschaft zu ermitteln

[[vii]][●] the Issuer [or a Material Subsidiary (as defined below)], or the Guarantor, is wound up, unless this is effected in connection with a merger or another form of amalgamation with another company or in connection with a restructuring, and the other or the new company effectively assumes substantially all of the assets and liabilities of the Issuer [or the Material Subsidiary], or the Guarantor, including all obligations of the Issuer arising in connection with the Notes;]

[[viii]][●] the Issuer makes a "**Prohibited Disbursement**" to its [limited partners] [shareholders] in a financial year that amount to more than [50 % of the Issuer's net income (after deduction of any third party interests in the net income)][●], which is generated in the preceding financial year, beginning with the net income for the financial year [2019][●]. Exceptions to this are statutory and corporate-law based payment claims[;][.]

[●]

["**Material Subsidiary**" means [a Subsidiary of the Issuer (i) whose revenues exceed [10][●] % of the consolidated revenues of the Issuer or (ii) whose total assets and liabilities exceed [10][●] % of the consolidated total assets and liabilities of the Issuer, where each threshold shall be calculated on the basis of the last audited or, in case of half yearly accounts, unaudited consolidated financial statements of the Issuer in accordance with the International Financial Reporting Standards (IFRS) and in the last audited (if available) or (if unavailable) unaudited unconsolidated financial statements of the

ist.][●]]

["**Finanzverbindlichkeit**" bezeichnet [(i) Verpflichtungen aus der Aufnahme von Darlehen, (ii) Verpflichtungen unter Schuldverschreibungen, Schuldscheinen oder ähnlichen Schuldtiteln, (iii) die Hauptverpflichtung aus Akzept-, Wechseldiskont und ähnlichen Krediten und (iv) Verpflichtungen unter Finanzierungsleasing und Sale und Leaseback Vereinbarungen sowie Factoring Vereinbarungen.][●]]

(b) Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

(c) Eine Benachrichtigung oder Kündigung gemäß § 8(a) ist durch den Anleihegläubiger schriftlich in deutscher oder englischer Sprache gegenüber der Emittentin zu erklären und zusammen mit dem Nachweis in Form einer Bescheinigung der Depotbank gemäß § [15(d)][●] oder in einer anderen geeigneten Weise, dass der Benachrichtigende zum Zeitpunkt der Benachrichtigung Anleihegläubiger ist, persönlich oder durch eingeschriebenen Brief an die Emittentin zu übermitteln. Eine Benachrichtigung oder Kündigung wird jeweils mit Zugang bei der Emittentin wirksam.

Subsidiary.][●]]

["**Financial Indebtedness**" shall mean [(i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) the principal component of obligations in respect of letters of credit, bankers' acceptances and similar instruments, and (iv) capitalized lease obligations and attributable indebtedness related to sale/leaseback transactions and factoring agreements.][●]]

(b) The right to declare the Notes due and demand immediate redemption shall cease if the reason for the termination has been rectified before the exercise of the termination right.

(c) A notification or termination pursuant to § 8(a) has to be effected by the Noteholder in writing in the German or English language *vis-a-vis* the Issuer together with a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof or in any other adequate manner evidencing that the notifying person is a Noteholder as per the notification, to be delivered personally or by registered mail to the Issuer. A notification or termination will become effective upon receipt thereof by the Issuer.

### **§ [9][●] Beschränkung hinsichtlich bestimmter Zahlungen**

[Die Emittentin verpflichtet sich, weder selbst noch über eine Tochtergesellschaft eine Dividendenzahlung oder sonstige Ausschüttungen an einen direkten oder indirekten Gesellschafter vorzunehmen, die [50][●] % des im konsolidierten und geprüften Jahresabschluss der Emittentin festgestellten Gewinns übersteigen. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche Zahlungsansprüche.][*Andere optionale Regelung: [●]*]

### **§ [10][●] Vorlegungsfrist, Verjährung**

Die Vorlegungsfrist gemäß § 801 Absatz 1 Satz 1 Bürgerliches Gesetzbuch ("**BGB**") für die Schuldverschreibungen beträgt, abweichend von der gesetzlichen Regelung, zehn Jahre. Die Verjährungsfrist für Ansprüche aus den Schuldverschreibungen, die innerhalb der Vorlegungsfrist zur Zahlung vorgelegt wurden, beträgt zwei Jahre von dem Ende der betreffenden Vorlegungsfrist an.

### **§ [11][●] Zahlstelle**

(a) Die [Flatex Bank AG, eingetragen im Handelsregister des Amtsgerichts Frankfurt am Main unter der Nummer HRB 105687 und der Geschäftsanschrift: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, eingetragen im Handelsregister des Amtsgerichts München unter der Nummer HRB 121537 und der Geschäftsanschrift: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB Großbritannien][●], (die "**Zahlstelle**") ist Hauptzahlstelle. Die Zahlstelle in ihrer Eigenschaft als Hauptzahlstelle und jede an ihre Stelle tretende Hauptzahlstelle werden in diesen

### **§ [9][●] Limitation on Certain Payments**

[The issuer undertakes, neither directly nor through any of its subsidiaries, to pay out any dividend or to make any other distribution to a direct or indirect shareholder, which exceeds [50][●] % of the result after taxation determined by the consolidated and audited Annual Report of the Issuer of the respective year, save for any legally or contractually binding payments.][*Other optional scheme: [●]*]

### **§ [10][●] Presentation Period, Prescription**

Waiving the statutory provisions, the period for presentation of the Notes (§ 801 paragraph 1 sentence 1 German Civil Code ("**BGB**")) will be ten years. The period of limitation for claims under the Notes presented during the period for presentation will be two years calculated from the expiration of the relevant presentation period.

### **§ [11][●] Paying Agent**

(a) [Flatex Bank AG, registered in the commercial register kept with the local court (*Amtsgericht*) Frankfurt am Main, registration number HRB 105687 with business address at: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, registered in the commercial register kept with the local court (*Amtsgericht*) München registration number HRB 121537 with business address: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB United Kingdom][●], (the "**Paying Agent**") will be the Paying Agent. The Principal Agent in its capacity as Principal



<p>Anleihebedingungen auch als "<b>Hauptzahlstelle</b>" bezeichnet. Die Hauptzahlstelle behält sich das Recht vor, jederzeit ihre bezeichneten Geschäftsstellen durch eine andere Geschäftsstelle in derselben Stadt zu ersetzen.</p> <p>(b) Die Emittentin wird dafür Sorge tragen, dass stets eine Hauptzahlstelle vorhanden ist. Die Emittentin ist berechtigt, andere Banken von internationalem Standing als Hauptzahlstelle zu bestellen. Die Emittentin ist weiterhin berechtigt, die Bestellung einer Bank zur Hauptzahlstelle zu widerrufen. Im Falle einer solchen Abberufung oder falls die bestellte Bank nicht mehr als Hauptzahlstelle tätig werden kann oder will, bestellt die Emittentin eine andere Bank von internationalem Standing als Hauptzahlstelle. Eine solche Bestellung oder ein solcher Widerruf der Bestellung ist gemäß § [14][●] oder, falls dies nicht möglich sein sollte, durch eine öffentliche Bekanntmachung in sonstiger Weise bekannt zu machen.</p> <p>(c) Die Hauptzahlstelle ist in dieser Funktion ausschließlich Beauftragte der Emittentin. Zwischen der Hauptzahlstelle und den Anleihegläubigern besteht kein Auftrags- oder Treuhandverhältnis.</p>	<p>Paying Agent and any successor Principal Paying Agent are also referred to in these Terms and Conditions as "<b>Principal Paying Agent</b>". The Principal Paying Agent reserves the right at any time to change its specified offices to some other office in the same city.</p> <p>(b) The Issuer will procure that there will at all times be a Principal Paying Agent. The Issuer is entitled to appoint banks of international standing as Principal Paying Agent. Furthermore, the Issuer is entitled to terminate the appointment of the Principal Paying Agent. In the event of such termination or such bank being unable or unwilling to continue to act as Principal Paying, the Issuer will appoint another bank of international standing as Principal Paying Agent. Such appointment or termination will be published without undue delay in accordance with § [14][●], or, should this not be possible, be published in another way.</p> <p>(c) The Principal Paying Agent acting in such capacity, act only as agents of the Issuer. There is no agency or fiduciary relationship between the Paying Agent and the Noteholders.</p>
<p>(d) Die Hauptzahlstelle ist von den Beschränkungen des § 181 BGB und etwaigen gleichartigen Beschränkungen des anwendbaren Rechts anderer Länder befreit.</p>	<p>(d) The Principal Paying Agent is hereby granted exemption from the restrictions of § 181 BGB and any similar restrictions of the applicable laws of any other country.</p>

**§ [12][●] Begebung weiterer Schuldverschreibungen**

Die Emittentin behält sich vor, jederzeit ohne Zustimmung der Anleihegläubiger weitere Schuldverschreibungen mit im wesentlichen gleicher Ausstattung wie die Schuldverschreibungen (gegebenenfalls mit Ausnahme des Begebungstages, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit den Schuldverschreibungen zu einer einheitlichen Serie von Schuldverschreibungen konsolidiert werden können und ihren Gesamtnennbetrag erhöhen. Der Begriff "**Schuldverschreibung**" umfasst im Falle einer solchen Konsolidierung auch solche zusätzlich gegebenen Schuldverschreibungen. Die Begebung weiterer Schuldverschreibungen, die mit den Schuldverschreibungen keine Einheit bilden und die über andere Ausstattungsmerkmale verfügen, sowie die Begebung von anderen Schuldtiteln bleiben der Emittentin unbenommen.

**§ [13][●] Änderung der Anleihebedingungen durch Beschluss der Anleihegläubiger; gemeinsamer Vertreter**

(a) Änderung der Anleihebedingungen. Die Anleihebedingungen können durch die Emittentin mit Zustimmung der Anleihegläubiger aufgrund Mehrheitsbeschlusses nach Maßgabe der §§ 5 ff. des Gesetzes über Schuldverschreibungen aus Gesamtemissionen ("**SchVG**") in seiner jeweiligen gültigen Fassung geändert werden. Die Anleihegläubiger können insbesondere einer Änderung wesentlicher Inhalte der Anleihebedingungen, einschließlich der in § 5 Absatz 3 SchVG vorgesehenen Maßnahmen, mit den in dem nachstehenden § [13(b)][●] genannten Mehrheiten zustimmen. Ein ordnungsgemäß gefasster Mehrheitsbeschluss ist

**§ [12][●] Further Issues**

The Issuer reserves the right to issue from time to time, without the consent of the Noteholders, additional notes with substantially identical terms as the Notes (as the case may be, except for the issue date, interest commencement date and/or issue price), in a manner that the same can be consolidated to form a single Series of Notes and increase the aggregate principal amount of the Notes. The term "**Note**" will, in the event of such consolidation, also comprise such additionally issued Notes. The Issuer shall, however, not be limited in issuing additional notes, which are not consolidated with the Notes and which provide for different terms, as well as in issuing any other debt securities.

**§ [13][●] Amendments to the Terms and Conditions by resolution of the Noteholders; Joint Representative**

(a) Amendments to the Terms and Conditions. The Issuer may amend the Terms and Conditions with consent by a majority resolution of the Noteholders pursuant to § 5 et seq. of the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen – "SchVG"*), as amended from time to time. In particular, the Noteholders may consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under § 5(3) of the SchVG, by resolutions passed by such majority of the votes of the Noteholders as stated under § [13(b)][●] below. A duly passed majority resolution shall be binding upon all Noteholders.

für alle Anleihegläubiger verbindlich. Ein Mehrheitsbeschluss der Anleihegläubiger, der nicht gleiche Bedingungen für alle Anleihegläubiger vorsieht, ist unwirksam, es sei denn die benachteiligten Anleihegläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

(b) Qualifizierte Mehrheit. Vorbehaltlich des nachstehenden Satzes und der Erreichung der erforderlichen Beschlussfähigkeit, beschließen die Anleihegläubiger mit der einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen, insbesondere in den Fällen des § 5 Absatz 3 Nummern 1 bis 9 SchVG, geändert wird, bedürfen zu ihrer Wirksamkeit einer Mehrheit von mindestens 75 % der an der Abstimmung teilnehmenden Stimmrechte (eine "**qualifizierte Mehrheit**").

(c) Beschlussfassung. Beschlüsse der Anleihegläubiger werden entweder in einer Gläubigerversammlung nach § [13(c)(i)][●] oder im Wege der Abstimmung ohne Versammlung nach § [13(c)(ii)][●] getroffen.

(i) Beschlüsse der Anleihegläubiger im Rahmen einer Gläubigerversammlung werden nach §§ 9 ff. SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Gläubigerversammlung nach Maßgabe von § 9 SchVG verlangen. Die Einberufung der Gläubigerversammlung regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Einberufung der Gläubigerversammlung werden in der Tagesordnung die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben. Für die

Resolutions which do not provide for identical conditions for all Noteholders are void, unless Noteholders who are disadvantaged have expressly consented to their being treated disadvantageously.

(b) Qualified Majority. Except as provided by the following sentence and provided that the quorum requirements are being met, the Noteholders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of § 5(3) numbers 1 through 9 of the SchVG, may only be passed by a majority of at least 75 % of the voting rights participating in the vote (a "**Qualified Majority**").

(c) Passing of Resolutions. Resolutions of the Noteholders shall be made either in a Noteholder's meeting in accordance with § [13(c)(i)][●] or by means of a vote without a meeting (*Abstimmung ohne Versammlung*) in accordance § [13(c)(ii)][●].

(i) Resolutions of the Noteholders in a Noteholder's meeting shall be made in accordance with § 9 et seq. of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, to convene a Noteholders' meeting pursuant to § 9 of the SchVG. The convening notice of a Noteholders' meeting will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions will be notified to Noteholders in the agenda of the meeting. The attendance at the Noteholders' meeting or the exercise of voting rights requires a registration of the Noteholders prior to the meeting. Any such registration must

Teilnahme an der Gläubigerversammlung oder die Ausübung der Stimmrechte ist eine Anmeldung der Anleihegläubiger vor der Versammlung erforderlich. Die Anmeldung muss unter der in der Einberufung mitgeteilten Adresse spätestens am dritten Kalendertag vor der Gläubigerversammlung zugehen.

(ii) Beschlüsse der Anleihegläubiger im Wege der Abstimmung ohne Versammlung werden nach § 18 SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Abstimmung ohne Versammlung nach Maßgabe von § 9 i.V.m. § 18 SchVG verlangen. Die Aufforderung zur Stimmabgabe durch den Abstimmungsleiter regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Aufforderung zur Stimmabgabe werden die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben.

(d) Stimmrecht. An Abstimmungen der Anleihegläubiger nimmt jeder Gläubiger nach Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil. Das Stimmrecht ruht, solange die Anteile der Emittentin oder einem mit ihr verbundenen Unternehmen (§ 271 Absatz 2 Handelsgesetzbuch) zustehen oder für Rechnung der Emittentin oder eines mit ihr verbundenen Unternehmens gehalten werden. Die Emittentin darf Schuldverschreibungen, deren Stimmrechte ruhen, einem anderen nicht zu dem Zweck überlassen, die Stimmrechte an ihrer Stelle auszuüben; dies gilt auch für ein mit der Emittentin verbundenes Unternehmen. Niemand darf das Stimmrecht zu dem in Satz 3 erster Halbsatz bezeichneten Zweck ausüben.

(e) Nachweise. Anleihegläubiger haben die

be received at the address stated in the convening notice by no later than the third calendar day preceding the Noteholders' meeting.

(ii) Resolutions of the Noteholders by means of a voting not requiring a physical meeting (*Abstimmung ohne Versammlung*) shall be made in accordance § 18 of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, the holding of a vote without a meeting pursuant to § 9 in connection with § 18 of the SchVG. The request for voting as submitted by the chairman (*Abstimmungsleiter*) will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions shall be notified to Noteholders together with the request for voting.

(d) Voting Right. Each Noteholder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes. As long as the entitlement to the Notes lies with, or the Notes are held for the account of, the Issuer or any of its affiliates (§ 271(2) of the German Commercial Code (*Handelsgesetzbuch*)), the right to vote in respect of such Notes shall be suspended. The Issuer may not transfer Notes, of which the voting rights are so suspended, to another person for the purpose of exercising such voting rights in the place of the Issuer; this shall also apply to any affiliate of the Issuer. No person shall be permitted to exercise such voting right for the purpose stipulated in sentence 3, first half sentence, herein above.

(e) Proof of Eligibility. Noteholders must

Berechtigung zur Teilnahme an der Abstimmung zum Zeitpunkt der Stimmabgabe durch besonderen Nachweis der Depotbank gemäß § [15(d)][●] und die Vorlage eines Sperrvermerks der Depotbank zugunsten der von der Emittentin mit der Tagesordnung für die Abstimmung benannten Hinterlegungsstelle, die nicht die Zahlstelle sein wird, für den Abstimmungszeitraum nachzuweisen.

(f) Gemeinsamer Vertreter. Die Anleihegläubiger können durch Mehrheitsbeschluss zur Wahrung ihrer Rechte nach Maßgabe des SchVG einen gemeinsamen Vertreter für alle Gläubiger (der "**gemeinsame Vertreter**") bestellen.

(i) Der gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Anleihegläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Anleihegläubiger zu befolgen. Soweit er zur Geltendmachung von Rechten der Anleihegläubiger ermächtigt ist, sind die einzelnen Anleihegläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn der Mehrheitsbeschluss sieht dies ausdrücklich vor. Über seine Tätigkeit hat der gemeinsame Vertreter den Anleihegläubigern zu berichten. Die Bestellung eines gemeinsamen Vertreters bedarf einer qualifizierten Mehrheit, wenn er ermächtigt wird, wesentlichen Änderungen der Anleihebedingungen gemäß § [13(b)][●] zuzustimmen

(ii) Der gemeinsame Vertreter kann von den Anleihegläubigern jederzeit ohne Angabe von Gründen abberufen werden. Der gemeinsame Vertreter kann von der Emittentin verlangen, alle Auskünfte zu erteilen, die zur Erfüllung der ihm übertragenen Aufgaben erforderlich sind. Die durch die Bestellung eines gemeinsamen Vertreters entstehenden Kosten und Aufwendungen, einschließlich einer

demonstrate their eligibility to participate in the vote at the time of voting by means of a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof and by submission of a blocking instruction by the Depository Bank for the benefit of the depository (*Hinterlegungsstelle*), as specified by the Issuer together with agenda for the vote and being different from the Paying Agent, for the voting period.

(f) Joint Representative. The Noteholders may by majority resolution appoint a common representative (the "**Common Representative**") in accordance with the SchVG to exercise the Noteholders' rights on behalf of all Noteholders.

(i) The Common Representative shall have the duties and powers provided by law or granted by majority resolution of the Noteholders. The Common Representative shall comply with the instructions of the Noteholders. To the extent that the Common Representative has been authorized to assert certain rights of the Noteholders, the Noteholders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Common Representative shall provide reports to the Noteholders on its activities. The appointment of a Common Representative by a Qualified Majority if such Common Representative is to be authorised to consent to a material change in the substance of the Tenss and Conditions as set out in § [13(b)][●] hereof.

(ii) The Common Representative may be removed from office at any time by the Noteholders without specifying any reasons. The Common Representative may demand from the Issuer to furnish all information required for the performance of the duties entrusted to it. The Issuer shall bear the costs and expenses arising from the appointment of a Common Representative, including reasonable

angemessenen Vergütung des gemeinsamen Vertreters, trägt die Emittentin.

(iii) Der gemeinsame Vertreter haftet den Anleihegläubigern als Gesamtgläubiger für die ordnungsgemäße Erfüllung seiner Aufgaben; bei seiner Tätigkeit hat er die Sorgfalt eines ordentlichen und gewissenhaften Geschäftsleiters anzuwenden. Die Haftung des gemeinsamen Vertreters kann durch Beschluss der Gläubiger beschränkt werden. Über die Geltendmachung von Ersatzansprüchen der Anleihegläubiger gegen den gemeinsamen Vertreter entscheiden die Anleihegläubiger.

(g) Bekanntmachungen. Bekanntmachungen betreffend diesen § [13][●] erfolgen gemäß den §§ 5 ff. SchVG sowie nach § [14][●].

#### § [14][●] Bekanntmachungen

(a) Die Schuldverschreibungen betreffende Bekanntmachungen werden im Bundesanzeiger und auf der Webseite der Emittentin unter [www.estream-energy.com][●] im Bereich "**Anleihe[n]**" veröffentlicht. Eine Mitteilung gilt mit dem Tag ihrer Veröffentlichung (oder bei mehreren Mitteilungen mit dem Tage der ersten Veröffentlichung) als erfolgt.

(b) Sofern die Regularien der Börse, an der die Schuldverschreibungen notiert sind, dies zulassen, ist die Emittentin berechtigt, Bekanntmachungen auch durch eine Mitteilung an das Clearingsystem zur Weiterleitung an die Anleihegläubiger oder durch eine schriftliche Mitteilung direkt an die Anleihegläubiger zu bewirken. Bekanntmachungen über das Clearingsystem gelten [sieben][●] Tage nach der Mitteilung an das Clearingsystem, direkte Mitteilungen an die Anleihegläubiger mit ihrem Zugang als bewirkt.

#### § [15][●] Ersetzung der Emittentin und der [Garantin][Garanten]

remuneration of the Common Representative

(iii) The Common Representative shall be liable for the performance of its duties towards the Noteholders who shall be joint and several creditors (*Gesamtgläubiger*); in the performance of its duties it shall act with the diligence and care of a prudent business manager. The liability of the Common Representative may be limited by a resolution passed by the Noteholders. The Noteholders shall decide upon the assertion of claims for compensation of the Noteholders against the Common Representative.

(g) Notices. Any notices concerning this § [13][●] shall be made in accordance with § 5 et seq. of the SchVG and § [14][●].

#### § [14][●] Notices

(a) Notices relating to the Notes will be published in in the Federal Gazette (*Bundesanzeiger*) and on the Issuer's website [www.estream-energy.com][●] under the heading "**Bond[s]**". A notice will be deemed to be made on the day of its publication (or in the case of more than one publication on the day of the first publication).

(b) The Issuer shall also be entitled to make notifications to the Clearing System for communication by the Clearing System to the Noteholders or directly to the Noteholders provided this complies with the rules of the stock exchange on which the Notes are listed. Notifications *vis-à-vis* the Clearing System will be deemed to be effected [seven][●] days after the notification to the Clearing System, direct notifications of the Noteholders will be deemed to be effected upon their receipt.

#### [§ [15][●] Substitution of the Issuer and the Guarantor[s]

(a) Ersetzung. [[Entweder] [Die][die] [Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [[jeder der] [einer der] Garanten]] [ist][sind] jederzeit berechtigt, ohne die Zustimmung der Anleihegläubiger für den Fall, dass die Tilgung der Schuldverschreibungen ohne Verzug erfolgt, sich selbst als [Emittentin] [oder] [gegenbenenfalls] [als] [[Garantin] [ein] Garant[en]] durch [eine] andere Person[en] zu ersetzen] [(der Ersatzemittent) als Hauptschuldner] [und][oder] [[(der)[die] Ersatzgarant(en)]]] als Garant[en]] unter allen Schuldverschreibungen in Bezug auf alle Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen, die zum Zeitpunkt einer solchen Ersetzung und nach Ansicht [der Emittentin] [und][oder] [gegebenenfalls] [[der Garantin] [jedes der][eines der] Garant[en]]][●] von mindestens gleichem Rang und gleicher Kreditwürdigkeit wie [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [jeder der][einer der] Garanten] ist, vorausgesetzt:

(i) [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [der] [jeder der][einer der] Ersatzgarant[en] [ist][sind] zahlungsfähig und [kann][können] allen Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen fristgemäß nachkommen;

(ii) es sind keine Liquidations-, Abwicklungs-, Insolvenz- oder ähnlichen Sanierungsmaßnahmen in Bezug auf [entweder] [den Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgarant[en]] eröffnet oder stehen unmittelbar bevor;

(iii) [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der] [jeder der][einer der] Ersatzgarant[en]] [hat][haben] von den zuständigen Behörden [seines][ihres] Sitzstaates alle erforderlichen Genehmigungen erteilt bekommen (zur Klarstellung: ausgenommen

(a) Substitution. [[Either] [The][the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the][a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the Substitute Issuer) as principle debtor] [and][or] [(the Substitute Guarantor[s])] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and][or] [[each of][any of] the Guarantor[s]] [, as the case may be,][●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and][or] [[each of][any of] the Guarantor[s]] [, as the case may be,] provided that:

(i) [either] [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] [is][are] solvent and can perform all obligations under and in connection with the Notes;

(ii) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be];

(iii) [either] [the Substitute Issuer] [and][or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has][have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of the base prospectus for the public offering of the Notes) from the

hiervon ist die Genehmigung zur Veröffentlichung des Basisprospekts);

(iv) die Ersetzung[en] [des Ersatzemittenten für die Emittentin] [und][oder] [gegebenenfalls] [[jedes der][eines der] [des] Ersatzgarant[en] für die Garantin] hat nicht zur Folge, dass den Anleihegläubigern unmittelbar oder mittelbar zusätzliche Steuern, Zölle oder staatliche Abgaben auferlegt werden oder [der Ersatzemittent] [und][oder] [gegebenenfalls] [jeder der][einer der] [der] Ersatzgarant[en][●] [hat][haben] sich bereit erklärt, jeden Anleihegläubiger von allen Steuern, Zöllen, Veranlagungen oder staatlichen Abgaben freizustellen, die diesem Anleihegläubiger in Bezug auf eine solche Ersetzung auferlegt werden.][●]

Eine solche Ersetzung ist den Anleihegläubigern in Übereinstimmung mit § [14][●] der Anleihebedingungen anzuzeigen.

[[Entweder] [Die][die] [Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [jeder der][einer der] [Garanten] übernimmt keine Garantie für die Verpflichtungen [des Ersatzemittenten] [und] [oder] [gegebenenfalls] [des] [jedes der][eines der] Ersatzgaranten] gemäß den Schuldverschreibungen nach der Ersetzung. Es wird unterstellt, dass die Anleihegläubiger mit der Zeichnung oder dem sonstigen Erwerb der Schuldverschreibungen (i) einer Ersetzung [entweder] [der Emittentin] [und][oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] gemäß diesem § [15][●] und der Freistellung [entweder] [der Emittentin] [und][oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] von sämtlichen Verpflichtungen in Bezug auf die betreffenden Schuldverschreibungen und die vorliegende Urkunde zugestimmt haben und (ii) diese Ersetzung[en] und die sich hieraus ergebenden Folgen akzeptiert haben.][●]

authorities of the country in which it has its registered office;

(iv) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]][●] [as the case may be] [has][have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.][●]

Notice of any such substitution shall be given to the Noteholders in accordance with § [14][●].

[[Either] [The][the] [Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this § [15][●] and to the release [either] [of the Issuer] [and][or] [[each of][any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution[s] and the consequences thereof.][●]



[Nach Ersetzung [entweder] [der Emittentin] [und][oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] durch [einen Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] ist § [15][●] der Anleihebedingungen erneut anzuwenden. Im Falle einer solchen Ersetzung wird unterstellt, dass jede Bezugnahme in diesen Bedingungen auf [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] als Bezugnahme auf [entweder] [den Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] [●]] gilt.

(b) Änderung der Bezugnahmen. Im Fall [einer solchen][solcher] Ersetzung[en] wird ab diesem Zeitpunkt unterstellt, dass mit jeder Bezugnahme auf [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] in diesen Anleihebedingungen auf [entweder] [den Ersatzmittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] verwiesen wird und dass mit jeder Bezugnahme auf das Land, in dem [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] ansässig oder steueransässig [ist][sind], auf das Land verwiesen wird, in dem [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] [seinen][ihren] Sitz [hat][haben] oder steueransässig [ist][sind].

[(c) Weitere Ersetzungen. [Nach einer Ersetzung gemäß § [15(a)][●] der Anleihebedingungen kann [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der]jeder der][einer der] [Ersatzgarant[en]] ohne Zustimmung der Anleihegläubiger [je] eine weitere Ersetzung vornehmen. Alle in den § [15(a)][●] und § [15(b)][●] der Anleihebedingungen enthaltenen Bestimmungen sind entsprechend anzuwenden, wobei unterstellt wird, dass jede Bezugnahme auf die Emittentin [und][oder] [gegebenenfalls] [[den][die] Garanten] in diesen Anleihebedingungen jeden weiteren [entweder]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this § [15][●] shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●]].

(b) Change of References. In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is][are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

[(c) Further substitution. [After a substitution pursuant to § [15(a)][●], [either] [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in § [15(a)][●] and § [15(b)][●] shall apply mutatis mutandis, and references in these Conditions to the Issuer [and][or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either]

[Ersatzemittenten] [und][oder] [Ersatzgaranten] einschließt, falls der Zusammenhang dies erfordert.][●]]

[(d) Rückgängigmachung der Ersetzung. [Nach einer Ersetzung gemäß § [15(a)][●] [oder § [15(c)][●]] der Anleihebedingungen kann [entweder] [der Ersatzemittent] [und][oder] [gegebenfalls] [[jeder der][einer der] [alle] [Ersatzgaranten] ohne Zustimmung der Anleihegläubiger die Ersetzung[en] entsprechend rückgängig machen.][●]]]

### § [16][●] Schlussbestimmungen

(a) Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Anleihegläubiger, der Emittentin, und der Hauptzahlstelle bestimmen sich in jeder Hinsicht nach dem Recht der Bundesrepublik Deutschland.

(b) Erfüllungsort ist Duisburg.

(c) Gerichtsstand ist Duisburg. Für Entscheidungen gemäß § 9 Absatz 2, § 13 Absatz 3 und § 18 Absatz 2 SchVG in Verbindung mit § 9 Abs. 3 SchVG ist das Amtsgericht Duisburg zuständig. Für Entscheidungen über die Anfechtung von Beschlüssen der Anleihegläubiger ist gemäß § 20 Absatz 3 SchVG das Landgericht Duisburg ausschließlich zuständig.

(d) Jeder Anleihegläubiger kann in Rechtsstreitigkeiten gegen die Emittentin oder in Rechtsstreitigkeiten, an denen der Anleihegläubiger und die Emittentin beteiligt sind, im eigenen Namen seine Rechte aus den von ihm gehaltenen Schuldverschreibungen geltend machen unter Vorlage einer Bescheinigung seiner Depotbank, die (i) den vollen Namen und die volle Anschrift des Anleihegläubigers enthält, (ii) den Gesamtnennbetrag der Schuldverschreibungen angibt, die am Tag der

[the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].][●]]

[(d) Reverse substitution. [After a substitution pursuant to § [15(a)][●] [or § [15(c)][●]] any [either] [the Substitute Issuer] [and][or] [[each of] [any of][all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.][●]]]

### § [16][●] Final Provisions

(a) The form and content of the Notes and the rights and duties of the Noteholders, the Issuer and the Principal Paying Agent shall in all respects be governed by the laws of the Federal Republic of Germany.

(b) Place of performance is Duisburg.

(c) Place of jurisdiction shall be Duisburg. The local court (*Amtsgericht*) Duisburg will have jurisdiction for all judgments pursuant to § 9(2), § 13(3) and § 18(2) SchVG in accordance with § 9(3) SchVG. The regional court (*Landgericht*) Duisburg will have exclusive jurisdiction for all judgments over contested resolutions by Noteholders in accordance with § 20(3) SchVG.

(d) Any Noteholder may in any proceedings against the Issuer or to which the Noteholder and the Issuer are parties protect and enforce in its own name its rights arising under its Notes by submitting the following documents: a certificate issued by its Depository Bank (i) stating the full name and address of the Noteholder, (ii) specifying an aggregate principal amount of Notes credited on the date of such statement to such Noteholders' securities deposit account maintained with such Depository Bank. For

<p>Ausstellung dieser Bescheinigung dem bei dieser Depotbank bestehenden Depot des Anleihegläubigers gutgeschrieben sind. Im Sinne der vorstehenden Bestimmungen ist "<b>Depotbank</b>" ein Bank- oder sonstiges Finanzinstitut (einschließlich des Clearingsystems), das eine Genehmigung für das Wertpapier-Depotgeschäft hat und bei dem der Anleihegläubiger Schuldverschreibungen im Depot verwahren lässt.</p> <p>(e) Für die Kraftloserklärung abhanden gekommener oder vernichteter Schuldverschreibungen sind ausschließlich die Gerichte der Bundesrepublik Deutschland zuständig.</p> <p>(f) Die [deutsche][englische] Fassung dieser Anleihebedingungen ist rechtsverbindlich.</p>	<p>purposes of the foregoing, "<b>Depository Bank</b>" means any bank or other financial institution authorized to engage in securities deposit business with which the Noteholder maintains a securities deposit account in respect of any Notes, and includes the Clearing System.</p> <p>(e) The courts of the Federal Republic of Germany shall have exclusive jurisdiction over the annulment of lost or destroyed Notes.</p> <p>(f) The [German][English] version of these Terms and Conditions shall be binding.</p>
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### Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law

The following is the text of the terms and conditions of the notes (the "Terms and Conditions") applicable to the Notes. The final Terms and Conditions of the Notes will be an integral part of the respective Global Notes.

The Terms and Conditions are written in the German and English language. The German text shall be the legally binding version. The English language translation is provided for convenience only.

Anleihebedingungen (die "Anleihebedingungen")	Terms and Conditions of the Notes (the "Terms and Conditions")
<p><b>§ 1 Gesamtnennbetrag, Nennbetrag, Stückelung und Form</b></p> <p>(a) Diese Anleihe der E-Stream Energy GmbH &amp; Co KG, Duisburg (die "<b>Emittentin</b>") im Gesamtnennbetrag von [bis zu] [EUR][●][●] (in Worten: [EUR][●][●]) (der "<b>Gesamtnennbetrag</b>"), ist in auf den Inhaber lautende, untereinander gleichberechtigte Schuldverschreibungen (die "<b>Schuldverschreibungen</b>") im Nennbetrag von jeweils [EUR][●][1.000,00][●] (in Worten: [Euro][●][ein Tausend][●]) (der "<b>Nennbetrag</b>") eingeteilt.</p> <p>[Im Falle von Tefra D einfügen:</p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit zunächst durch eine vorläufige Inhaber-Globalschuldverschreibung (die "<b>vorläufige Globalurkunde</b>") ohne Zinsscheine verbrieft, die nicht früher als 40 Tage und nicht später als 180 Tage nach dem Begebungstag (wie nachstehend definiert) durch eine Inhaber-Dauerglobalurkunde (die "<b>Dauerglobalurkunde</b>", die vorläufige Globalurkunde und die Dauerglobalurkunde gemeinsam die "<b>Globalurkunde</b>") ohne Zinsscheine ausgetauscht wird. Ein solcher Austausch darf nur nach Vorlage von Bescheinigungen erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine US-Person(en) ist</p>	<p><b>§ 1 Aggregate Principal Amount, Principle Amount, Denomination and Form</b></p> <p>(a) This bond of E-Stream Energy GmbH &amp; Co KG, Duisburg (the "<b>Issuer</b>") in the aggregate principal amount of [up to] [EUR][●][●] (in words: [EUR][●][●]) ("<b>the Aggregate Principal Amount</b>"), is divided into partial notes (the "<b>Notes</b>") payable to the bearer and ranking <i>pari passu</i> among themselves in the denomination of [EUR][●][1,000.00][●] each (in words: [Euro][●][one thousand][●]) (the "<b>Principal Amount</b>").</p> <p>[In case of Tefra D insert:</p> <p>(b) The Notes will initially be represented for the whole life of the Notes by a temporary global bearer note (the "<b>Temporary Global Note</b>") without interest coupons, which will be exchanged not earlier than 40 days and not later than 180 days after the Issue Date (as defined below) against a permanent global bearer note (the "<b>Permanent Global Note</b>", the Temporary Global Note and the Permanent Global Note together the "<b>Global Note</b>") without interest coupons. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person (other than certain financial institutions or certain persons holding Notes through such financial institutions) in accordance</p>

<p>bzw. sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten), jeweils im Einklang mit den Regeln und Verfahren der [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] ("<b>Clearingsystem</b>"). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist für jede solche Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß diesem Absatz (b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, dürfen nur außerhalb der Vereinigten Staaten von Amerika geliefert werden.][●]</p> <p><i>[im Falle ohne Tefra D einfügen:</i></p> <p>(b) Die Schuldverschreibungen werden für ihre gesamte Laufzeit durch eine Inhaberdauerglobalurkunde (die "<b>Dauerglobalurkunde</b>" bzw. die "<b>Globalurkunde</b>") verbrieft. Die Globalurkunde wird von [im Falle von Clearstream Banking Frankfurt einfügen: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, mit Geschäftsanschrift Mergenthalerallee 61, 65760 Eschborn][im Falle eines anderen Zentralverwahrers einfügen: [●]] oder einem Funktionsnachfolger verwahrt ("<b>Clearingsystem</b>").][●]</p> <p>(c) Die <i>[im Falle von Tefra D einfügen:</i> vorläufige Globalurkunde und] die</p>	<p>with the rules and operating procedures of [in case of Clearstream Banking Frankfurt insert: Clearstream Banking Aktiengesellschaft, Frankfurt am Main, business address: Mergenthalerallee 61, 65760 Eschborn][in case of another Central Securities Depository insert: [●]] ("<b>Clearing System</b>"). Payments of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40th day after the date of issue of the Notes represented by the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this subparagraph (b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.][●]</p> <p><i>[in case without Tefra D insert:</i></p> <p>(b) The Notes will be represented for the whole life of the Notes by a permanent global bearer Note (die "<b>Permanent Global Note</b>" respectively the "<b>Global Note</b>"). The Global Note will be kept in custody by [in case of Clearstream Banking Frankfurt insert: Clearstream Banking AG, Mergenthaler Allee 61, 65760 Eschborn, Federal Republic of Germany][in case of another Central Securities Depository insert: [●]], or any successor in such capacity ("<b>Clearing System</b>").][●]</p> <p>(c) The <i>[in case with Tefra D insert:</i> Temporary Global Note and the Permanent] Global Note</p>
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<p>Dauerglobalurkunde sind nur wirksam, wenn sie jeweils die eigenhändige Unterschrift eines Vertreters der Emittentin tragen. Die Globalurkunde wird bei der dem Clearingsystem hinterlegt. Der Anspruch der Anleihegläubiger auf Ausgabe einzelner Schuldverschreibungen oder Zinsscheine ist ausgeschlossen.</p> <p>(d) Den Inhabern der Anleihen (die "<b>Anleihegläubiger</b>") stehen Miteigentumsanteile oder Rechte an der Globalurkunde zu, die nach Maßgabe des anwendbaren Rechts und der Regeln und Bestimmungen des Clearingsystems übertragen werden können.</p> <p><b>§ 2 Status der Schuldverschreibungen [und Garantie] [und Negativverpflichtung]</b></p> <p>(a) Status. Die Schuldverschreibungen begründen unmittelbare, unbedingte, [nicht] nachrangige und nicht besicherte Verbindlichkeiten der Emittentin[ und stehen im gleichen Rang untereinander und mindestens im gleichen Rang mit allen anderen gegenwärtigen und zukünftigen nicht besicherten und nicht nachrangigen Verbindlichkeiten der Emittentin, soweit bestimmte zwingende gesetzliche Bestimmungen nichts anderes vorschreiben].</p> <p>(b) Die Timberland Securities Investment plc (die "<b>Garantin</b>") hat ihre bedingungslose und unwiderrufliche Garantie (die "<b>Garantie</b>") mit Datum vom [●] für die fällige und pünktliche Zahlung des Kapitals und der Zinsen sowie aller sonstigen Beträge, die unter einer Schuldverschreibung zu zahlen sind, in einem Gesamtbetrag von [bis zu] [dem Gesamtkapitalbetrag der Schuldverschreibungen] [<i>angegebene Währung einfügen</i>] [Betrag einfügen] abgegeben. Die Garantie begründet jeweils einen Vertrag zugunsten der Anleihegläubiger als Drittbegünstigte gemäß § 328 Abs. 1 BGB, aus</p>	<p>shall only be valid if it bears the handwritten signature of a representative of the Issuer. The Global Note will be deposited with the Clearing System. The right to require the issue of definitive Notes or interest coupons has been excluded.</p> <p>(d) The holder of the notes (the "<b>Noteholders</b>") will receive co-ownership participations in the Global Note, which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.</p> <p><b>§ 2 Status of the Notes [and Guarantee] [and Negative Pledge]</b></p> <p>(a) Status. The Notes constitute direct, unconditional, [un]subordinated and unsecured obligations of the Issuer[ and rank <i>pari passu</i> without any preference among themselves and at least <i>pari passu</i> with all other unsubordinated and unsecured obligations of the Issuer, present and future save for certain mandatory exceptions provided by law].</p> <p>(b) Timberland Securities Investment plc (the "<b>Guarantor</b>") has given its unconditional and irrevocable guarantee (the "<b>Guarantee</b>") dated [●] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of [up to] [the aggregate principal amount of the Notes] [insert specified currency] [insert amount]. The Guarantee constitutes a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (Bürgerliches Gesetzbuch), giving rise to the right of each Noteholder to require performance of the</p>
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<p>dem sich das Recht jedes Anleihegläubigers ergibt, die Leistung aus der Garantie direkt von der Garantin zu verlangen und die Garantie direkt gegen die Garantin durchzusetzen.</p> <p>[(c) Negativverpflichtung. [Die Emittentin verpflichtet sich und hat dafür Sorge zu tragen, dass ihre Tochtergesellschaften (wie nachstehend definiert), solange Schuldverschreibungen ausstehen, jedoch nur bis zu dem Zeitpunkt, an dem alle Beträge an Kapital und Zinsen der Hauptzahlstelle zur Verfügung gestellt worden sind, keine Grundpfandrechte, Pfandrechte, Belastungen oder sonstigen Sicherungsrechte (jedes solches Sicherungsrecht eine "<b>Sicherheit</b>") in Bezug auf ihren gesamten oder Teil ihres Geschäftsbetriebes, Vermögen oder Einkünfte, jeweils gegenwärtig oder zukünftig, zur Sicherung von anderen Kapitalmarktverbindlichkeiten (wie nachstehend definiert) oder zur Sicherung einer von der Emittentin oder einer ihrer Tochtergesellschaften gewährten Garantie oder Freistellung bezüglich einer Kapitalmarktverbindlichkeit einer anderen Person zu bestellen oder fortbestehen zu lassen, ohne gleichzeitig oder zuvor alle unter den Schuldverschreibungen zahlbaren Beträge in gleicher Weise und in gleichem Rang Sicherheiten zu bestellen oder für alle unter den Schuldverschreibungen zahlbaren Beträge solch eine andere Sicherheit zu bestellen, die von einer unabhängigen, international anerkannten Wirtschaftsprüfungsgesellschaft als gleichwertig anerkannt wird.][●]</p> <p>[Diese Verpflichtung gilt jedoch nicht:</p> <p>(i) für Sicherheiten, die gesetzlich vorgeschrieben sind, oder die als Voraussetzung für staatliche Genehmigungen verlangt werden;</p> <p>(ii) für zum Zeitpunkt des Erwerbs von Vermögenswerten durch die Emittentin bereits an solchen Vermögenswerten bestehende</p>	<p>Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor.</p> <p>[(c) Negative Pledge. [The Issuer undertakes, so long as any of the Notes are outstanding, but only up to the time all amounts of principal and interest have been placed at the disposal of the Principal Paying Agent, not to create or permit to subsist, and to procure that none of its Subsidiaries (as defined below) will create or permit to subsist, any mortgage, lien, pledge, charge or other security interest (each such right a "<b>Security</b>") over the whole or any part of its undertakings, assets or revenues, present or future, to secure any Capital Market Indebtedness (as defined below) or to secure any guarantee or indemnity given by the Issuer or any of its subsidiaries in respect of any Capital Market Indebtedness of any other person, without, at the same time or prior thereto, securing all amounts payable under the Notes either with equal and rateable Security or providing all amounts payable under the Notes such other Security as shall be approved by an independent accounting firm of internationally recognized standing as being equivalent security.][●]</p> <p>[This undertaking shall not apply with respect to:</p> <p>(i) any Security which is provided for by law or which has been required as a condition precedent for public permissions;</p> <p>(ii) any Security existing on assets at the time of the acquisition thereof by the Issuer, provided that such Security was not created in connection</p>
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<p>Sicherheiten, soweit solche Sicherheiten nicht im Zusammenhang mit dem Erwerb oder in Erwartung des Erwerbs des jeweiligen Vermögenswerts bestellt wurden und der durch die Sicherheit besicherte Betrag nicht nach Erwerb des betreffenden Vermögenswertes erhöht wird;</p> <p>(iii) Sicherheiten, die von einer Tochtergesellschaft der Emittentin an Forderungen bestellt werden, die ihr aufgrund der Weiterleitung von aus dem Verkauf von Kapitalmarktverbindlichkeiten erzielten Erlösen gegen die Emittentin zustehen, sofern solche Sicherheiten der Besicherung von Verpflichtungen aus den jeweiligen Kapitalmarktverbindlichkeiten der betreffenden Tochtergesellschaft dienen.][●]</p> <p>[Im Sinne dieser Anleihebedingungen bedeutet "<b>Kapitalmarktverbindlichkeit</b>" jede gegenwärtige oder zukünftige Verbindlichkeit hinsichtlich der Rückzahlung geliehener Geldbeträge, die durch besicherte oder unbesicherte Schuldverschreibungen, Anleihen oder sonstige Wertpapiere, die an einer Börse oder in einem anderen anerkannten Wertpapier- oder außerbörslichen Markt zugelassen sind, notiert oder gehandelt werden oder zugelassen, notiert oder gehandelt werden können.</p> <p>"<b>Tochtergesellschaft</b>" ist jede voll konsolidierte Tochtergesellschaft einer Person.</p> <p>Ein nach diesem § 2(c) zu leistendes Sicherungsrecht kann auch zugunsten der Person eines Treuhänders der Anleihegläubiger bestellt werden.][●]]</p> <p>[[c)][(d)] [Qualifizierter] Rangrücktritt. Im Fall der Insolvenz oder Liquidation der Emittentin sind die Verpflichtungen der Emittentin aus den Schuldverschreibungen:</p>	<p>with or in contemplation of such acquisition and that the amount secured by such Security is not increased subsequently to the acquisition of the relevant assets;</p> <p>(iii) any Security which is provided by any subsidiary of the Issuer with respect to any receivables of such subsidiary against the Issuer which receivables exist as a result of the transfer of the proceeds from the sale by the subsidiary of any Capital Market Indebtedness, provided that any such security serves to secure obligations under such Capital Market Indebtedness of the relevant subsidiary.][●]</p> <p>[For the purposes of these Terms and Conditions, "<b>Capital Market Indebtedness</b>" shall mean any present or future obligation for the repayment of borrowed monies which is in the form of, or represented or evidenced by bonds, notes, debentures, loan stock or other securities which are, or are capable of being, quoted, listed, dealt in or traded on any stock exchange, or other recognized over-the-counter or securities market.</p> <p>"<b>Subsidiary</b>" means any fully consolidated subsidiary of any person.</p> <p>A security pursuant to this § 2(c) may also be provided to a trustee of the noteholders.][●]]</p> <p>[[c)][(d)] [Qualified] subordination clause. In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:</p>
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<p>(1) nachrangig gegenüber allen ihren bestehenden oder künftigen, nicht-nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin[.]; wobei</p> <p>[(i) alle Forderungen aus den Schuldverschreibungen, darunter insbesondere die Ansprüche auf Zahlung des [Vorzeitigen Rückzahlungsbetrages] [,] [Vorzeitigen Rückzahlungsbetrages Call-Option] [,] [Vorzeitigen Rückzahlungsbetrages Put-Option] [und] des Nennbetrages [,] [und] auf Einlösung des Kupons, in Anwendung des § 19 Absatz 2 Satz 2 InsO (Insolvenzordnung) gegenüber allen Forderungen anderer bestehender oder künftiger Gläubiger dergestalt im Rang nachgehen, dass Tilgungs- und Zinszahlungen auf den Schuldverschreibungen erst nach Befriedigung aller anderen Gläubiger, die die in § 39 Absatz 1 Nr. 1 InsO vereinbarte Rangfolge, d.h. den in § 39 Absatz 2 InsO vereinbarten Nachrang, einnehmen, verlangt werden können. Ein Verzicht auf die Forderungen ist nicht möglich.]</p> <p>[[[(ii)][●] Anleihezahlungen können nur aus künftigen Jahresüberschüssen, aus etwaigen Liquidationserlösen oder aus anderen verfügbaren Vermögenswerten verlangt werden.]</p> <p>[[[(iii)][●] Die Anleihegläubiger können keine Befriedigung ihrer Forderungen verlangen, wenn hierdurch in Anwendung des deutschen Insolvenzrechts die Überschuldung oder Zahlungsunfähigkeit der Emittentin herbeigeführt wird oder droht.]</p> <p>[[[(iv)][●] Die Absätze (i) bis (iii) gelten sowohl vor wie auch nach der Eröffnung des Insolvenzverfahrens.]</p> <p>[[[(v)][●] Im Übrigen sind die Anleihegläubiger ohne Einschränkungen berechtigt, ihre Rechte aus den Schuldverschreibungen geltend zu machen und Erfüllung zu verlangen.]</p>	<p>(1) junior to all present or future unsubordinated instruments or obligations of the Issuer[.]; whereby:</p> <p>[(i) All claims under the Notes, including but not limited to the claims for payment of the [Early Redemption Amount][,] [Call Early Redemption Amount] [,][Put Early Redemption Amount] [and] the Principal Amount[,], [and] the payment of the Coupon, applying in accordance with section 19 (2) sentence 2 of the German Insolvency Code (<i>Insolvenzordnung</i>, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]</p> <p>[[[(ii)][●] Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]</p> <p>[[[(iii)][●] The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (<i>überschuldet</i>) or unable to pay its debts (<i>zahlungsunfähig</i>) within applying the meaning of German insolvency law.]</p> <p>[[[(iv)][●] Paragraphs (i) to (iii) apply both before and after the opening of insolvency proceedings.]</p> <p>[[[(v)][●] In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]</p>
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<p>[[vi]][●] Zur Klarstellung: Diese Regelung stellt einen Vertrag zugunsten der Gläubigersamtheit der Emittentin in Anwendung des § 328 Absatz 2 BGB (Bürgerliches Gesetzbuch) dar. Eine Kündigung dieser Rangrücktrittsvereinbarung ohne Mitwirkung der Gläubiger ist daher nur zulässig, wenn die Insolvenz Kriterien (Absatz (iii)) in Bezug auf die Emittentin nicht oder nicht länger erfüllt sind.]</p> <p>[●][●]</p> <p>[(2) gleichrangig (a) untereinander und (b) mit allen bestehenden oder künftigen Verpflichtungen aus anderen Tier-2-Instrumenten; und</p> <p>[(3) vorrangig gegenüber [allen bestehenden oder künftigen (a) Verpflichtungen aus AT-1-Instrumenten und (b)] allen übrigen nachrangigen Finanzinstrumenten oder Verpflichtungen der Emittentin, die [(x)] gegenüber ihren Verpflichtungen der Emittentin aus den Schuldverschreibungen im Rang nachgehen[.] [oder (y) mit Verpflichtungen der Emittentin aus AT-1-Instrumenten im Rang gleichgestellt sind.][●][●]</p> <p>[[d]][e)] Keine Aufrechnung oder Sicherheit. Eine Aufrechnung der Forderungen der Emittentin gegen die Rückzahlungsverpflichtungen der Emittentin aus diesen Schuldverschreibungen ist nicht zulässig, und weder die Emittentin noch Dritte sind berechtigt, vertragliche Sicherheiten für das mit den Schuldverschreibungen begründete Schuldverhältnis zu stellen. [Die Schuldverschreibungen sind weder besichert noch Gegenstand einer Garantie, die den Vorrang der Anleiheforderungen erhöht.] [Die Schuldverschreibungen unterliegen weder vertraglichen noch sonstigen Vereinbarungen,</p>	<p>[[vi]][●] For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (<i>Gläubigersamtheit</i>) applying within the meaning of section 328 (2) of the German Civil Code (<i>Bürgerliches Gesetzbuch</i>). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]</p> <p>[●][●]</p> <p>[(2) pari passu (a) among themselves, and (b) with all present or future obligations under any other Tier 2 Instruments; and</p> <p>[(3) senior to [all present or future (a) obligations under any AT 1 Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank [(x)] subordinated to the obligations of the Issuer under the Notes[.] [or (y) pari passu with obligations under any AT 1 Instruments.][●][●]</p> <p>[[d]][e)] No Set-off or Security. Claims of the Issuer are not permitted to be set-off against repayment obligations of the Issuer under these Notes, and no contractual collateral may be provided by the Issuer or any third person for the liabilities constituted by the Notes. [The Notes are neither secured nor subject to a guarantee that enhances the seniority of the claims under the Notes.] [The Notes are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claims under the Notes.] [No subsequent agreement may limit the subordination pursuant to this Clause (c).]</p>
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<p>die den Vorrang der Anleiheforderungen erhöhen.] [Die unter Buchstabe (c) geregelte Nachrangigkeit darf durch nachträgliche Vereinbarungen nicht berührt oder beeinträchtigt werden.]]</p> <p><b>[§ 3 Finanzielle Verpflichtungen</b></p> <p><b>[[a)] Eigenkapitalquote</b></p> <p>[Die Emittentin stellt sicher, dass sie eine Eigenkapitalquote (wie nachstehend definiert) von wenigstens [fünfundzwanzig)] [(25)] Prozent aufrechterhalten wird. [Die Eigenkapitalquote errechnet sich in Übereinstimmung mit [HGB] [oder] [IFRS] [nach Wahl der Emittentin].]</p> <p>Sofern die Emittentin am jeweiligen Stichtag eine niedrigere Eigenkapitalquote als nach vorstehendem Absatz ermittelt und im Einklang mit § 4(d) bekannt gibt, ist auf die Schuldverschreibungen ein Erhöhter Zinssatz (wie in § 4(d) definiert) anwendbar.</p> <p>Wobei gilt:</p> <p><b>"Eigenkapitalquote"</b> bedeutet [das bilanzielle Eigenkapital dividiert durch die Bilanzsumme)], wobei alle Zahlen aus dem letzten geprüften Jahresabschluss der Emittentin zu ermitteln sind [und die Emittentin berechnigt ist, für Zwecke der Berechnung der Eigenkapitalquote die zum Zeitpunkt der Emission genutzten Bilanzierungsmethoden – ggf. auch abweichend vom testierten [Jahresabschluss] [bzw.] [Halbjahresabschluss] – fortzuführen)].</p> <p><b>"Stichtag"</b> bedeutet [[den 31. Dezember 2019)] [und jeden weiteren 31. Dezember] [bis zum Fälligkeitstermin)].</p> <p><b>[(b)] Liquiditätsreserve</b></p>	<p><b>[§ 3 Financial Covenants</b></p> <p><b>[[a)] Equity Capital Ratio</b></p> <p>[The Issuer ensures that itself maintains an Equity Capital Ratio (as defined below) of at least [twenty-five)] [(25)] percent. [The Equity Capital Ratio shall be calculated in accordance with [local GAP] [or] [IFRS] [at the Issuer' option].]</p> <p>In case the Issuer determines a lower Equity Capital Ratio (as mentioned in the above paragraphs on a relevant Reporting Date and publishes said Equity Capital Ratio in accordance with § 4(d), and Increased Coupon (as defined in § 4(d)) shall apply to the Notes.</p> <p>Whereby:</p> <p><b>"Equity Capital Ratio"</b> means [the balance sheet equity divided by the balance sheet total)], whereby all figures are to be determined from the last audited annual financial statements of the Issuer [and the Issuer is entitled, for the purpose of calculating the equity ratio, to continue the accounting methods used at the time of the issue – eventually also deviating from the audited [annual] [or] semi-annual] financial statements)].</p> <p><b>"Reporting Date"</b> means [[the 31 December 2019)] [and each further 31 December] [until the Redemption Date)].</p> <p><b>[(b)] Liquidity Reserve</b></p> <p>The Issuer undertakes to ensure that its</p>
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Die Emittentin verpflichtet sich darauf hinzuwirken, dass ihre Tochtergesellschaften [ggf. Namen der Tochtergesellschaft(en) einfügen: [●]], sofern erforderlich und sofern sie Gewinne erwirtschaften, eine ausschüttungsfähige Liquidität aufweisen und zumindest so viele Mittel an die Emittentin ausschütten, dass die Emittentin stets in der Lage ist, ihre Verpflichtungen aus diesen Anleihebedingungen zu erfüllen.]

#### [[c)][●] Informationspflichten

Die Emittentin verpflichtet sich, den Anleihegläubigern in der Form des § [14][●] oder durch Veröffentlichung auf ihrer Internetseite (www.estream-energy.com) [bzw. einer Nachfolgewebseite][●] zur Verfügung zu stellen:

[(i)] den geprüften Abschluss zum [31. Dezember 2019][●] sobald verfügbar, jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres [2019][●] sowie die geprüften Abschlüsse für die darauf folgenden Geschäftsjahre sobald verfügbar, jedoch nicht später als [9][●] Monate nach dem Ende jedes Geschäftsjahres[.]; und]

[[ii)] sobald verfügbar, jedoch nicht später als [6][●] Monate nach dem Ende jedes Geschäftshalbjahres einen erstellten ungeprüften Halbjahresabschluss.]]

#### [[d)][●] Börsennotierung

Die Emittentin wird dafür Sorge tragen, eine Notierung der Schuldverschreibungen in [den Open Market (Freiverkehr)][●] der [Frankfurter Wertpapierbörse][●] [oder einer anderen Wertpapierbörse] [in Deutschland] [oder] [in der EU] [oder] [●] herbeizuführen und bis zur Endfälligkeit der Schuldverschreibungen, längstens jedoch bis zu dem Zeitpunkt aufrechtzuerhalten, in dem sämtliche

subsidiaries [insert name of the subsidiaries, if any: [●]], if necessary and if they generate profits, have distributable liquidity and distribute at least sufficient funds to the Issuer that the Issuer is always in a position to meet its obligations under these Terms and Conditions.]

#### [[c)][●] Information Obligation

The Issuer undertakes to provide the Noteholders in the form of § [14][●] or by publication on its website (www.estream-energy.com) [or on a successor website][●] with:

[(i)] the audited financial statements as at [31 December 2019][●] as available but not later than [9][●] months after the end of each financial year [2019][●] and the audited financial statements for subsequent financial years as available but not later than [9][●] months after the end of each financial year[.]; and]

[[ii)] as soon as available, but not later than [6][●] months after the end of each half-year, an unaudited half-year financial statement.]]

#### [[d)][●] Listing

The Issuer will ensure that the Notes are listed on [the Open Market (Freiverkehr)][●] of [the Frankfurt Stock Exchange][●] [or another stock exchange] [in Germany] [or] [in the EU] [or] [●] and will maintain such listing until final maturity of the Notes, but at the latest until all Notes have been redeemed or repurchased.]

Schuldverschreibungen zurückbezahlt oder zurückgekauft wurden.]

[[e]][•] [Weitere] [Finanzielle Verpflichtung[en]

[•]]

#### § 4][•] Verzinsung

(a) [Die Schuldverschreibungen werden ab dem [•] (einschließlich) (der "**Begebungstag**") bezogen auf ihren Nennbetrag mit [•] % jährlich (der "**Zinssatz**") verzinst. Die Zinsen sind jährlich nachträglich jeweils am [•] eines jeden Jahres (jeweils ein "**Zinszahlungstag**" und der Zeitraum ab dem Begebungstag (einschließlich) bis zum ersten Zinszahlungstag (ausschließlich) und danach von jedem Zinszahlungstag (einschließlich) bis zum nächstfolgenden Zinszahlungstag (ausschließlich) jeweils eine "**Zinsperiode**") zahlbar. Die erste Zinszahlung wird am [•] fällig.][Andere anwendbare Verzinsung: [•]]

(b) Die Verzinsung der Schuldverschreibungen endet mit Beginn des Tages, an dem sie zur Rückzahlung fällig werden, oder, sollte die Emittentin eine Zahlung aus diesen Schuldverschreibungen bei Fälligkeit nicht leisten, mit Beginn des Tages der tatsächlichen Zahlung. Der Zinssatz erhöht sich in diesem Fall um [5][•] Prozentpunkte p.a.

(c) [Sind Zinsen im Hinblick auf einen Zeitraum zu berechnen, der kürzer als eine Zinsperiode ist, so werden sie berechnet auf der Grundlage der Anzahl der tatsächlichen verstrichenen Tage im relevanten Zeitraum (gerechnet vom letzten Zinszahlungstag (einschließlich)) dividiert durch die tatsächliche Anzahl der Tage der Zinsperiode (365 Tage bzw. 366 Tage im Falle eines Schaltjahrs) (Actual/Actual).][Andere Zinsperiodenberechnung: [•]]

[[e]][•] [Additional] Financial Covenant[s]

[•]]

#### § 4][•] Interest

(a) [The Notes will bear interest on their principal amount at a rate of [•] % per annum (the "**Coupon**") as from [•] (the "**Issue Date**"). Interest is payable in arrears on [•] of each year (the "**Interest Payment Date**" and the period from the Issue Date (inclusive) up to the first Interest Payment Date (exclusive) and thereafter as from any Interest Payment Date (inclusive) up to the next following Interest Payment Date (exclusive) being an "**Interest Period**"). The first interest payment will be due on [•].][Other applicable Interest: [•]]

(b) The Notes shall cease to bear interest from the beginning of the day they are due for redemption, or, in case the Issuer fails to make any payment under the Notes when due, from the beginning of the day on which such payment is made. In such case, the rate of interest shall be increased by [5][•] percentage points per annum.

(c) [Where interest is to be calculated in respect of a period which is shorter than an Interest Period the interest will be calculated on the basis of the actual number of days elapsed in the relevant period (from and including the most recent Interest Payment Date) divided by the actual number of days of the Interest Period (365 days and 366 days, respectively, in case of a leap year) (Actual/Actual).][Other applicable Interest-Period-Calculation: [•]]

[(d) Die Emittentin verpflichtet sich, sofern die Emittentin im Wege einer Veröffentlichungsmitteilung (wie nachstehend definiert) bekannt gibt, dass

- die Eigenkapitalquoten (ermittelt nach den Vorgaben gemäß § 3[(a)]) zum jeweiligen Stichtag, die in § 3[(a)]) benannte Quote unterschritten wurde; [oder]]

[- die Informationspflichten nach § 3[(c)][●] zu den dort genannten Zeitpunkten nicht erfüllt wurden; [oder]]

[- die Verpflichtung nach § 3[(d)][●] zur Börsennotierung nicht erfüllt wurde[,;] [oder]]

[●]

die Schuldverschreibungen in der jeweils Maßgeblichen Zinsperiode (wie nachstehend definiert) mit einem Erhöhten Zinssatz (per annum) (wie nachstehend definiert) zu verzinsen. Die Emittentin verpflichtet sich, eine jede Veröffentlichungsmitteilung mindestens [20][●] Tage vor einem jeden Zinszahlungstag auf der Webseite der Emittentin unter [www.estream-energy.com][●] [im Bereich ["Anleihe[n]"][●]] zu veröffentlichen.]]

[Mit Bezug auf einen Fall nach § 3[(a)] gilt, dass eine Unterschreitung der Eigenkapitalquote gilt als eingetreten, wenn auf Basis des jeweils maßgeblichen festgestellten Jahresabschlusses die Verminderung der Eigenkapitalquote festgestellt wurde.]

Wobei gilt:

"**Erhöhter Zinssatz**" bedeutet [einen Zinssatz (per annum), zu zahlen auf die Schuldverschreibungen, korrespondierend mit der Summe aus Zinssatz und [0,5][●] Prozentpunkten][●].

[(d) The Issuer undertakes, in the event that Issuer notifies by way of a Disclosure Notification (as defined below) that

- the Equity Capital Ratio (determined in accordance with § 3[(a)]) as of the relevant Reporting Date is below the ratio as set out in § 3[(a)]; [or]]

[- the information obligation in accordance with § 3[(c)][●] has not been fulfilled in time at the relevant date; [or]]

[- the obligation in accordance with § 3[(d)][●] relating to the listing has not been fulfilled[,;] [or]]

[●]

to pay an Increased Coupon (per annum) (as defined below) on the Notes during the Relevant Interest Period (as defined below). The Issuer undertakes to publish any Disclosure Notification at least [20][●] days prior to each Interest Payment Date on the Issuer's website [www.estream-energy.com][●] [in the section ["Anleihe[n]"][●]].]]

[With respect to § 3[(a)] a shortfall in the Equity Capital Ratio is deemed to have occurred if the reduction in the Equity Capital Ratio was determined on the basis of the relevant adopted annual financial statements.]

Whereby:

"**Increased Coupon**" means [an interest rate (per annum) to be applied on the Notes and which reflects the sum of the Coupon and [0.5][●] percentage points][●].

**"Maßgebliche Zinsperiode"** bedeutet [diejenige Zinsperiode, beginnend mit dem ersten Tag dieser Zinsperiode (einschließlich) und endend mit dem letzten Tag dieser Zinsperiode (ausschließlich), [in welcher der jeweilige Stichtag fällt][welcher derjenigen Zinsperiode folgt, in den der jeweilige Stichtag fällt]][●].

**"Veröffentlichungsmitteilung"** bedeutet [eine Mitteilung über [die Höhe der Eigenkapitalquote nach § 3[(a)] zum jeweils letzten Stichtag] [und] [der Verletzung der Informationspflichten nach § 3[(c)][●]] [und] [der Verletzung der Pflicht zur Börsennotierung nach § 3[(d)][●]] [und [●]]. [●].]

§ [5][●] **Fälligkeit, Rückzahlung, [vorzeitige Rückzahlung aus steuerlichen Gründen,] [nach Wahl [der Emittentin] [oder] [der Anleihegläubiger]] sowie Rückkauf [und Entwertung]**

(a) Die Schuldverschreibungen werden am [●] (der **"Fälligkeitstermin"**) zum Nennbetrag zurückgezahlt. Eine vorzeitige Rückzahlung findet außer in den nachstehend genannten Fällen nicht statt.

Für Zwecke dieser Anleihebedingungen bezeichnet **"Vorzeitiger Rückzahlungsbetrag"** den Nennbetrag der Schuldverschreibungen.

[(b) Vorzeitige Rückzahlung aus steuerlichen Gründen. Sollte die Emittentin zu irgendeinem Zeitpunkt in der Zukunft aufgrund einer Änderung des in der Bundesrepublik Deutschland geltenden Rechts oder seiner amtlichen Anwendung verpflichtet sein oder zu dem nächstfolgenden Zahlungstermin für Kapital oder Zinsen verpflichtet werden, die in § [7(a)][●] genannten zusätzlichen Beträge zu zahlen, und diese Verpflichtung nicht durch das Ergreifen vernünftiger, der Emittentin zur Verfügung stehender Maßnahmen vermeiden

**"Relevant Interest Period"** means [the interest period from the first day of this interest period (inclusive) to the last day of this interest period (exclusive) [during which the respective Reporting Date is determined][which follows the Interest Period in which the respective Reporting Date falls]][●].

**"Disclosure Notification"** means [a notification regarding [the Equity Capital Ratio in accordance with § 3[(a)] as per the each recent Reporting Date] [and] [the breach of the information obligation in accordance with § 3[(c)][●]] [and] [the breach of the listing obligation in accordance with § 3[(d)][●]] [and [●]].[●]]

§ [5][●] **Maturity, Redemption[, Early Redemption for Tax Reasons][, at the Option] of [the Issuer] [or] [the Noteholders],] and Repurchase [and Cancellation]**

(a) The Notes will be redeemed at par on [●] (the **"Redemption Date"**). There will be no early redemption except in the following cases.

In these Terms and Conditions **"Early Redemption Amount"** means the principal amount of the Notes.

[(b) Early Redemption for Tax Reasons. If at any future time as a result of a change of the laws applicable in the Federal Republic of Germany or a change in their official application, the Issuer is required, or at the time of the next succeeding payment due in respect of principal or interest will be required, to pay additional amounts as provided in this § [7(a)][●], and such obligation cannot be avoided taking reasonable measures available to the Issuer, the Issuer will be entitled, upon not less than [30][●] days' and not more than [60][●] days' notice to be given by

können, so ist die Emittentin mit einer Frist von wenigstens [30][●] Tagen und höchstens [60][●] Tagen berechtigt, durch Bekanntmachung gemäß § [14][●] die Schuldverschreibungen insgesamt zur vorzeitigen Rückzahlung zum Vorzeitigen Rückzahlungsbetrag zuzüglich aufgelaufener Zinsen zu kündigen.

Eine Kündigung gemäß diesem § [5(b)][●] darf allerdings nicht (i) früher als [90][●] Tage vor dem frühest möglichen Termin erfolgen, an dem die Emittentin verpflichtet wäre, solche zusätzlichen Beträge zu zahlen, falls eine Zahlung auf die Schuldverschreibungen dann fällig sein würde, oder (ii) erfolgen, wenn zu dem Zeitpunkt, zu dem die Kündigung erfolgt, die Verpflichtung zur Zahlung von zusätzlichen Beträgen nicht mehr wirksam ist.

Eine solche Kündigung ist unwiderruflich und muss den für die Rückzahlung festgelegten Termin nennen sowie eine zusammenfassende Erklärung enthalten, welche die das Rückzahlungsrecht der Emittentin begründenden Umstände darlegt.]

[[c)][●] Vorzeitige Rückzahlung nach Wahl der Emittentin. Die Emittentin ist berechtigt, frühestens zum [●] ausstehende Schuldverschreibungen mit einer Frist von mindestens [10][●] und höchstens [20][●] Tagen durch Bekanntmachung gemäß § [14][●] insgesamt zu kündigen und vorzeitig zum Vorzeitigen Rückzahlungsbetrag (Call) (wie nachfolgend definiert) zurückzuzahlen. Eine solche Kündigungserklärung ist unwiderruflich. Der Tag der vorzeitigen Rückzahlung muss ein Geschäftstag im Sinne von § [6][●](c) sein. Im Hinblick auf die gekündigten Schuldverschreibungen endet die Verzinsung mit dem letzten Tag vor dem vorzeitigen Rückzahlungstag.

[Der Emittentin steht dieses Wahlrecht nicht in

publication in accordance with § [14][●], prior to the Redemption Date to redeem all Notes at the Early Redemption Amount plus accrued interest.

No notice of redemption pursuant to this § [5(b)][●] shall be made given (i) earlier than [90][●] days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts if a payment in respect of the Notes was then due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

Any such notice shall be irrevocable and must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.]

[[c)][●] Early Redemption at the Option of the Issuer. The Issuer shall be entitled, by giving not less than [10] [●] nor more than [20] [●] days' notice by publication in accordance with § [14][●], to redeem outstanding Notes, in whole, no earlier than per [●] at the Call Early Redemption Amount (as defined below). Such notice shall be irrevocable and shall state the date of early redemption. The date of early redemption must be a Business Day within the meaning of § [6][●](c). In respect of the Notes which are subject to redemption the entitlement to interest shall end with the day immediately preceding the early redemption date.

[The Issuer may not exercise such option in



Bezug auf eine Schuldverschreibung zu, deren Rückzahlung bereits ein Anleihegläubiger in Ausübung seines Wahlrechts nach § [5(d)][●] verlangt hat.]

**["Vorzeitiger Rückzahlungsbetrag (Call)"]** bezeichnet im Falle einer vorzeitigen Rückzahlung gemäß diesem § [5(c)][●] ab dem [●] bis einschließlich des [●] [104][●] % des Nennbetrages und innerhalb eines Zeitraums ab dem [●] bis zum Fälligkeitstermin [102][●] % des Nennbetrages.][*Anderer Vorzeitiger Rückzahlungsbetrag: [●]*]]

[[d)][●] Vorzeitige Rückzahlung nach Wahl der Anleihegläubiger bei einem Kontrollwechsel. Wenn ein Kontrollwechsel (wie nachfolgend definiert) eintritt, ist jeder Anleihegläubiger berechtigt, von der Emittentin die Rückzahlung oder, nach Wahl der Emittentin, den Ankauf seiner Schuldverschreibungen durch die Emittentin (oder auf ihre Veranlassung durch einen Dritten) zum Vorzeitigen Rückzahlungsbetrag (Put) (wie nachfolgend definiert) insgesamt oder teilweise zu verlangen (die "**Put Option**"). Eine solche Ausübung der Put Option wird jedoch nur dann wirksam, wenn innerhalb des Rückzahlungszeitraums (wie nachstehend definiert) Anleihegläubiger von Schuldverschreibungen im Nennbetrag von mindestens [90][●] % des Gesamtnennbetrages der zu diesem Zeitpunkt noch insgesamt ausstehenden Schuldverschreibungen von der Put Option Gebrauch gemacht haben. Die Put Option ist wie nachfolgend unter § [5(e)][●] beschrieben auszuüben.

**["Vorzeitiger Rückzahlungsbetrag (Put)"]** bezeichnet [101][●] % des Nennbetrages.

Ein "**Kontrollwechsel**" liegt vor, wenn eines der folgenden Ereignisse eintritt:

respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under § [5(d)][●].]

**["Call Early Redemption Amount"]** shall mean, in the event of an early redemption pursuant to this § [5(c)][●] within the period commencing on [●] and ending [●] (inclusive) [104][●] % of the Principal Amount and within a period commencing on [●] and ending on the Redemption Day [102][●] % of the Principal Amount.][*Other Call Early Redemption Amount: [●]*]]

[[d)][●] Early Redemption at the Option of the Noteholders upon a Change of Control. If a Change of Control (as defined below) occurs, each Noteholder shall have the right to require the Issuer to redeem or, at the Issuer's option, purchase (or procure the purchase by a third party of) in whole or in part his Notes at the Put Early Redemption Amount (as defined below) (the "**Put Option**"). An exercise of the Put option shall, however, only become valid if during the Put Period (as defined below) Noteholders of Notes with a Principal Amount of at least [90][●] % of the Aggregate Principal Amount of the Notes then outstanding have exercised the Put Option. The Put Option shall be exercised as set out below under § [5(e)][●].

**["Put Early Redemption Amount"]** shall mean [101][●] % of the Principal Amount.

**["Change of Control"]** means the occurrence of any of the following events:

[(i) die Emittentin erlangt Kenntnis davon, dass eine Dritte Person (wie nachstehend definiert) oder gemeinsam handelnde Dritte Personen im Sinne von § 2 Absatz 5 Wertpapiererwerbs- und Übernahmegesetz (jeweils ein "**Erwerber**") der rechtliche Eigentümer von mehr als 50 % der Stimmrechte der Emittentin geworden ist; oder

(ii) die Verschmelzung der Emittentin mit einer oder auf eine Dritte Person (wie nachfolgend definiert) oder die Verschmelzung einer Dritten Person mit oder auf die Emittentin, oder der Verkauf aller oder im Wesentlichen aller Vermögensgegenstände (konsolidiert betrachtet) der Emittentin an eine Dritte Person. Dies gilt nicht für Verschmelzungen oder Verkäufe im Zusammenhang mit Rechtsgeschäften, in deren Folge (A) im Falle einer Verschmelzung die Inhaber von 100 % der Stimmrechte der Emittentin wenigstens die Mehrheit der Stimmrechte an dem überlebenden Rechtsträger unmittelbar nach einer solchen Verschmelzung halten und (B) im Fall des Verkaufs von allen oder im Wesentlichen allen Vermögensgegenständen der erwerbende Rechtsträger eine Tochtergesellschaft der Emittentin ist oder wird und Garantin bezüglich der Schuldverschreibungen wird.][●]

[Als Kontrollwechsel ist es nicht anzusehen, wenn sich nach der Zulassung der Anteile der Emittentin zum Handel an einem regulierten Markt einer deutschen Wertpapierbörse oder einem vergleichbaren Marktsegment einer ausländischen Wertpapierbörse weniger als 50 % der Stimmrechte an der Emittentin im Eigentum einer Holdinggesellschaft der Emittentin befinden. Als Kontrollwechsel ist es ebenfalls nicht anzusehen, wenn Anteile an der Emittentin im Wege der Erbfolge übergehen.][●]

"**Dritte Person**" im Sinne dieses § [5(d)(i) und (ii)][●] ist jede Person außer einer verbundenen

[(i) the Issuer becomes aware that any Third Person (as defined below) or group of Third Persons acting in concert within the meaning of § 2 (5) of the German Securities Acquisition and Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz, WpÜG*) (each an "**Acquirer**") has become the legal owner of more than 50 % of the voting rights of the Issuer; or

(ii) the merger of the Issuer with or into a Third Person (as defined below) or the merger of a Third Person with or into the Issuer, or the sale of all or substantially all of the assets (determined on a consolidated basis) of the Issuer to a Third Person, other than in a transaction following which (A) in the case of a merger holders that represented 100 % of the voting rights of the Issuer own directly or indirectly at least a majority of the voting rights of the surviving person immediately after such merger and (B) in the case of a sale of all or substantially all of the assets, each transferee becomes a guarantor in respect of the Notes and is or becomes a subsidiary of the Issuer.][●]

[It shall not be qualified as a Change of Control, however, if following the admission of the Issuer's shares to trading on the regulated market of a German stock exchange or an equivalent market segment of a foreign stock exchange less than 50 % of the voting rights of the Issuer are owned by a Holding Company of the Issuer. It shall also not be qualified as a Change of Control, if shares of the issuer or any other participating interest will be transferred by testamentary or hereditary succession.][●]

"**Third Person**" shall for the purpose of this § [5(d)(i) and (ii)][●] mean any person other than

Person der Emittentin (wie nachstehend definiert).

**"Verbundene Person"** bezeichnet jede Tochtergesellschaft oder Holdinggesellschaft einer Person sowie jede andere Tochtergesellschaft dieser Holdinggesellschaft.

Wenn ein Kontrollwechsel eintritt, wird die Emittentin unverzüglich nachdem sie hiervon Kenntnis erlangt den Anleihegläubigern Mitteilung vom Kontrollwechsel gemäß § [14(a)][●] machen (die **"Put-Rückzahlungsmitteilung"**), in der die Umstände des Kontrollwechsels sowie das Verfahren für die Ausübung der in diesem § [5(d)][●] genannten Put Option angegeben sind.]

[[e)][●] Die Ausübung der Put Option gemäß § [5(d)][●] muss durch den Anleihegläubiger innerhalb eines Zeitraums (der **"Put-Rückzahlungszeitraum"**) von [30][●] Tagen, nachdem die Put-Rückzahlungsmitteilung veröffentlicht wurde, schriftlich gegenüber der depotführenden Stelle des Anleihegläubigers erklärt werden (die **"Put-Ausübungserklärung"**). Die Emittentin wird nach ihrer Wahl die maßgebliche(n) Schuldverschreibung(en) [sieben][●] Tage nach Ablauf des Rückzahlungszeitraums (der **"Put-Rückzahlungstag"**) zurückzahlen oder erwerben (bzw. erwerben lassen), soweit sie nicht bereits vorher zurückgezahlt oder erworben und entwertet wurde(n). Die Abwicklung erfolgt über die Emittentin. Eine einmal gegebene Put-Ausübungserklärung ist für den Anleihegläubiger unwiderruflich.]

[[f)][●] Das ordentliche Kündigungsrecht der Anleihegläubiger ist ausgeschlossen.]

[[g)][●] [Die Emittentin kann jederzeit und zu jedem Preis im Markt oder auf andere Weise Schuldverschreibungen ankaufen. Die von der Emittentin erworbenen Schuldverschreibungen

an an Affiliated Company of the Issuer (as defined below).

**"Affiliated Company"** means in respect to any person, a subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

If a Change of Control occurs, then the Issuer shall, without undue delay, after becoming aware thereof, give notice of the Change of Control (a **"Put Event Notice"**) to the Noteholders in accordance with § [14(a)][●] specifying the nature of the Change of Control and the procedure for exercising the Put Option contained in this § [5(d)][●].]

[[e)][●] The exercise of the Put Option pursuant to § [5(d)][●], must be declared by the Noteholder within [30][●] days after a Put Event Notice has been published (the **"Put Period"**) to the Depository Bank of such Noteholder in writing (a **"Put Notice"**). The Issuer shall redeem or, at its option, purchase (or procure the purchase of) the relevant Note(s) on the date (the **"Put Redemption Date"**) [seven][●] days after the expiration of the Put Period unless previously redeemed or purchased and cancelled. Payment in respect of any Note so delivered will be made in accordance with the customary procedures through the Issuer. A Put Notice, once given, shall be irrevocable.]

[[f)][●] The Noteholders' ordinary right to call is excluded.]

[[g)][●] [The Issuer may at any time purchase Notes in the market or otherwise. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the

können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Zahlstelle zwecks Entwertung eingereicht werden.] [●]

[[h)] [●] [Sämtliche vollständig zurückgezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.] [●]

#### § [6][●] Zahlungen, Hinterlegung

(a) Die Emittentin verpflichtet sich, Kapital und Zinsen auf die Schuldverschreibungen bei Fälligkeit in [Euro][●] zu zahlen. Die Zahlung von Kapital und Zinsen erfolgt, vorbehaltlich geltender steuerrechtlicher und sonstiger gesetzlicher Regelungen und Vorschriften, über die Hauptzahlstelle zur Weiterleitung an das Clearingsystem oder nach dessen Weisung zur Gutschrift für die jeweiligen Kontoinhaber. Die Zahlung an das Clearingsystem oder nach dessen Weisung befreit die Emittentin in Höhe der geleisteten Zahlung von ihren entsprechenden Verbindlichkeiten aus den Schuldverschreibungen. Eine Bezugnahme in diesen Anleihebedingungen auf Kapital oder Zinsen der Schuldverschreibungen schließt jegliche Zusätzlichen Beträge gemäß § [7][●] ein.

(b) Falls eine Zahlung auf Kapital oder Zinsen einer Schuldverschreibung an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht den betreffenden Anleihegläubigern weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu.

(c) "**Geschäftstag**" im Sinne dieser Anleihebedingungen ist jeder Tag (außer einem Samstag oder Sonntag), an dem (i) das Trans-European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET) und (ii) das Clearingsystem geöffnet

Paying Agent for cancellation.] [●]

[[h)] [●] [All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.] [●]

#### § [6][●] Payments, Depositing in Court

(a) The Issuer undertakes to pay, as and when due, principal and interest on the Notes in [Euros][●]. Payment of principal and interest on the Notes shall be made, subject to applicable fiscal and other laws and regulations, through the Principal Paying Agent for on-payment to the Clearing System or to its order for credit to the respective account holders. Payments to the Clearing System or to its order shall to the extent of amounts so paid constitute the discharge of the Issuer from its corresponding liabilities under the Terms and Conditions of the Notes. Any reference in these Terms and Conditions of the Notes to principal or interest will be deemed to include any Additional Amounts as set forth in § [7][●].

(b) If any payment of principal or interest with respect to a Note is to be effected on a day other than a Business Day, payment will be effected on the next following Business Day. In this case, the relevant Noteholders will neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.

(c) In these Terms and Conditions, "**Business Day**" means a day (other than a Saturday or Sunday) on which (i) the Trans-European Automated Real-time Gross settlement Express Transfer System 2 (TARGET) and (ii) the Clearing System are operating and settle

sind und Zahlungen weiterleiten.

(d) Bezugnahmen in diesen Anleihebedingungen auf Kapital der Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Rückzahlungsbetrag der Schuldverschreibungen (wie in § [5(a)][●] definiert); [den vorzeitigen Rückzahlungsbetrag (wie in § [5(b)][●] definiert)] sowie jeden Aufschlag sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf die Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß § [7][●] zahlbaren Zusätzlichen Beträge einschließen.

(e) Die Emittentin ist berechtigt, alle auf die Schuldverschreibungen zahlbaren Beträge, auf die Anleihegläubiger keinen Anspruch erhoben haben, bei dem Amtsgericht [Frankfurt am Main][●] zu hinterlegen. Soweit die Emittentin auf das Recht zur Rücknahme der hinterlegten Beträge verzichtet, erlöschen die betreffenden Ansprüche der Anleihegläubiger gegen die Emittentin.

#### § [7][●] Steuern

(a) Sämtliche in Bezug auf die Schuldverschreibungen zu zahlenden Beträge werden ohne Abzug oder Einbehalt von oder wegen gegenwärtiger oder zukünftiger Steuern oder sonstiger Abgaben jedweder Art gezahlt, die durch oder für die Bundesrepublik Deutschland oder für deren Rechnung oder von oder für Rechnung einer dort zur Steuererhebung ermächtigten Gebietskörperschaft oder Behörde durch Abzug oder Einbehalt an der Quelle auferlegt oder erhoben werden, es sei denn, ein solcher Abzug oder Einbehalt ist gesetzlich vorgeschrieben.

In diesem Fall wird die Emittentin diejenigen zusätzlichen Beträge (die "**Zusätzlichen Beträge**") zahlen, die erforderlich sind, um

payments.

(d) References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable: the Final Redemption Amount of the Notes (as defined in § [5(a)][●]); [the Put Early Redemption Amount (as defined in § [5(b)][●]);] and any premium and any other amounts which may be payable under or in respect of the Notes. References in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § [7][●].

(e) The Issuer may deposit with the local court (*Amtsgericht*) in [Frankfurt am Main][●] any amounts payable on the Notes not claimed by Noteholders. To the extent that the Issuer waives its right to withdraw such deposited amounts, the relevant claims of the Noteholders against the Issuer shall cease.

#### § [7][●] Taxes

(a) All amounts payable under the Notes will be paid without deduction or withholding for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of deduction or withholding at source by or on behalf of the Federal Republic of Germany or by or on behalf of any political subdivision or authority thereof or therein having power to tax, unless such deduction or withholding is required by law.

In such event the Issuer will pay such additional amounts (the "**Additional Amounts**") as may be necessary in order that the net amounts after such

sicherzustellen, dass der nach einem solchen Abzug oder Einbehalt verbleibende Nettobetrag denjenigen Beträgen entspricht, die ohne solchen Abzug oder Einbehalt zu zahlen gewesen wären.

(b) Zusätzliche Beträge gemäß § [7(a)][●] sind nicht zahlbar wegen Steuern oder Abgaben, die:

(i) von einer als Depotbank oder Inkassobeauftragter des Anleihegläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen von Kapital oder Zinsen einen Abzug oder Einbehalt vornimmt; oder

(ii) durch den Anleihegläubiger wegen einer anderen gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung zur Bundesrepublik Deutschland zu zahlen sind als der bloßen Tatsache, dass Zahlungen auf die Schuldverschreibungen aus Quellen in der Bundesrepublik Deutschland stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind;

(iii) aufgrund (A) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (B) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der die Bundesrepublik Deutschland oder die Europäische Union beteiligt ist, oder (C) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder

deduction or withholding will equal the amounts that would have been payable if no such deduction or withholding had been made.

(b) No Additional Amounts will be payable pursuant to § [7(a)][●] with respect to taxes or duties which:

(i) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or

(ii) are payable by reason of the Noteholder having, or having had, another personal or business connection with the Federal Republic of Germany than the mere fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, the Federal Republic of Germany;

(iii) are deducted or withheld pursuant to (A) any European Union Directive or Regulation concerning the taxation of interest income, or (B) any international treaty or understanding relating to such taxation and to which the Federal Republic of Germany or the European Union is a party, or (C) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(iv) aufgrund einer Rechtsänderung zu zahlen sind, welche später als [30][●] Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß § [14][●] wirksam wird.

Die gegenwärtig in der Bundesrepublik Deutschland erhobene Kapitalertragsteuer und der darauf jeweils anfallende Solidaritätszuschlag sind keine Steuer oder sonstige Abgabe im oben genannten Sinn, für die zusätzliche Beträge seitens der Emittentin zu zahlen wären.

#### **§ [8][●] Kündigungsrecht der Anleihegläubiger**

(a) Jeder Anleihegläubiger ist berechtigt, seine Schuldverschreibungen zur Rückzahlung fällig zu stellen und deren sofortige Tilgung zum Vorzeitigen Rückzahlungsbetrag zuzüglich aufgelaufener Zinsen zu verlangen, falls

(i) die Emittentin oder die Garantin Kapital oder Zinsen nicht innerhalb von [sieben][●] Tagen nach dem betreffenden Fälligkeitstag zahlt;

[(ii) die Emittentin oder die Garantin irgendeine andere Verpflichtung aus den Schuldverschreibungen nicht ordnungsgemäß erfüllt und die Unterlassung, sofern sie nicht heilbar ist, länger als [30][●] Tage fort dauert; nachdem die Emittentin oder die Garantin hierüber eine Benachrichtigung von einem Anleihegläubiger erhalten hat;]

[[iii][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin schriftlich erklärt, dass sie ihre Schulden bei Fälligkeit nicht zahlen kann (*Zahlungseinstellung*);]

(iv) are payable by reason of a change in law that becomes effective more than [30][●] days after the relevant payment of principal or interest becomes due, or, if this occurs later, after all due amounts have been duly provided for and a notice to that effect has been published in accordance with § [14][●].

The withholding tax (*Kapitalertragsteuer*) currently levied in the Federal Republic of Germany and the solidarity surcharge (*Solidaritatzuschlag*) imposed thereon do not constitute a tax or duty as described above in respect of which additional Amounts would be payable by the Issuer.

#### **§ [8][●] Events of Default**

(a) Each Noteholder will be entitled to declare his Notes due and demand immediate redemption of his Notes at the Early Redemption Amount plus accrued interest, if

(i) the Issuer, or the Guarantor, fails to provide principal or interest within [seven][●] days from the relevant due date;

[(ii) the Issuer, or the Guarantor, fails to duly perform any other obligation arising from the Notes and such default, except where such default is incapable of remedy, continues unremedied for more than [30][●] days after the Issuer, or the Guarantor, has received notice thereof from a Noteholder;]

[[iii][●] the Issuer [or a Material Subsidiary (as defined below)] or the Guarantor states in writing that it is unable to pay its debts as they become due (*Cessation of payment*);]

[[iv]][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin eine Zahlungsverpflichtung in Höhe von insgesamt mehr als [EUR][●] [5.000.000][●] (in Worten: [Euro][●] [fünf Millionen][●]) aus einer Finanzverbindlichkeit (wie nachstehend definiert) oder aufgrund einer Bürgschaft oder Garantie, die für solche Verbindlichkeiten Dritter gegeben wurde, bei (ggf. vorzeitiger) Fälligkeit und nach Ablauf einer Frist von [30][●] Tagen nach Inanspruchnahme nicht erfüllt (*Drittverzug*);]

[[v]][●] (A) ein Insolvenzverfahren über das Vermögen der Emittentin [oder einer Wesentlichen Tochtergesellschaft (wie nachstehend definiert)] oder der Garantin eröffnet wird, oder (B) die Emittentin [oder eine Wesentliche Tochtergesellschaft] oder die Garantin ein solches Verfahren einleitet oder beantragt, oder (C) ein Dritter ein Insolvenzverfahren gegen die Emittentin [oder eine Wesentliche Tochtergesellschaft] oder die Garantin beantragt und ein solches Verfahren nicht innerhalb einer Frist von [30][●] Tagen aufgehoben oder ausgesetzt worden ist, es sei denn es wird mangels Masse abgewiesen oder eingestellt;]

[[vi]][●] die Emittentin oder die Garantin ihre Geschäftstätigkeit ganz einstellt oder ihr gesamtes oder wesentliche Teile ihres Vermögens an Dritte (außer der Emittentin [oder einer ihrer jeweiligen Tochtergesellschaften] oder die Garantin) abgibt und dadurch der Wert des Vermögens der Emittentin oder der Garantin (auf Konzernebene) wesentlich vermindert wird. Eine solche wesentliche Wertminderung wird im Falle einer Veräußerung von Vermögen angenommen, wenn der Wert der veräußerten Vermögensgegenstände [50 %][●] der [konsolidierten] Bilanzsumme der Emittentin oder der Garantin übersteigt;]

[[iv]][●] the Issuer [or a Material Subsidiary (as defined below)] or the Guarantor fails to fulfil any payment obligation in excess of a total amount of [EUR][●] [5,000,000][●] (in words: [five million][●] [Euros][●]) under any Financial Indebtedness (as defined below), or under any guaranty or suretyship for any such indebtedness of a third party, when due (including in case of any acceleration) and within [30][●] days after being invoked (*Cross Default*);]

[[v]][●] (A) the Issuer's, the Guarantor's [or a Material Subsidiary's (as defined below)] assets have been subjected to an insolvency proceeding, or (B) the Issuer, [or a Material Subsidiary] or the Guarantor applies for or institutes such proceedings or (C) a third party applies for insolvency proceedings against the Issuer [or a Material Subsidiary] or the Guarantor and such proceedings are not discharged or stayed within [30][●] days, unless such proceeding is dismissed due to insufficient assets;]

[[vi]][●] the Issuer, or the Guarantor, ceases its business operations in whole or sells or transfers its assets in whole or a material part thereof to a third party (except for the Issuer [or any of its subsidiaries], or the Guarantor) and this causes a substantial reduction of the value of the assets of the Issuer, or the Guarantor (on a consolidated basis). In the event of a sale of assets such a substantial reduction shall be assumed if the value of the assets sold exceeds [50 %][●] of the [consolidated] total assets and liabilities of the Issuer or the Guarantor;]



[[vii]][●] die Emittentin [oder eine Wesentliche Tochtergesellschaft (wie nachstehend definiert)] oder die Garantin in Liquidation tritt, es sei denn, dies geschieht im Zusammenhang mit einer Verschmelzung oder einer anderen Form des Zusammenschlusses mit einer anderen Gesellschaft oder im Zusammenhang mit einer Umwandlung und die andere oder neue Gesellschaft übernimmt im Wesentlichen alle Aktiva und Passiva der Emittentin [oder der Wesentlichen Tochtergesellschaft], oder der Garantin einschließlich aller Verpflichtungen, die die Emittentin im Zusammenhang mit den Schuldverschreibungen hat;]

[[viii]][●] die Emittentin eine "**Unzulässige Ausschüttung**" an ihre [Kommanditisten] [Aktionäre] [Kommanditaktionäre] in einem Geschäftsjahr vornimmt, die mehr als [50 % des Jahresüberschusses der Emittentin (nach Abzug von Anteilen Dritter am Jahresüberschuss)][●], der im jeweils vorangegangenen Geschäftsjahr, beginnend mit dem Jahresüberschuss für das Geschäftsjahr [2019][●], erwirtschaftet wurde, beträgt. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche Zahlungsansprüche[;][.]

[●]

["**Wesentliche Tochtergesellschaft**" bezeichnet [eine Tochtergesellschaft der Emittentin, (i) deren Umsatzerlöse [10][●] % der konsolidierten Umsatzerlöse der Emittentin übersteigen oder (ii) deren Bilanzsumme [10][●] % der konsolidierten Bilanzsumme der Emittentin übersteigt, wobei die Schwelle jeweils anhand der Daten in dem jeweils letzten geprüften oder, im Fall von Halbjahreskonzernabschlüssen, ungeprüften Konzernabschluss der Emittentin nach IFRS und in dem jeweils letzten geprüften (soweit verfügbar) oder (soweit nicht verfügbar) ungeprüften nicht konsolidierten Abschluss der betreffenden Tochtergesellschaft zu ermitteln

[[vii]][●] the Issuer [or a Material Subsidiary (as defined below)], or the Guarantor, is wound up, unless this is effected in connection with a merger or another form of amalgamation with another company or in connection with a restructuring, and the other or the new company effectively assumes substantially all of the assets and liabilities of the Issuer [or the Material Subsidiary], or the Guarantor, including all obligations of the Issuer arising in connection with the Notes;]

[[viii]][●] the Issuer makes a "**Prohibited Disbursement**" to its [limited partners] [shareholders] in a financial year that amount to more than [50 % of the Issuer's net income (after deduction of any third party interests in the net income)][●], which is generated in the preceding financial year, beginning with the net income for the financial year [2019][●].] Exceptions to this are statutory and corporate-law based payment claims[;][.]

[●]

["**Material Subsidiary**" means [a Subsidiary of the Issuer (i) whose revenues exceed [10][●] % of the consolidated revenues of the Issuer or (ii) whose total assets and liabilities exceed [10][●] % of the consolidated total assets and liabilities of the Issuer, where each threshold shall be calculated on the basis of the last audited or, in case of half yearly accounts, unaudited consolidated financial statements of the Issuer in accordance with the International Financial Reporting Standards (IFRS) and in the last audited (if available) or (if unavailable) unaudited unconsolidated financial statements of the

ist.][●]]

["**Finanzverbindlichkeit**" bezeichnet [(i) Verpflichtungen aus der Aufnahme von Darlehen, (ii) Verpflichtungen unter Schuldverschreibungen, Schuldscheinen oder ähnlichen Schuldtiteln, (iii) die Hauptverpflichtung aus Akzept-, Wechseldiskont und ähnlichen Krediten und (iv) Verpflichtungen unter Finanzierungsleasing und Sale und Leaseback Vereinbarungen sowie Factoring Vereinbarungen.][●]]

(b) Das Kündigungsrecht erlischt, falls der Kündigungsgrund vor Ausübung des Rechts geheilt wurde.

(c) Eine Benachrichtigung oder Kündigung gemäß § 8(a) ist durch den Anleihegläubiger schriftlich in deutscher oder englischer Sprache gegenüber der Emittentin zu erklären und zusammen mit dem Nachweis in Form einer Bescheinigung der Depotbank gemäß § [15(d)][●] oder in einer anderen geeigneten Weise, dass der Benachrichtigende zum Zeitpunkt der Benachrichtigung Anleihegläubiger ist, persönlich oder durch eingeschriebenen Brief an die Emittentin zu übermitteln. Eine Benachrichtigung oder Kündigung wird jeweils mit Zugang bei der Emittentin wirksam.

#### **[§ 9][●] Beschränkung hinsichtlich bestimmter Zahlungen**

[Die Emittentin verpflichtet sich, weder selbst noch über eine Tochtergesellschaft eine Dividendenzahlung oder sonstige Ausschüttungen an einen direkten oder indirekten Gesellschafter vorzunehmen, die [50][●] % des im konsolidierten und geprüften Jahresabschluss der Emittentin festgestellten Gewinns übersteigen. Hiervon ausgenommen sind gesetzliche und gesellschaftsvertragliche

Subsidiary.][●]]

["**Financial Indebtedness**" shall mean [(i) indebtedness for borrowed money, (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) the principal component of obligations in respect of letters of credit, bankers' acceptances and similar instruments, and (iv) capitalized lease obligations and attributable indebtedness related to sale/leaseback transactions and factoring agreements.][●]]

(b) The right to declare the Notes due and demand immediate redemption shall cease if the reason for the termination has been rectified before the exercise of the termination right.

(c) A notification or termination pursuant to § 8(a) has to be effected by the Noteholder in writing in the German or English language *vis-a-vis* the Issuer together with a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof or in any other adequate manner evidencing that the notifying person is a Noteholder as per the notification, to be delivered personally or by registered mail to the Issuer. A notification or termination will become effective upon receipt thereof by the Issuer.

#### **[§ 9][●] Limitation on Certain Payments**

[The issuer undertakes, neither directly nor through any of its subsidiaries, to pay out any dividend or to make any other distribution to a direct or indirect shareholder, which exceeds [50][●] % of the result after taxation determined by the consolidated and audited Annual Report of the Issuer of the respective year, save for any legally or contractually binding

Zahlungsansprüche.][Andere optionale Regelung: [●]]

### § [10][●] Vorlegungsfrist, Verjährung

Die Vorlegungsfrist gemäß § 801 Absatz 1 Satz 1 Bürgerliches Gesetzbuch ("**BGB**") für die Schuldverschreibungen beträgt, abweichend von der gesetzlichen Regelung, zehn Jahre. Die Verjährungsfrist für Ansprüche aus den Schuldverschreibungen, die innerhalb der Vorlegungsfrist zur Zahlung vorgelegt wurden, beträgt zwei Jahre von dem Ende der betreffenden Vorlegungsfrist an.

### § [11][●] Zahlstelle

(a) Die [Flatex Bank AG, eingetragen im Handelsregister des Amtsgerichts Frankfurt am Main unter der Nummer HRB 105687 und der Geschäftsanschrift: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, eingetragen im Handelsregister des Amtsgerichts München unter der Nummer HRB 121537 und der Geschäftsanschrift: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB Großbritannien][●], (die "**Zahlstelle**") ist Hauptzahlstelle. Die Zahlstelle in ihrer Eigenschaft als Hauptzahlstelle und jede an ihre Stelle tretende Hauptzahlstelle werden in diesen Anleihebedingungen auch als "**Hauptzahlstelle**" bezeichnet. Die Hauptzahlstelle behält sich das Recht vor, jederzeit ihre bezeichneten Geschäftsstellen durch eine andere Geschäftsstelle in derselben Stadt zu ersetzen.

payments.][Other optional scheme: [●]]

### § [10][●] Presentation Period, Prescription

Waiving the statutory provisions, the period for presentation of the Notes (§ 801 paragraph 1 sentence 1 German Civil Code ("**BGB**") will be ten years. The period of limitation for claims under the Notes presented during the period for presentation will be two years calculated from the expiration of the relevant presentation period.

### § [11][●] Paying Agent

(a) [Flatex Bank AG, registered in the commercial register kept with the local court (*Amtsgericht*) Frankfurt am Main, registration number HRB 105687 with business address at: Rotfeder-Ring 7, 60327 Frankfurt am Main][Baader Bank AG, registered in the commercial register kept with the local court (*Amtsgericht*) München registration number HRB 121537 with business address: Weihenstephaner Straße 4, 85716 Unterschleißheim][Citibank, N.A., London Branch Citigroup Centre, Canada Square Canary Wharf, London E14 FLB United Kingdom][●], (the "**Paying Agent**") will be the Paying Agent. The Principal Agent in its capacity as Principal Paying Agent and any successor Principal Paying Agent are also referred to in these Terms and Conditions as "**Principal Paying Agent**". The Principal Paying Agent reserves the right at any time to change its specified offices to some other office in the same city.

(b) Die Emittentin wird dafür Sorge tragen, dass stets eine Hauptzahlstelle vorhanden ist. Die Emittentin ist berechtigt, andere Banken von internationalem Standing als Hauptzahlstelle zu bestellen. Die Emittentin ist weiterhin berechtigt, die Bestellung einer Bank zur Hauptzahlstelle zu widerrufen. Im Falle einer solchen Abberufung oder falls die bestellte Bank nicht mehr als Hauptzahlstelle tätig werden kann oder will, bestellt die Emittentin eine andere Bank von internationalem Standing als Hauptzahlstelle. Eine solche Bestellung oder ein solcher Widerruf der Bestellung ist gemäß § [14][●] oder, falls dies nicht möglich sein sollte, durch eine öffentliche Bekanntmachung in sonstiger Weise bekannt zu machen.

(c) Die Hauptzahlstelle ist in dieser Funktion ausschließlich Beauftragte der Emittentin. Zwischen der Hauptzahlstelle und den Anleihegläubigern besteht kein Auftrags- oder Treuhandverhältnis.

(d) Die Hauptzahlstelle ist von den Beschränkungen des § 181 BGB und etwaigen gleichartigen Beschränkungen des anwendbaren Rechts anderer Länder befreit.

#### **§ [12][●] Begebung weiterer Schuldverschreibungen**

Die Emittentin behält sich vor, jederzeit ohne Zustimmung der Anleihegläubiger weitere Schuldverschreibungen mit im wesentlichen gleicher Ausstattung wie die Schuldverschreibungen (gegebenenfalls mit Ausnahme des Begebungstages, des Verzinsungsbeginns und/oder des Ausgabepreises) in der Weise zu begeben, dass sie mit den Schuldverschreibungen zu einer einheitlichen Serie von Schuldverschreibungen konsolidiert werden können und ihren Gesamtnennbetrag erhöhen. Der Begriff "**Schuldverschreibung**" umfasst im Falle einer

(b) The Issuer will procure that there will at all times be a Principal Paying Agent. The Issuer is entitled to appoint banks of international standing as Principal Paying Agent. Furthermore, the Issuer is entitled to terminate the appointment of the Principal Paying Agent. In the event of such termination or such bank being unable or unwilling to continue to act as Principal Paying, the Issuer will appoint another bank of international standing as Principal Paying Agent. Such appointment or termination will be published without undue delay in accordance with § [14][●], or, should this not be possible, be published in another way.

(c) The Principal Paying Agent acting in such capacity, act only as agents of the Issuer. There is no agency or fiduciary relationship between the Paying Agent and the Noteholders.

(d) The Principal Paying Agent is hereby granted exemption from the restrictions of § 181 BGB and any similar restrictions of the applicable laws of any other country.

#### **§ [12][●] Further Issues**

The Issuer reserves the right to issue from time to time, without the consent of the Noteholders, additional notes with substantially identical terms as the Notes (as the case may be, except for the issue date, interest commencement date and/or issue price), in a manner that the same can be consolidated to form a single Series of Notes and increase the aggregate principal amount of the Notes. The term "**Note**" will, in the event of such consolidation, also comprise such additionally issued Notes. The Issuer shall, however, not be limited in issuing additional notes, which are not consolidated with the Notes and which provide

solchen Konsolidierung auch solche zusätzlich begebenen Schuldverschreibungen. Die Begebung weiterer Schuldverschreibungen, die mit den Schuldverschreibungen keine Einheit bilden und die über andere Ausstattungsmerkmale verfügen, sowie die Begebung von anderen Schuldtiteln bleiben der Emittentin unbenommen.

**§ [13][●] Änderung der Anleihebedingungen durch Beschluss der Anleihegläubiger; gemeinsamer Vertreter**

(a) Änderung der Anleihebedingungen. Die Anleihebedingungen können durch die Emittentin mit Zustimmung der Anleihegläubiger aufgrund Mehrheitsbeschlusses nach Maßgabe der §§ 5 ff. des Gesetzes über Schuldverschreibungen aus Gesamtemissionen ("**SchVG**") in seiner jeweiligen gültigen Fassung geändert werden. Die Anleihegläubiger können insbesondere einer Änderung wesentlicher Inhalte der Anleihebedingungen, einschließlich der in § 5 Absatz 3 SchVG vorgesehenen Maßnahmen, mit den in dem nachstehenden § [13(b)][●] genannten Mehrheiten zustimmen. Ein ordnungsgemäß gefasster Mehrheitsbeschluss ist für alle Anleihegläubiger verbindlich. Ein Mehrheitsbeschluss der Anleihegläubiger, der nicht gleiche Bedingungen für alle Anleihegläubiger vorsieht, ist unwirksam, es sei denn die benachteiligten Anleihegläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

(b) Qualifizierte Mehrheit. Vorbehaltlich des nachstehenden Satzes und der Erreichung der erforderlichen Beschlussfähigkeit, beschließen die Anleihegläubiger mit der einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen, insbesondere in den Fällen des § 5 Absatz 3 Nummern 1 bis 9 SchVG, geändert wird,

for different terms, as well as in issuing any other debt securities.

**§ [13][●] Amendments to the Terms and Conditions by resolution of the Noteholders; Joint Representative**

(a) Amendments to the Terms and Conditions. The Issuer may amend the Terms and Conditions with consent by a majority resolution of the Noteholders pursuant to § 5 et seq. of the German Act on Issues of Debt Securities (*Gesetz über Schuldverschreibungen aus Gesamtemissionen – "SchVG"*), as amended from time to time. In particular, the Noteholders may consent to amendments which materially change the substance of the Terms and Conditions, including such measures as provided for under § 5(3) of the SchVG, by resolutions passed by such majority of the votes of the Noteholders as stated under § [13(b)][●] below. A duly passed majority resolution shall be binding upon all Noteholders. Resolutions which do not provide for identical conditions for all Noteholders are void, unless Noteholders who are disadvantaged have expressly consented to their being treated disadvantageously.

(b) Qualified Majority. Except as provided by the following sentence and provided that the quorum requirements are being met, the Noteholders may pass resolutions by simple majority of the voting rights participating in the vote. Resolutions which materially change the substance of the Terms and Conditions, in particular in the cases of § 5(3) numbers 1 through 9 of the SchVG, may only be passed by a majority of at least 75 % of the voting

bedürfen zu ihrer Wirksamkeit einer Mehrheit von mindestens 75 % der an der Abstimmung teilnehmenden Stimmrechte (eine "**qualifizierte Mehrheit**").

(c) Beschlussfassung. Beschlüsse der Anleihegläubiger werden entweder in einer Gläubigerversammlung nach § [13(c)(i)][●] oder im Wege der Abstimmung ohne Versammlung nach § [13(c)(ii)][●] getroffen.

(i) Beschlüsse der Anleihegläubiger im Rahmen einer Gläubigerversammlung werden nach §§ 9 ff. SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Gläubigerversammlung nach Maßgabe von § 9 SchVG verlangen. Die Einberufung der Gläubigerversammlung regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Einberufung der Gläubigerversammlung werden in der Tagesordnung die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben. Für die Teilnahme an der Gläubigerversammlung oder die Ausübung der Stimmrechte ist eine Anmeldung der Anleihegläubiger vor der Versammlung erforderlich. Die Anmeldung muss unter der in der Einberufung mitgeteilten Adresse spätestens am dritten Kalendertag vor der Gläubigerversammlung zugehen.

rights participating in the vote (a "**Qualified Majority**").

(c) Passing of Resolutions. Resolutions of the Noteholders shall be made either in a Noteholder's meeting in accordance with § [13(c)(i)][●] or by means of a vote without a meeting (*Abstimmung ohne Versammlung*) in accordance § [13(c)(ii)][●].

(i) Resolutions of the Noteholders in a Noteholder's meeting shall be made in accordance with § 9 et seq. of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, to convene a Noteholders' meeting pursuant to § 9 of the SchVG. The convening notice of a Noteholders' meeting will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions will be notified to Noteholders in the agenda of the meeting. The attendance at the Noteholders' meeting or the exercise of voting rights requires a registration of the Noteholders prior to the meeting. Any such registration must be received at the address stated in the convening notice by no later than the third calendar day preceding the Noteholders' meeting.

(ii) Beschlüsse der Anleihegläubiger im Wege der Abstimmung ohne Versammlung werden nach § 18 SchVG getroffen. Anleihegläubiger, deren Schuldverschreibungen zusammen 5 % des jeweils ausstehenden Gesamtnennbetrags der Schuldverschreibungen erreichen, können schriftlich die Durchführung einer Abstimmung ohne Versammlung nach Maßgabe von § 9 i.V.m. § 18 SchVG verlangen. Die Aufforderung zur Stimmabgabe durch den Abstimmungsleiter regelt die weiteren Einzelheiten der Beschlussfassung und der Abstimmung. Mit der Aufforderung zur Stimmabgabe werden die Beschlussgegenstände sowie die Vorschläge zur Beschlussfassung den Anleihegläubigern bekannt gegeben.

(d) Stimmrecht. An Abstimmungen der Anleihegläubiger nimmt jeder Gläubiger nach Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil. Das Stimmrecht ruht, solange die Anteile der Emittentin oder einem mit ihr verbundenen Unternehmen (§ 271 Absatz 2 Handelsgesetzbuch) zustehen oder für Rechnung der Emittentin oder eines mit ihr verbundenen Unternehmens gehalten werden. Die Emittentin darf Schuldverschreibungen, deren Stimmrechte ruhen, einem anderen nicht zu dem Zweck überlassen, die Stimmrechte an ihrer Stelle auszuüben; dies gilt auch für ein mit der Emittentin verbundenes Unternehmen. Niemand darf das Stimmrecht zu dem in Satz 3 erster Halbsatz bezeichneten Zweck ausüben.

(e) Nachweise. Anleihegläubiger haben die Berechtigung zur Teilnahme an der Abstimmung zum Zeitpunkt der Stimmabgabe durch besonderen Nachweis der Depotbank gemäß § [15(d)][●] und die Vorlage eines Sperrvermerks der Depotbank zugunsten der von der Emittentin mit der Tagesordnung für die Abstimmung benannten Hinterlegungsstelle, die nicht die Zahlstelle sein wird, für den

(ii) Resolutions of the Noteholders by means of a voting not requiring a physical meeting (*Abstimmung ohne Versammlung*) shall be made in accordance § 18 of the SchVG. Noteholders holding Notes in the total amount of 5 % of the outstanding principal amount of the Notes may request, in writing, the holding of a vote without a meeting pursuant to § 9 in connection with § 18 of the SchVG. The request for voting as submitted by the chairman (*Abstimmungsleiter*) will provide the further details relating to the resolutions and the voting procedure. The subject matter of the vote as well as the proposed resolutions shall be notified to Noteholders together with the request for voting.

(d) Voting Right. Each Noteholder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes. As long as the entitlement to the Notes lies with, or the Notes are held for the account of, the Issuer or any of its affiliates (§ 271(2) of the German Commercial Code (*Handelsgesetzbuch*)), the right to vote in respect of such Notes shall be suspended. The Issuer may not transfer Notes, of which the voting rights are so suspended, to another person for the purpose of exercising such voting rights in the place of the Issuer; this shall also apply to any affiliate of the Issuer. No person shall be permitted to exercise such voting right for the purpose stipulated in sentence 3, first half sentence, herein above.

(e) Proof of Eligibility. Noteholders must demonstrate their eligibility to participate in the vote at the time of voting by means of a special confirmation of the Depository Bank in accordance with § [15(d)][●] hereof and by submission of a blocking instruction by the Depository Bank for the benefit of the depository (*Hinterlegungsstelle*), as specified by the Issuer together with agenda for the vote and being

Abstimmungszeitraum nachzuweisen.

(f) Gemeinsamer Vertreter. Die Anleihegläubiger können durch Mehrheitsbeschluss zur Wahrung ihrer Rechte nach Maßgabe des SchVG einen gemeinsamen Vertreter für alle Gläubiger (der "**gemeinsame Vertreter**") bestellen.

(i) Der gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Anleihegläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Anleihegläubiger zu befolgen. Soweit er zur Geltendmachung von Rechten der Anleihegläubiger ermächtigt ist, sind die einzelnen Anleihegläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn der Mehrheitsbeschluss sieht dies ausdrücklich vor. Über seine Tätigkeit hat der gemeinsame Vertreter den Anleihegläubigern zu berichten. Die Bestellung eines gemeinsamen Vertreters bedarf einer qualifizierten Mehrheit, wenn er ermächtigt wird, wesentlichen Änderungen der Anleihebedingungen gemäß § [13(b)][●] zuzustimmen.

(ii) Der gemeinsame Vertreter kann von den Anleihegläubigern jederzeit ohne Angabe von Gründen abberufen werden. Der gemeinsame Vertreter kann von der Emittentin verlangen, alle Auskünfte zu erteilen, die zur Erfüllung der ihm übertragenen Aufgaben erforderlich sind. Die durch die Bestellung eines gemeinsamen Vertreters entstehenden Kosten und Aufwendungen, einschließlich einer angemessenen Vergütung des gemeinsamen Vertreters, trägt die Emittentin.

different from the Paying Agent, for the voting period.

(f) Joint Representative. The Noteholders may by majority resolution appoint a common representative (the "**Common Representative**") in accordance with the SchVG to exercise the Noteholders' rights on behalf of all Noteholders.

(i) The Common Representative shall have the duties and powers provided by law or granted by majority resolution of the Noteholders. The Common Representative shall comply with the instructions of the Noteholders. To the extent that the Common Representative has been authorized to assert certain rights of the Noteholders, the Noteholders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Common Representative shall provide reports to the Noteholders on its activities. The appointment of a Common Representative by a Qualified Majority if such Common Representative is to be authorised to consent to a material change in the substance of the Tenss and Conditions as set out in § [13(b)][●] hereof.

(ii) The Common Representative may be removed from office at any time by the Noteholders without specifying any reasons. The Common Representative may demand from the Issuer to furnish all information required for the performance of the duties entrusted to it. The Issuer shall bear the costs and expenses arising from the appointment of a Common Representative, including reasonable remuneration of the Common Representative.



(iii) Der gemeinsame Vertreter haftet den Anleihegläubigern als Gesamtgläubiger für die ordnungsgemäße Erfüllung seiner Aufgaben; bei seiner Tätigkeit hat er die Sorgfalt eines ordentlichen und gewissenhaften Geschäftsleiters anzuwenden. Die Haftung des gemeinsamen Vertreters kann durch Beschluss der Gläubiger beschränkt werden. Über die Geltendmachung von Ersatzansprüchen der Anleihegläubiger gegen den gemeinsamen Vertreter entscheiden die Anleihegläubiger.

(g) Bekanntmachungen. Bekanntmachungen betreffend diesen § [13][●] erfolgen gemäß den §§ 5 ff. SchVG sowie nach § [14][●].

#### § [14][●] Bekanntmachungen

(a) Die Schuldverschreibungen betreffende Bekanntmachungen werden im Bundesanzeiger und auf der Webseite der Emittentin unter [www.estream-energy.com][●] im Bereich "**Anleihe[n]**" veröffentlicht. Eine Mitteilung gilt mit dem Tag ihrer Veröffentlichung (oder bei mehreren Mitteilungen mit dem Tage der ersten Veröffentlichung) als erfolgt.

(b) Sofern die Regularien der Börse, an der die Schuldverschreibungen notiert sind, dies zulassen, ist die Emittentin berechtigt, Bekanntmachungen auch durch eine Mitteilung an das Clearingsystem zur Weiterleitung an die Anleihegläubiger oder durch eine schriftliche Mitteilung direkt an die Anleihegläubiger zu bewirken. Bekanntmachungen über das Clearingsystem gelten [sieben][●] Tage nach der Mitteilung an das Clearingsystem, direkte Mitteilungen an die Anleihegläubiger mit ihrem Zugang als bewirkt.

(iii) The Common Representative shall be liable for the performance of its duties towards the Noteholders who shall be joint and several creditors (*Gesamtgläubiger*); in the performance of its duties it shall act with the diligence and care of a prudent business manager. The liability of the Common Representative may be limited by a resolution passed by the Noteholders. The Noteholders shall decide upon the assertion of claims for compensation of the Noteholders against the Common Representative.

(g) Notices. Any notices concerning this § [13][●] shall be made in accordance with § 5 et seq. of the SchVG and § [14][●].

#### § [14][●] Notices

(a) Notices relating to the Notes will be published in in the Federal Gazette (*Bundesanzeiger*) and on the Issuer's website [www.estream-energy.com][●] under the heading "**Bond[s]**". A notice will be deemed to be made on the day of its publication (or in the case of more than one publication on the day of the first publication).

(b) The Issuer shall also be entitled to make notifications to the Clearing System for communication by the Clearing System to the Noteholders or directly to the Noteholders provided this complies with the rules of the stock exchange on which the Notes are listed. Notifications *vis-à-vis* the Clearing System will be deemed to be effected [seven][●] days after the notification to the Clearing System, direct notifications of the Noteholders will be deemed to be effected upon their receipt.

**§ [15][●] Ersetzung der Emittentin und der [Garantin][Garanten]**

(a) Ersetzung. [[Entweder] [Die][die] [Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [[jeder der][einer der] Garanten]] [ist][sind] jederzeit berechtigt, ohne die Zustimmung der Anleihegläubiger für den Fall, dass die Tilgung der Schuldverschreibungen ohne Verzug erfolgt, sich selbst als [Emittentin] [oder] [gegebenenfalls] [als] [[Garantin] [ein] Garant[en]] durch [eine] andere Person[en] zu ersetzen [(der Ersatzemittent) als Hauptschuldner] [und][oder] [[(der)[die] Ersatzgarant[en]]] als Garant[en] unter allen Schuldverschreibungen in Bezug auf alle Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen, die zum Zeitpunkt einer solchen Ersetzung und nach Ansicht [der Emittentin] [und][oder] [gegebenenfalls] [[der Garantin] [jedes der][eines der] Garant[en]]][●] von mindestens gleichem Rang und gleicher Kreditwürdigkeit wie [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [jeder der][einer der] Garanten] ist, vorausgesetzt:

(i) [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [der] [jeder der][einer der] Ersatzgarant[en] [ist][sind] zahlungsfähig und [kann][können] allen Verpflichtungen aus und im Zusammenhang mit den Schuldverschreibungen fristgemäß nachkommen;

(ii) es sind keine Liquidations-, Abwicklungs-, Insolvenz- oder ähnlichen Sanierungsmaßnahmen in Bezug auf [entweder] [den Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgarant[en]] eröffnet oder stehen unmittelbar bevor;

(iii) [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der] [jeder der][einer der]

**[§ [15][●] Substitution of the Issuer and the Guarantor[s]**

(a) Substitution. [[Either] [The][the] [Issuer] [and][or] [[each of][any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the][a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the Substitute Issuer) as principle debtor] [and][or] [(the Substitute Guarantor[s])] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and][or] [[each of][any of] the Guarantor[s]] [, as the case may be,][●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and][or] [[each of][any of] the Guarantor[s]] [, as the case may be,] provided that:

(i) [either] [the Substitute Issuer] [and] [or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] [is][are] solvent and can perform all obligations under and in connection with the Notes;

(ii) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be];

(iii) [either] [the Substitute Issuer] [and][or] [[each of] the Substitute Guarantor[s]] [as the

Ersatzgarant[en] [hat][haben] von den zuständigen Behörden [seines][ihres] Sitzstaates alle erforderlichen Genehmigungen erteilt bekommen (zur Klarstellung: ausgenommen hiervon ist die Billigung zur Veröffentlichung des Basisprojekts);

(iv) die Ersetzung[en] [des Ersatzemittenten für die Emittentin] [und][oder] [gegebenenfalls] [[jedes der][eines der] [des] Ersatzgarant[en] für die Garantin] hat nicht zur Folge, dass den Anleihegläubigern unmittelbar oder mittelbar zusätzliche Steuern, Zölle oder staatliche Abgaben auferlegt werden oder [der Ersatzemittent] [und][oder] [gegebenenfalls] [jeder der][einer der] [der] Ersatzgarant[en][●] [hat][haben] sich bereit erklärt, jeden Anleihegläubiger von allen Steuern, Zöllen, Veranlagungen oder staatlichen Abgaben freizustellen, die diesem Anleihegläubiger in Bezug auf eine solche Ersetzung auferlegt werden.][●]

Eine solche Ersetzung ist den Anleihegläubigern in Übereinstimmung mit § [14][●] der Anleihebedingungen anzuzeigen.

[[Entweder] [Die][die] [Emittentin] [und][oder] [gegebenenfalls] [[die Garantin] [jeder der][einer der] Garanten] übernimmt keine Garantie für die Verpflichtungen [des Ersatzemittenten] [und] [oder] [gegebenenfalls] [des] [jedes der][eines der] Ersatzgaranten] gemäß den Schuldverschreibungen nach der Ersetzung. Es wird unterstellt, dass die Anleihegläubiger mit der Zeichnung oder dem sonstigen Erwerb der Schuldverschreibungen (i) einer Ersetzung [entweder] [der Emittentin] [und][oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] gemäß diesem § [15][●] und der Freistellung [entweder] [der Emittentin] [und] [oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] von sämtlichen Verpflichtungen in Bezug auf die betreffenden

case may be] [has][have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of the base prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;

(iv) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]][●] [as the case may be] [has][have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.][●]

Notice of any such substitution shall be given to the Noteholders in accordance with § [14][●].

[[Either] [The][the] [Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this § [15][●] and to the release [either] [of the Issuer] [and][or] [[each of][any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii)

Schuldverschreibungen und die vorliegende Urkunde zugestimmt haben und (ii) diese Ersetzung[en] und die sich hieraus ergebenden Folgen akzeptiert haben.][●]

[Nach Ersetzung [entweder] [der Emittentin] [und][oder] [gegebenenfalls] [[des] [jedes der][eines der] Ersatzgaranten] durch [einen Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] ist § [15][●] der Anleihebedingungen erneut anzuwenden. Im Falle einer solchen Ersetzung wird unterstellt, dass jede Bezugnahme in diesen Bedingungen auf [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] als Bezugnahme auf [entweder] [den Ersatzemittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] [●]] gilt.

(b) Änderung der Bezugnahmen. Im Fall [einer solchen][solcher] Ersetzung[en] wird ab diesem Zeitpunkt unterstellt, dass mit jeder Bezugnahme auf [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] in diesen Anleihebedingungen auf [entweder] [den Ersatzmittenten] [und][oder] [gegebenenfalls] [[den][die] Ersatzgaranten] verwiesen wird und dass mit jeder Bezugnahme auf das Land, in dem [entweder] [die Emittentin] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] ansässig oder steueransässig [ist][sind], auf das Land verwiesen wird, in dem [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der][die] Ersatzgarant[en]] [seinen][ihren] Sitz [hat][haben] oder steueransässig [ist][sind].

[(c) Weitere Ersetzungen. [Nach einer Ersetzung gemäß § [15(a)][●] der Anleihebedingungen kann [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[der][jeder der][einer der] [Ersatzgarant[en]] ohne Zustimmung der Anleihegläubiger [je] eine weitere Ersetzung vornehmen. Alle in den § [15(a)][●] und § [15(b)][●] der Anleihebedingungen enthaltenen

accepted such substitution[s] and the consequences thereof.][●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this § [15][●] shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●]].

(b) Change of References. In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is][are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

[(c) Further substitution. [After a substitution pursuant to § [15(a)][●], [either] [the Substitute Issuer] [and][or] [[each of][any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in § [15(a)][●] and § [15(b)][●] shall apply mutatis mutandis, and references in these

Bestimmungen sind entsprechend anzuwenden, wobei unterstellt wird, dass jede Bezugnahme auf die Emittentin [und][oder] [gegebenenfalls] [[den][die] Garanten] in diesen Anleihebedingungen jeden weiteren [entweder] [Ersatzemittenten] [und][oder] [Ersatzgaranten] einschließt, falls der Zusammenhang dies erfordert.][●]]

[(d) Rückgängigmachung der Ersetzung. [Nach einer Ersetzung gemäß § [15(a)][●] [oder § [15(c)][●]] der Anleihebedingungen kann [entweder] [der Ersatzemittent] [und][oder] [gegebenenfalls] [[jeder der][einer der] [alle] [Ersatzgaranten] ohne Zustimmung der Anleihegläubiger die Ersetzung[en] entsprechend rückgängig machen.][●]]]

#### § [16] [●] Schlussbestimmungen

(a) Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Anleihegläubiger, der Emittentin, und der Hauptzahlstelle bestimmen sich in jeder Hinsicht nach dem Recht der Bundesrepublik Deutschland.

(b) Erfüllungsort ist Duisburg.

(c) Gerichtsstand ist Duisburg. Für Entscheidungen gemäß § 9 Absatz 2, § 13 Absatz 3 und § 18 Absatz 2 SchVG in Verbindung mit § 9 Abs. 3 SchVG ist das Amtsgericht Duisburg zuständig. Für Entscheidungen über die Anfechtung von Beschlüssen der Anleihegläubiger ist gemäß § 20 Absatz 3 SchVG das Landgericht Duisburg ausschließlich zuständig.

(d) Jeder Anleihegläubiger kann in Rechtsstreitigkeiten gegen die Emittentin oder in Rechtsstreitigkeiten, an denen der Anleihegläubiger und die Emittentin beteiligt sind, im eigenen Namen seine Rechte aus den von ihm gehaltenen Schuldverschreibungen geltend

Conditions to the Issuer [and][or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].][●]]

[(d) Reverse substitution. [After a substitution pursuant to § [15(a)][●] [or § [15(c)][●]] any [either] [the Substitute Issuer] [and][or] [[each of][any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.][●]]]

#### § [16] [●] Final Provisions

(a) The form and content of the Notes and the rights and duties of the Noteholders, the Issuer and the Principal Paying Agent shall in all respects be governed by the laws of the Federal Republic of Germany.

(b) Place of performance is Duisburg.

(c) Place of jurisdiction shall be Duisburg. The local court (*Amtsgericht*) Duisburg will have jurisdiction for all judgments pursuant to § 9(2), § 13(3) and § 18(2) SchVG in accordance with § 9(3) SchVG. The regional court (*Landgericht*) Duisburg will have exclusive jurisdiction for all judgments over contested resolutions by Noteholders in accordance with § 20(3) SchVG.

(d) Any Noteholder may in any proceedings against the Issuer or to which the Noteholder and the Issuer are parties protect and enforce in its own name its rights arising under its Notes by submitting the following documents: a certificate issued by its Depository Bank (i) stating the full

<p>machen unter Vorlage einer Bescheinigung seiner Depotbank, die (i) den vollen Namen und die volle Anschrift des Anleihegläubigers enthält, (ii) den Gesamtnennbetrag der Schuldverschreibungen angibt, die am Tag der Ausstellung dieser Bescheinigung dem bei dieser Depotbank bestehenden Depot des Anleihegläubigers gutgeschrieben sind. Im Sinne der vorstehenden Bestimmungen ist "<b>Depotbank</b>" ein Bank- oder sonstiges Finanzinstitut (einschließlich des Clearingsystems), das eine Genehmigung für das Wertpapier-Depotgeschäft hat und bei dem der Anleihegläubiger Schuldverschreibungen im Depot verwahren lässt.</p> <p>(e) Für die Kraftloserklärung abhanden gekommener oder vernichteter Schuldverschreibungen sind ausschließlich die Gerichte der Bundesrepublik Deutschland zuständig.</p> <p>(f) Die [deutsche] [englische] Fassung dieser Anleihebedingungen ist rechtsverbindlich.</p>	<p>name and address of the Noteholder, (ii) specifying an aggregate principal amount of Notes credited on the date of such statement to such Noteholders' securities deposit account maintained with such Depository Bank. For purposes of the foregoing, "<b>Depository Bank</b>" means any bank or other financial institution authorized to engage in securities deposit business with which the Noteholder maintains a securities deposit account in respect of any Notes, and includes the Clearing System.</p> <p>(e) The courts of the Federal Republic of Germany shall have exclusive jurisdiction over the annulment of lost or destroyed Notes.</p> <p>(f) The [German] [English] version of these Terms and Conditions shall be binding.</p>
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## Option IV – Terms and Conditions of the Fixed Rate Bearer Notes

### 1. CURRENCY, DENOMINATION, FORM, CLEARING SYSTEM

#### 1.1 Currency, Denomination

This tranche of [subordinated] fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

The Notes are being issued in bearer form.

#### 1.3 Global Notes

[

- (a) The Notes are initially represented by a temporary global note (the **Temporary Global Note**) without coupons. The Temporary Global Note will be exchangeable for a permanent global note (the **Permanent Global Note** and together with the Temporary Global Note, the **Global Notes** or a **Global Note**) without coupons. The Temporary Global Note and the Permanent Global Note shall bear the signatures of two authorised signatories of the Issuer [and shall each be authenticated with a control signature of the Fiscal Agent]. Definitive Notes and coupons will not be issued.
- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not later than 180 calendar days after the date of issue of the Temporary Global Note. The Exchange Date for such exchange will not be earlier than 40 calendar days after the date of issue of the Temporary Global Note. Such exchange shall only be made to the extent that certifications have been delivered to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person or are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this sub-paragraph (b) of Clause 1.4. Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.

For purposes of these Terms and Conditions, **United States** or **U.S.** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).]

[●]

#### 1.4 Clearing System

The Global Notes will be kept in custody by or on behalf of a Clearing System as central depository for securities (*Wertpapiersammelbank*) until, in case of the Permanent Global Note, all obligations of the Issuer under the Notes have been satisfied.

## 2. STATUS

[The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and unsubordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.]

[The Notes constitute direct, unsecured and subordinated obligations of the Issuer.]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

(a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

(b) whereby:

[(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ii] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[iii] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv] [●]

Paragraphs [(i) [●] [to] [(iii) [●] apply both before and after the opening of insolvency proceedings.]

[[v] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigersamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors'



cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[•] [•]

]

[(c)] [•] pari passu among themselves; and

[(d)] [•] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[•]]

[•]

### 3. DISTRIBUTIONS

#### 3.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [•] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [•] (the **Distribution Commencement Date**) [to and excluding the Maturity Date]. Distributions shall be scheduled to be paid [[•], [annually]][semi-annually][quarterly][•] in arrears on [•] in each year (each such date, a **Distribution Payment Date**), commencing on [•]. Distributions will fall due in accordance with the provisions set out in Clause 4.5.

#### 3.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

#### 3.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

### 4. PAYMENTS

#### 4.1 Payment of Principal

Payment of principal on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System.

#### 4.2 Payment of Distributions

Payment of distributions on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System,

and in case of payment of distributions on Notes represented by a Temporary Global Note, upon due certification as provided for in Clause 1.4(b).

#### **4.3 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

#### **4.4 Discharge**

The Issuer shall be discharged by payment to, or to the order of, the Clearing System.

#### **4.5 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

#### **4.6 References to Principal and Distributions**

References in these Terms and Conditions to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 8.1.

### **5. REDEMPTION**

#### **5.1 Maturity Date**

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

## 5.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. *[in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 5.]*
- (b) In order to exercise such option, the Noteholder must, not less than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* nor more than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] *[[in case of non-perpetual Notes insert minimum period of notice to Issuer] Payment Business Day][[in case of perpetual Notes insert minimum period of notice to Issuer in years] year]* before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] [and] the Paying Agent[s] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.]

## 5.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 10. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than *[insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]]* Payment Business Days *[in case of a maximum notice period insert: nor more than [insert number of days]]* Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

*[in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 5.2.

]]

#### **5.4 [No] Early Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer is required to pay Additional Amounts under Clause 8.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.]

#### **6. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection

with a conversion and the other or new company assumes all obligations contracted by the Issuer in connection with the Notes.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph (a) shall be made by means of a written declaration in the English language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## 7. [FISCAL AGENT,] PRINCIPAL PAYING AGENT

### 7.1 Appointment, Specified Offices

The initial [Fiscal Agent, and the initial] Principal Paying Agent[s] and their respective initial specified offices are:

[Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

Initial Principal Paying Agent[s]:

[Flatex Bank AG  
Rotfeder-Ring 7  
60327 Frankfurt am Main  
Federal Republic of Germany]

[Baader Bank Aktiengesellschaft  
Weihenstephaner Str. 4  
85716 Unterschleißheim  
Federal Republic of Germany]

[Citibank, N.A., London Branch  
Citigroup Centre, Canada Square  
Canary Wharf  
London E14 5LB  
United Kingdom]

[●]

Where these Terms and Conditions refer to the term **Paying Agent[s]**, such term shall include the Principal Paying Agent.

The [Fiscal Agent, and] the Paying Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city][in [insert city]].

## 7.2 Variation or Termination of Appointment

The Issuer reserves the right at any time to vary or terminate the appointment of any [Fiscal Agent, or any] Paying Agent and to appoint another [Fiscal Agent,] additional or other Paying Agents. The Issuer shall at all times maintain [(i) a Fiscal Agent [,] [and]] [(i)] [(ii)] so long as the Notes are listed on a stock exchange, a Paying Agent [(which may be the Fiscal Agent)] with a specified office in such place as may be required by the rules of such stock exchange or its supervisory [authority][authorities] [in case of payments in U.S. Dollars insert: [,] [and] (iii) if payments at or through the offices of [a][all] Paying Agent[s] outside the United States become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in U.S. Dollars, a Paying Agent with a specified office in New York]. The Issuer will give notice to the Noteholders of any variation, termination, appointment or any other change as soon as possible upon the effectiveness of such change.

The Issuer undertakes, to the extent this is possible, to maintain a Paying Agent in a member state of the European Union in which it shall not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of 26–27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive 2003/48/EC.

## 7.3 Agents of the Issuer

The [Fiscal Agent, and the] Paying Agent[s] act solely as agents of the Issuer and do not have any obligations towards or relationship of agency or trust to any Noteholder.

## 7.4 Determinations Binding

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these Terms and Conditions by [the Fiscal Agent] [●] shall (in the absence of wilful default, bad faith, inequitableness or manifest error) be binding on the Issuer, the Paying Agent[s], and the Noteholders and, in the absence of the aforesaid, no liability to the Issuer, the Paying Agent[s], or the Noteholders shall attach to [the Fiscal Agent] [●] in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

## 8. TAXATION

### 8.1 Withholding Taxes and Additional Amounts

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the

Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or

- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or
- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 10, whichever occurs later.

## **8.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **8.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **9. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **9.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

## **9.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

## **9.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **10. NOTICES**

### **10.1 Notices of the Issuer**

All notices of the Issuer concerning the Notes shall be published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.

### **10.2 Publication of Notices of the Issuer via the Clearing System**

If the publication of notices pursuant to Clause 10.1 is no longer required by law, the Issuer may, in lieu of publication in the media set forth in Clause 10.1, deliver the relevant notices to the Clearing System, for communication by the Clearing System to the Noteholders. Any such notice shall be deemed to have been given to the Noteholders on the [●] calendar day after the calendar day on which said notice was given to the Clearing System.

### **10.3 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] and by hand or mail [or [*insert other means of communication*]]. The Noteholder shall provide evidence satisfactory to the Issuer of its holding of the Notes. Such evidence may be (i) in the form of a certification from the Clearing System or the Custodian with which the Noteholder maintains a securities account in respect of the Notes that such Noteholder is, at the time such notice is given, the Noteholder of the relevant Notes, or (ii) in any other appropriate manner.

## **11. MEETINGS OF NOTEHOLDERS**

Articles 470-3 – 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## **12. SUBSTITUTION OF THE ISSUER**

### **12.1 Substitution**

[The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the **Substitute Issuer**) as principle debtor) under all Notes in respect of any and all obligations arising



from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer] [●], of at least the equivalent standing and creditworthiness to the Issuer provided that:

- (a) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;
- (c) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution shall be given to the Noteholders in accordance with Condition 10.

[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this Condition 12 and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.] [●]

[After the substitution(s) of the Issuer by a Substitute Issuer this Condition 12 shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer.] [●]

## **12.2 Change of References**

In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

## **[12.3 Further substitution**

[After a substitution pursuant to Condition 12.1, the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in Condition 12.1 and 12.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.] [●]]

## **[12.4 Reverse substitution**

[After a substitution pursuant to Condition 12.1 [or 12.3] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.] [●]]

## [12.][13.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [12.1][13.1] Governing Law

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### [12.2][13.2] Place of Jurisdiction

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*).

### [12.3][13.3] Enforcement

Any Noteholder of Notes may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Noteholder maintains a securities account in respect of the Notes (a) stating the full name and address of the Noteholder, (b) specifying the aggregate principal amount of the Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b), and (ii) a copy of the Global Note certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the Global Note representing the Notes. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [13.][14.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 8.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 4.3.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxemburg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof] [Distribution Payment Date thereafter].]

**Clearing System** means [Clearstream Luxembourg and Euroclear] [and/or] [Clearstream Frankfurt] [and/or] [OeKB CSD] and any successor in such capacity. [The Notes shall be kept in custody by a common depository on behalf of both ICSDs].

[**Clearstream Frankfurt** means Clearstream Banking AG, The Cube, Mergenthalerallee 61, 65760 Eschborn, Federal Republic Germany.]

[**Clearstream Luxembourg** means Clearstream Banking, société anonyme, Luxembourg, 42 Avenue J.F. Kennedy, 1855 Luxembourg, Grand Duchy of Luxembourg.]

**Code** has the meaning assigned to it in Clause 8.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year] [the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 3.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 3.1.

**Early Redemption Amount** means [the Principal Amount][●].

[**Euroclear** means Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, 1210 Brussels, Kingdom of Belgium.]

**Exchange Date** has the meaning assigned to it in Clause 1.4.

**FATCA** has the meaning assigned to it in Clause 8.2.

[**Fiscal Agent** means [Timberland Invest Ltd.][●].]

**Global Note(s)** has the meaning assigned to it in Clause 1.4.

[**ICSDs** means Clearstream Luxembourg and Euroclear.]

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 5.1.

**Noteholder** means any holder of a proportionate co-ownership or other comparable right in the Global Note which may be transferred to a new holder in accordance with applicable law and the provisions of the Clearing System.

**Notes** has the meaning assigned to it in Clause 1.1.

[**OeKB CSD GmbH** means OeKB CSD GmbH Strauchgasse 1-3, 1010 Vienna, Austria.]

**Paying Agent[s]** means [Citibank, N.A., London Branch] [and] [Baader Bank Aktiengesellschaft] [Flatex Bank AG] [and] [●].

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Permanent Global Note** has the meaning assigned to it in Clause 1.4.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [12.2][13.2].

[**Put Notice** has the meaning assigned to it in Clause 5.2.]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 3.1.

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by [the Fiscal Agent] [●] on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 10.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

**Successor Currency** has the meaning assigned to it in Clause 4.3.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Temporary Global Note** has the meaning assigned to it in Clause 1.4.

**Withholding Taxes** has the meaning assigned to it in Clause 8.1.

## Option V – Terms and Conditions of the Fixed Rate Registered Notes

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of [subordinated] fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being fully issued in registered form and may under no circumstances be converted into notes in bearer form.
- (b) The Issuer may issue Notes for no consideration to be held by the Issuer with a view to selling those Notes on the secondary market. All determinations made under these Terms and Conditions will reflect the fact that such Notes issued and directly held by the Issuer have been issued for no consideration (the issue price for those Notes will be deemed to be 0). So long as any Notes are held by the Issuer, any rights attached to such Notes (such as financial rights and voting rights) will be suspended.
- (c) The Notes are not clearable through any clearing system and cannot (and will not) be admitted to trading and/or listed on any stock exchange, regulated or unregulated market.
- (d) The Issuer will cause to be kept at the specified office of the Registrar and Transfer Agent a register of Noteholders of Notes (the **Register**). The Registrar and Transfer Agent will immediately inform the Issuer of any changes made to the Register.
- (e) The Issuer undertakes to keep an up-to-date copy of the Register at its registered office at all times (the **Issuer Register**).
- (f) A Noteholder may request from the Registrar and Transfer Agent an extract of the Register showing the entry relevant to its holding of the Registered Notes.

#### 1.3 Title

- (a) Title to the Notes passes only by registration (*inscription*) in the Issuer Register.
- (b) Ownership in respect of the Notes is established by the registration in the Issuer Register.
- (c) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, the Issuer may deem and treat the person registered in the Issuer Register as absolute owner of the Notes for all purposes (whether or not the Note is overdue) and no person will be liable for so treating the Noteholder.
- (d) No transfer of a Note shall be recognised by the Issuer unless entered in the Register and the Issuer Register. In the case of discrepancies between the records of the Register and the Issuer Register, the latter shall prevail.

## 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the registered Note in the form satisfactory to the Registrar and Transfer Agent and the Issuer, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent and the Issuer may reasonably require.
- (b) Registration of transfer of the Notes will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

## 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Notes under Clause 7.2, to register the transfer of these Notes (or parts of these Notes) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

## 4. STATUS

[The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and unsubordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.]

[The Notes constitute direct, unsecured and subordinated obligations of the Issuer.]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- (i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually]][semi-annually][quarterly][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Notes shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder the details of which are recorded in the Register at a given time.

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.



## 6.5 References to Principal and Distributions

References in these Terms and Conditions to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

(a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.*]

(b) In order to exercise such option, the Noteholder must, not less than [*in case of non-perpetual Notes insert minimum number of days*] Payment Business Day][*in case of perpetual Notes insert minimum number of years*] years] nor more than [*in case of non-perpetual Notes insert minimum number of days*] Payment Business Days] [*in case of perpetual Notes insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [*in case of non-perpetual Notes insert minimum period of notice to Issuer*] Payment Business Day][*in case of perpetual Notes insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

*[in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

#### **7.4 [No] Early Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.]

## 8. EVENTS OF DEFAULT

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
- (i) the Issuer fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer in connection with the Notes.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph (a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### [Fiscal Agent

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

#### Registrar and Transfer Agent[s]:

[E-Stream Energy GmbH & Co KG

Wilhelmshofallee 83  
47800 Krefeld  
Germany]

[Alter Domus (Services) Malta Limited  
Vision Exchange Building Territorials Street  
Mriehel BKR 3000  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in *[insert city]*]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

**10. TAXATION**

**10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding

or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (c) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (d) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (e) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (f) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **11.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

### 11.3 Cancellation

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## 12. NOTICES

### 12.1 Notices of the Issuer

[All notices of the Issuer concerning the Notes [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.

[Notices to Noteholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at his registered address and posted.]

[●]

### 12.2 Form of Notice to be given by any Noteholder

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] by hand or mail [or [*insert other means of communication*]].

## 13. MEETINGS OF NOTEHOLDERS

Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## [14. SUBSTITUTION OF THE ISSUER

### 14.1 Substitution

[The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the **Substitute Issuer**) as principle debtor) under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer] [●], of at least the equivalent standing and creditworthiness to the Issuer provided that:

- (a) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;
- (c) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;

- (d) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution shall be given to the Noteholders in accordance with Condition 12.

[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this Condition 14 and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.] [●]

[After the substitution(s) of the Issuer by a Substitute Issuer this Condition 14 shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer]. [●]

## **14.2 Change of References**

In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

## **[14.3 Further substitution**

[After a substitution pursuant to Condition 14.1, the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.] [●]

## **[14.4 Reverse substitution**

[After a substitution pursuant to Condition 14.1 [or 14.3] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.] [●]

## **[14.][15.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT**

### **[14.1][15.1] Governing Law**

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 4 (*Ranking*) and Clause 13 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### **[14.2][15.2] Place of Jurisdiction**

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Noteholders*).

## **[14.3][15.3] Enforcement**

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Notes[, and [●]]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## **[15.][16.] DEFINITIONS**

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].



**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Issuer Register** has the meaning assigned to it in Clause 1.2(e).

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

**Notes** has the meaning assigned to it in Clause 1.1.

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [14.2][15.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Register** has the meaning assigned to it in Clause 1.2(d).

**Registrar and Transfer Agent[s]** means [E-Stream Energy GmbH & Co KG] [and] [Alter Domus (Services) Malta Limited] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes

### 1. CURRENCY, DENOMINATION, FORM, CLEARING SYSTEM

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

The Notes are being issued in bearer form.

#### 1.3 Global Notes

[

- (a) The Notes are initially represented by a temporary global note (the **Temporary Global Note**) without coupons. The Temporary Global Note will be exchangeable for a permanent global note (the **Permanent Global Note** and together with the Temporary Global Note, the **Global Notes** or a **Global Note**) without coupons. The Temporary Global Note and the Permanent Global Note shall bear the signatures of two authorised signatories of the Issuer [and shall each be authenticated with a control signature of the Fiscal Agent]. Definitive Notes and coupons will not be issued.
- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not later than 180 calendar days after the date of issue of the Temporary Global Note. The Exchange Date for such exchange will not be earlier than 40 calendar days after the date of issue of the Temporary Global Note. Such exchange shall only be made to the extent that certifications have been delivered to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person or are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this sub-paragraph (b) of Clause 1.4. Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.

For purposes of these Terms and Conditions, **United States** or **U.S.** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).]

[●]

#### 1.4 Clearing System

The Global Notes will be kept in custody by or on behalf of a Clearing System as central depository for securities (*Wertpapiersammelbank*) until, in case of the Permanent Global Note, all obligations of the Issuer under the Notes have been satisfied.

## 2. STATUS AND GUARANTEE

[The obligations under the Notes constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.] [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

(a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

(b) whereby:

[(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ii] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[iii] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv] [●]

Paragraphs [(i) [●] [to] [(iii) [●] apply both before and after the opening of insolvency proceedings.]

[[v] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigersamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[•] [•]

]

[(c)] [•] pari passu among themselves; and

[(d)] [•] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[•]]

[•]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee**) dated [insert date] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Notes][insert specified currency] [•] The Guarantee constitute a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Noteholder to require performance of the Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor.

### 3. DISTRIBUTIONS

#### 3.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [•] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [•] (the **Distribution Commencement Date**) [to and excluding the Maturity Date]. Distributions shall be scheduled to be paid [[•], [annually][semi-annually][quarterly]][•] in arrears on [•] in each year (each such date, a **Distribution Payment Date**), commencing on [•]. Distributions will fall due in accordance with the provisions set out in Clause 4.5.

#### 3.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

#### 3.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

### 4. PAYMENTS

#### 4.1 Payment of Principal

Payment of principal on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System.

#### **4.2 Payment of Distributions**

Payment of distributions on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System, and in case of payment of distributions on Notes represented by a Temporary Global Note, upon due certification as provided for in Clause 1.4(b).

#### **4.3 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which the Fiscal Agent has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to the Fiscal Agent by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by the Fiscal Agent in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by the Fiscal Agent in its reasonable discretion.

#### **4.4 Discharge**

The Issuer and the Guarantor shall be discharged by payment to, or to the order of, the Clearing System.

#### **4.5 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

#### **4.6 References to Principal and Distributions**

References in these Terms and Conditions, or the Guarantee, to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 8.1.

## 5. REDEMPTION

### 5.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 5.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. *[in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 5.]*
- (b) In order to exercise such option, the Noteholder must, not less than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* nor more than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of the Fiscal Agent an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] *[[in case of non-perpetual Notes insert minimum period of notice to Issuer] Payment Business Day][[in case of perpetual Notes insert minimum period of notice to Issuer in years] year]* before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of the Fiscal Agent and the Paying Agent[s] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.]

### 5.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 10. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;

- (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]]* Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]]* Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
- (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[*in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 5.2.

]]

#### **5.4 [No] Early Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 8.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to the Fiscal Agent and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

#### **6. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer, or the Guarantor, fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after the Fiscal Agent has received notice thereof from a Noteholder; or

- (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
- (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
- (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Notes, or the Guarantee;
- (vi) the Guarantee ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph (a) shall be made by means of a written declaration in the English language and sent to the specified office of the Fiscal Agent together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## **7. FISCAL AGENT, PRINCIPAL PAYING AGENT**

### **7.1 Appointment, Specified Offices**

The initial Fiscal Agent, and the initial Principal Paying Agent[s] and their respective initial specified offices are:

Initial Fiscal Agent:  
 [Timberland Invest Ltd.  
 171, Old Bakery Street  
 Valletta VLT 1455  
 Malta]

[•]

Initial Principal Paying Agent[s]:

[Flatex Bank AG  
 Rotfeder-Ring 7  
 60327 Frankfurt am Main  
 Federal Republic of Germany]

[Baader Bank Aktiengesellschaft  
 Weißenstephaner Str. 4  
 85716 Unterschleißheim  
 Federal Republic of Germany]

[Citibank, N.A., London Branch  
 Citigroup Centre, Canada Square]



Canary Wharf  
London E14 5LB  
United Kingdom]

[•]

Where these Terms and Conditions refer to the term **Paying Agent[s]**, such term shall include the Principal Paying Agent.

The Fiscal Agent, and the Paying Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city][in *insert city*].

## 7.2 Variation or Termination of Appointment

The Issuer reserves the right at any time to vary or terminate the appointment of any Fiscal Agent, or any Paying Agent and to appoint another Fiscal Agent, additional or other Paying Agents. The Issuer shall at all times maintain (i) a Fiscal Agent [,] [and] (ii) so long as the Notes are listed on a stock exchange, a Paying Agent (which may be the Fiscal Agent) with a specified office in such place as may be required by the rules of such stock exchange or its supervisory [authority][authorities] [*in case of payments in U.S. Dollars insert: [,] [and]*] (iii) if payments at or through the offices of [a][all] Paying Agent[s] outside the United States become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in U.S. Dollars, a Paying Agent with a specified office in New York]. The Issuer will give notice to the Noteholders of any variation, termination, appointment or any other change as soon as possible upon the effectiveness of such change.

The Issuer undertakes, to the extent this is possible, to maintain a Paying Agent in a member state of the European Union in which it shall not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of 26–27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive 2003/48/EC.

## 7.3 Agents of the Issuer

The Fiscal Agent, and the Paying Agent[s] act solely as agents of the Issuer and do not have any obligations towards or relationship of agency or trust to any Noteholder.

## 7.4 Determinations Binding

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these Terms and Conditions by the Fiscal Agent shall (in the absence of wilful default, bad faith, inequitableness or manifest error) be binding on the Issuer, the Paying Agent[s], and the Noteholders and, in the absence of the aforesaid, no liability to the Issuer, the Paying Agent[s], or the Noteholders shall attach to the Fiscal Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

## 8. TAXATION

### 8.1 Withholding Taxes and Additional Amounts

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent

permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or
- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 10, whichever occurs later.

## **8.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **8.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **9. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **9.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **9.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

### **9.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **10. NOTICES**

### **10.1 Notices of the Issuer**

All notices of the Issuer concerning the Notes shall be published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.

### **10.2 Publication of Notices of the Issuer via the Clearing System**

If the publication of notices pursuant to Clause 10.1 is no longer required by law, the Issuer may, in lieu of publication in the media set forth in Clause 10.1, deliver the relevant notices to the Clearing System, for communication by the Clearing System to the Noteholders. Any such notice shall be deemed to have been given to the Noteholders on the [●] calendar day after the calendar day on which said notice was given to the Clearing System.

### **10.3 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer or the Fiscal Agent (for onward delivery to the Issuer) and by hand or mail [or [*insert other means of communication*]]. The Noteholder shall provide evidence satisfactory to the Issuer of its holding of the Notes. Such evidence may be (i) in the form of a certification from the Clearing System or the Custodian with which the Noteholder maintains a securities account in respect of the Notes that such Noteholder is, at the time such notice is given, the Noteholder of the relevant Notes, or (ii) in any other appropriate manner.

## **11. MEETINGS OF NOTEHOLDERS**

Articles 470-3 – 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## 12. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]

### 12.1 Substitution

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]**)] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Noteholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 12 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 12 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].

## 12.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [12.3] Further substitution

[After a substitution pursuant to Condition 12.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in Condition 12.1 and 12.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [12.4] Reverse substitution

[After a substitution pursuant to Condition 12.1 [or 12.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [12.][13.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [12.1][13.1] Governing Law

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### [12.2][13.2] Place of Jurisdiction

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Noteholders*).

### [12.3][13.3] Enforcement

Any Noteholder of Notes may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Noteholder maintains a securities account in respect of the Notes (a) stating the full name and address of the Noteholder, (b) specifying the aggregate principal amount of the Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b), and (ii) a copy of the Global Note certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the Global Note representing the Notes. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [13.][14.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 8.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 4.3.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof] [Distribution Payment Date thereafter].]

**Clearing System** means [Clearstream Luxembourg and Euroclear] [and/or] [Clearstream Frankfurt] [and/or] [OeKB CSD] and any successor in such capacity. [The Notes shall be kept in custody by a common depository on behalf of both ICSDs.].

[**Clearstream Frankfurt** means Clearstream Banking AG, The Cube, Mergenthalerallee 61, 65760 Eschborn, Federal Republic Germany.]

[**Clearstream Luxembourg** means Clearstream Banking, société anonyme, Luxembourg, 42 Avenue J.F. Kennedy, 1855 Luxembourg, Grand Duchy of Luxembourg.]

**Code** has the meaning assigned to it in Clause 8.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year] [the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 3.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 3.1.

**Early Redemption Amount** means [the Principal Amount][●].

[**Euroclear** means Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, 1210 Brussels, Kingdom of Belgium.]

**Exchange Date** has the meaning assigned to it in Clause 1.4.

**FATCA** has the meaning assigned to it in Clause 8.2.

**Fiscal Agent** means [Timberland Invest Ltd.][●].

**Global Note(s)** has the meaning assigned to it in Clause 1.4.

[**ICSDs** means Clearstream Luxembourg and Euroclear.]

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 5.1.

**Noteholder** means any holder of a proportionate co-ownership or other comparable right in the Global Note which may be transferred to a new holder in accordance with applicable law and the provisions of the Clearing System.

**Notes** has the meaning assigned to it in Clause 1.1.

[**OeKB CSD GmbH** means OeKB CSD GmbH Strauchgasse 1-3, 1010 Vienna, Austria.]

**Paying Agent[s]** means [Citibank, N.A., London Branch] [and] [Baader Bank Aktiengesellschaft] [Flatex Bank AG] [and] [●].

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Permanent Global Note** has the meaning assigned to it in Clause 1.4.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [12.2][13.2].

[**Put Notice** has the meaning assigned to it in Clause 5.2.]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 3.1.

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Fiscal Agent on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 10.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 4.3.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Temporary Global Note** has the meaning assigned to it in Clause 1.4.

**Withholding Taxes** has the meaning assigned to it in Clause 8.1.



## Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II

### 1. CURRENCY, DENOMINATION, FORM, CLEARING SYSTEM

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

The Notes are being issued in bearer form.

#### 1.3 Global Notes

[

- (a) The Notes are initially represented by a temporary global note (the **Temporary Global Note**) without coupons. The Temporary Global Note will be exchangeable for a permanent global note (the **Permanent Global Note** and together with the Temporary Global Note, the **Global Notes** or a **Global Note**) without coupons. The Temporary Global Note and the Permanent Global Note shall bear the signatures of two authorised signatories of the Issuer [and shall each be authenticated with a control signature of the Fiscal Agent]. Definitive Notes and coupons will not be issued.
- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not later than 180 calendar days after the date of issue of the Temporary Global Note. The Exchange Date for such exchange will not be earlier than 40 calendar days after the date of issue of the Temporary Global Note. Such exchange shall only be made to the extent that certifications have been delivered to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person or are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this sub-paragraph (b) of Clause 1.4. Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.

For purposes of these Terms and Conditions, **United States** or **U.S.** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).]

[●]

#### 1.4 Clearing System

The Global Notes will be kept in custody by or on behalf of a Clearing System as central depository for securities (*Wertpapiersammelbank*) until, in case of the Permanent Global Note, all obligations of the Issuer under the Notes have been satisfied.

## 2. STATUS AND GUARANTEE

[The obligations under the Notes constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.] [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

(a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

(b) whereby:

[(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ii] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[iii] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv] [●]

Paragraphs [(i) [●] [to] [(iii) [●] apply both before and after the opening of insolvency proceedings.]

[[v] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigersamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[•] [•]

]

[(c)] [•] pari passu among themselves; and

[(d)] [•] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[•]]

[•]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee II**) dated [insert date] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Notes][insert specified currency] [•] The Guarantee II constitute a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Noteholder to require performance of the Guarantee II directly from the Guarantor and to enforce the Guarantee II directly against the Guarantor.

### 3. DISTRIBUTIONS

#### 3.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [•] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [•] (the **Distribution Commencement Date**) [to and excluding the Maturity Date]. Distributions shall be scheduled to be paid [[•], [annually][semi-annually][quarterly]][•] in arrears on [•] in each year (each such date, a **Distribution Payment Date**), commencing on [•]. Distributions will fall due in accordance with the provisions set out in Clause 4.5.

#### 3.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

#### 3.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

### 4. PAYMENTS

#### 4.1 Payment of Principal

Payment of principal on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System.

#### **4.2 Payment of Distributions**

Payment of distributions on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System, and in case of payment of distributions on Notes represented by a Temporary Global Note, upon due certification as provided for in Clause 1.4(b).

#### **4.3 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which the Fiscal Agent has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to the Fiscal Agent by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by the Fiscal Agent in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by the Fiscal Agent in its reasonable discretion.

#### **4.4 Discharge**

The Issuer and the Guarantor shall be discharged by payment to, or to the order of, the Clearing System.

#### **4.5 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

#### **4.6 References to Principal and Distributions**

References in these Terms and Conditions, or the Guarantee II, to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 8.1.

## 5. REDEMPTION

### 5.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 5.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. *[in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 5.]*
- (b) In order to exercise such option, the Noteholder must, not less than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* nor more than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of years] years]* before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of the Fiscal Agent an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] *[[in case of non-perpetual Notes insert minimum period of notice to Issuer] Payment Business Day][[in case of perpetual Notes insert minimum period of notice to Issuer in years] year]* before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of the Fiscal Agent and the Paying Agent[s] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.]

### 5.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 10. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;

- (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]]* Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]]* Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
- (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[*in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 5.2.

]]

#### **5.4 [No] Early Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 8.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to the Fiscal Agent and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

#### **6. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer, or the Guarantor, fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after the Fiscal Agent has received notice thereof from a Noteholder; or

- (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
- (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
- (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Notes, or the Guarantee II;
- (vi) the Guarantee II ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee II.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph (a) shall be made by means of a written declaration in the English language and sent to the specified office of the Fiscal Agent together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## **7. FISCAL AGENT, PRINCIPAL PAYING AGENT**

### **7.1 Appointment, Specified Offices**

The initial Fiscal Agent, and the initial Principal Paying Agent[s] and their respective initial specified offices are:

Initial Fiscal Agent:  
 [Timberland Invest Ltd.  
 171, Old Bakery Street  
 Valletta VLT 1455  
 Malta]

[•]

Initial Principal Paying Agent[s]:

[Flatex Bank AG  
 Rotfeder-Ring 7  
 60327 Frankfurt am Main  
 Federal Republic of Germany]

[Baader Bank Aktiengesellschaft  
 Weihestephaner Str. 4  
 85716 Unterschleißheim  
 Federal Republic of Germany]

[Citibank, N.A., London Branch  
 Citigroup Centre, Canada Square]

Canary Wharf  
London E14 5LB  
United Kingdom]

[•]

Where these Terms and Conditions refer to the term **Paying Agent[s]**, such term shall include the Principal Paying Agent.

The Fiscal Agent, and the Paying Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city][in *insert city*].

## 7.2 Variation or Termination of Appointment

The Issuer reserves the right at any time to vary or terminate the appointment of any Fiscal Agent, or any Paying Agent and to appoint another Fiscal Agent, additional or other Paying Agents. The Issuer shall at all times maintain (i) a Fiscal Agent [,] [and] (ii) so long as the Notes are listed on a stock exchange, a Paying Agent (which may be the Fiscal Agent) with a specified office in such place as may be required by the rules of such stock exchange or its supervisory [authority][authorities] [*in case of payments in U.S. Dollars insert: [,] [and]*] (iii) if payments at or through the offices of [a][all] Paying Agent[s] outside the United States become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in U.S. Dollars, a Paying Agent with a specified office in New York]. The Issuer will give notice to the Noteholders of any variation, termination, appointment or any other change as soon as possible upon the effectiveness of such change.

The Issuer undertakes, to the extent this is possible, to maintain a Paying Agent in a member state of the European Union in which it shall not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of 26–27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive 2003/48/EC.

## 7.3 Agents of the Issuer

The Fiscal Agent, and the Paying Agent[s] act solely as agents of the Issuer and do not have any obligations towards or relationship of agency or trust to any Noteholder.

## 7.4 Determinations Binding

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these Terms and Conditions by the Fiscal Agent shall (in the absence of wilful default, bad faith, inequitableness or manifest error) be binding on the Issuer, the Paying Agent[s], and the Noteholders and, in the absence of the aforesaid, no liability to the Issuer, the Paying Agent[s], or the Noteholders shall attach to the Fiscal Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

## 8. TAXATION

### 8.1 Withholding Taxes and Additional Amounts

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent



permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or
- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 10, whichever occurs later.

## **8.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **8.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **9. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **9.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **9.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

### **9.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **10. NOTICES**

### **10.1 Notices of the Issuer**

All notices of the Issuer concerning the Notes shall be published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.

### **10.2 Publication of Notices of the Issuer via the Clearing System**

If the publication of notices pursuant to Clause 10.1 is no longer required by law, the Issuer may, in lieu of publication in the media set forth in Clause 10.1, deliver the relevant notices to the Clearing System, for communication by the Clearing System to the Noteholders. Any such notice shall be deemed to have been given to the Noteholders on the [●] calendar day after the calendar day on which said notice was given to the Clearing System.

### **10.3 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer or the Fiscal Agent (for onward delivery to the Issuer) and by hand or mail [or [*insert other means of communication*]]. The Noteholder shall provide evidence satisfactory to the Issuer of its holding of the Notes. Such evidence may be (i) in the form of a certification from the Clearing System or the Custodian with which the Noteholder maintains a securities account in respect of the Notes that such Noteholder is, at the time such notice is given, the Noteholder of the relevant Notes, or (ii) in any other appropriate manner.

## **11. MEETINGS OF NOTEHOLDERS**

Articles 470-3 – 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## **[12. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]**

### **12.1 Substitution**

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]**)] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (e) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Notes;
- (f) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (g) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (h) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Noteholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 12 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 12 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].

## 12.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [12.3] Further substitution

[After a substitution pursuant to Condition 12.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in Condition 12.1 and 12.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [12.4] Reverse substitution

[After a substitution pursuant to Condition 12.1 [or 12.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [12.][13.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [12.1][13.1] Governing Law

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### [12.2][13.2] Place of Jurisdiction

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 2 (*Ranking*) and Clause 11 (*Meetings of Noteholders*).

### [12.3][13.3] Enforcement

Any Noteholder of Notes may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Noteholder maintains a securities account in respect of the Notes (a) stating the full name and address of the Noteholder, (b) specifying the aggregate principal amount of the Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b), and (ii) a copy of the Global Note certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the Global Note representing the Notes. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [13.][14.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 8.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 4.3.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof] [Distribution Payment Date thereafter].]

**Clearing System** means [Clearstream Luxembourg and Euroclear] [and/or] [Clearstream Frankfurt] [and/or] [OeKB CSD] and any successor in such capacity. [The Notes shall be kept in custody by a common depository on behalf of both ICSDs.].

[**Clearstream Frankfurt** means Clearstream Banking AG, The Cube, Mergenthalerallee 61, 65760 Eschborn, Federal Republic Germany.]

[**Clearstream Luxembourg** means Clearstream Banking, société anonyme, Luxembourg, 42 Avenue J.F. Kennedy, 1855 Luxembourg, Grand Duchy of Luxembourg.]

**Code** has the meaning assigned to it in Clause 8.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year] [the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 3.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 3.1.

**Early Redemption Amount** means [the Principal Amount][●].

[**Euroclear** means Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, 1210 Brussels, Kingdom of Belgium.]

**Exchange Date** has the meaning assigned to it in Clause 1.4.

**FATCA** has the meaning assigned to it in Clause 8.2.

**Fiscal Agent** means [Timberland Invest Ltd.][●].

**Global Note(s)** has the meaning assigned to it in Clause 1.4.

[**ICSDs** means Clearstream Luxembourg and Euroclear.]

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 5.1.

**Noteholder** means any holder of a proportionate co-ownership or other comparable right in the Global Note which may be transferred to a new holder in accordance with applicable law and the provisions of the Clearing System.

**Notes** has the meaning assigned to it in Clause 1.1.

[**OeKB CSD GmbH** means OeKB CSD GmbH Strauchgasse 1-3, 1010 Vienna, Austria.]

**Paying Agent[s]** means [Citibank, N.A., London Branch] [and] [Baader Bank Aktiengesellschaft] [Flatex Bank AG] [and] [●].

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Permanent Global Note** has the meaning assigned to it in Clause 1.4.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [12.2][13.2].

[**Put Notice** has the meaning assigned to it in Clause 5.2.]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 3.1.

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Fiscal Agent on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 10.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 4.3.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Temporary Global Note** has the meaning assigned to it in Clause 1.4.

**Withholding Taxes** has the meaning assigned to it in Clause 8.1.

## Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to][●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being fully issued in registered form and may under no circumstances be converted into notes in bearer form.
- (b) The Issuer may issue Notes for no consideration to be held by the Issuer with a view to selling those Notes on the secondary market. All determinations made under these Terms and Conditions will reflect the fact that such Notes issued and directly held by the Issuer have been issued for no consideration (the issue price for those Notes will be deemed to be 0). So long as any Notes are held by the Issuer, any rights attached to such Notes (such as financial rights and voting rights) will be suspended.
- (c) The Notes are not clearable through any clearing system and cannot (and will not) be admitted to trading and/or listed on any stock exchange, regulated or unregulated market.
- (d) The Issuer will cause to be kept at the specified office of the Registrar and Transfer Agent a register of Noteholders of Notes (the **Register**). The Registrar and Transfer Agent will immediately inform the Issuer of any changes made to the Register.
- (e) The Issuer undertakes to keep an up-to-date copy of the Register at its registered office at all times (the **Issuer Register**).
- (f) A Noteholder may request from the Registrar and Transfer Agent an extract of the Register showing the entry relevant to its holding of the Registered Notes.

#### 1.3 Title

- (a) Title to the Notes passes only by registration (*inscription*) in the Issuer Register.
- (b) Ownership in respect of the Notes is established by the registration in the Issuer Register.
- (c) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, the Issuer may deem and treat the person registered in the Issuer Register as absolute owner of the Notes for all purposes (whether or not the Note is overdue) and no person will be liable for so treating the Noteholder.
- (d) No transfer of a Note shall be recognised by the Issuer unless entered in the Register and the Issuer Register. In the case of discrepancies between the records of the Register and the Issuer Register, the latter shall prevail.



## 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the registered Note in the form satisfactory to the Registrar and Transfer Agent and the Issuer, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent and the Issuer may reasonably require.
- (b) Registration of transfer of the Notes will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

## 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Notes under Clause 7.2, to register the transfer of these Notes (or parts of these Notes) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

## 4. STATUS AND GUARANTEE

[The obligations under the Notes constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.] [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- (i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee**) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Notes][*insert specified currency*] [●] The Guarantee constitute a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Noteholder to require performance of the Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor.

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually]][semi-annually][quarterly][●] in arrears on [●] in each year (each

such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

## 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

## 5.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

# 6. PAYMENTS

## 6.1 Payment of Principal and Distributions

Payment of principal and distributions on the Notes shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder the details of which are recorded in the Register at a given time.

## 6.2 Manner of Payment

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which the Fiscal Agent has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to the Fiscal Agent by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by the Fiscal Agent in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by the Fiscal Agent in its reasonable discretion.

## 6.3 Discharge

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Register.

## 6.4 Payment Business Day

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee, to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert:* The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.]
- (b) In order to exercise such option, the Noteholder must, not less than [[*in case of non-perpetual Notes insert minimum number of days*] Payment Business Day][[*in case of perpetual Notes insert minimum number of years*] years] nor more than [[*in case of non-perpetual Notes insert minimum number of days*] Payment Business Days] [*in case of perpetual Notes insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of the Fiscal Agent an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [[*in case of non-perpetual Notes insert minimum period of notice to Issuer*] Payment Business Day][[*in case of perpetual Notes insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of the Fiscal Agent in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[*in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

### 7.4 [No] Early Redemption for Reasons of Taxation

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer is, or the Guarantor, required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to the Fiscal Agent and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

## **8. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer, or the Guarantor, fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after the Fiscal Agent has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Notes, or the Guarantee;
  - (vi) the Guarantee ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of the Fiscal Agent together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## **9. FISCAL AGENT, REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT**

### **9.1 Appointment, Specified Offices**

The initial Fiscal Agent, the Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### **Fiscal Agent**

Initial Fiscal Agent:  
[Timberland Invest Ltd.]

171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[•]

**Registrar and Transfer Agent[s]:**

[E-Stream Energy GmbH & Co KG  
Wilhelmshofallee 83  
47800 Krefeld  
Germany]

[Alter Domus (Services) Malta Limited  
Vision Exchange Building Territorials Street  
Mriehel BKR 3000  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The Fiscal Agent, the Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in *[insert city]*]. Each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain a Fiscal Agent, a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

## 10. TAXATION

### 10.1 Withholding Taxes and Additional Amounts

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

### 10.2 U.S. Foreign Account Tax Compliance Act (FATCA)

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

### 10.3 Transfer of Issuer's domicile

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.



## **11. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **11.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

### **11.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Notes [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Noteholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at his registered address and posted.]

[●]

### **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer or the Fiscal Agent (for onward delivery to the Issuer) by hand or mail [or [*insert other means of communication*]].

## **13. MEETINGS OF NOTEHOLDERS**

Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## 14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]

### 14.1 Substitution

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]**)] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Noteholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].

## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [14.3 Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [14.4 Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [14.][15.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [14.1][15.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### [14.2][15.2] Place of Jurisdiction

The courts of Luxemburg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### [14.3][15.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Notes[, and [●]]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [15.][16.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Issuer Register** has the meaning assigned to it in Clause 1.2(e).

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

**Notes** has the meaning assigned to it in Clause 1.1.

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business

(including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [14.2][15.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Register** has the meaning assigned to it in Clause 1.2(d).

**Registrar and Transfer Agent[s]** means [E-Stream Energy GmbH & Co KG] [and] [Alter Domus (Services) Malta Limited] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being fully issued in registered form and may under no circumstances be converted into notes in bearer form.
- (b) The Issuer may issue Notes for no consideration to be held by the Issuer with a view to selling those Notes on the secondary market. All determinations made under these Terms and Conditions will reflect the fact that such Notes issued and directly held by the Issuer have been issued for no consideration (the issue price for those Notes will be deemed to be 0). So long as any Notes are held by the Issuer, any rights attached to such Notes (such as financial rights and voting rights) will be suspended.
- (c) The Notes are not clearable through any clearing system and cannot (and will not) be admitted to trading and/or listed on any stock exchange, regulated or unregulated market.
- (d) The Issuer will cause to be kept at the specified office of the Registrar and Transfer Agent a register of Noteholders of Notes (the **Register**). The Registrar and Transfer Agent will immediately inform the Issuer of any changes made to the Register.
- (e) The Issuer undertakes to keep an up-to-date copy of the Register at its registered office at all times (the **Issuer Register**).
- (f) A Noteholder may request from the Registrar and Transfer Agent an extract of the Register showing the entry relevant to its holding of the Registered Notes.

#### 1.3 Title

- (a) Title to the Notes passes only by registration (*inscription*) in the Issuer Register.
- (b) Ownership in respect of the Notes is established by the registration in the Issuer Register.
- (c) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, the Issuer may deem and treat the person registered in the Issuer Register as absolute owner of the Notes for all purposes (whether or not the Note is overdue) and no person will be liable for so treating the Noteholder.
- (d) No transfer of a Note shall be recognised by the Issuer unless entered in the Register and the Issuer Register. In the case of discrepancies between the records of the Register and the Issuer Register, the latter shall prevail.

## 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the registered Note in the form satisfactory to the Registrar and Transfer Agent and the Issuer, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent and the Issuer may reasonably require.
- (b) Registration of transfer of the Notes will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

## 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Notes under Clause 7.2, to register the transfer of these Notes (or parts of these Notes) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

## 4. STATUS AND GUARANTEE

[The obligations under the Notes constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.] [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- (i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee II**) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Notes][*insert specified currency*] [●] The Guarantee II constitute a contract for the benefit of the Noteholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Noteholder to require performance of the Guarantee II directly from the Guarantor and to enforce the Guarantee II directly against the Guarantor.

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually]][semi-annually][quarterly][●] in arrears on [●] in each year (each



such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

## 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

## 5.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

# 6. PAYMENTS

## 6.1 Payment of Principal and Distributions

Payment of principal and distributions on the Notes shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder the details of which are recorded in the Register at a given time.

## 6.2 Manner of Payment

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which the Fiscal Agent has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to the Fiscal Agent by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by the Fiscal Agent in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by the Fiscal Agent in its reasonable discretion.

## 6.3 Discharge

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Register.

## 6.4 Payment Business Day

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee II, to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert:* The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.]
- (b) In order to exercise such option, the Noteholder must, not less than [[*in case of non-perpetual Notes insert minimum number of days*] Payment Business Day][[*in case of perpetual Notes insert minimum number of years*] years] nor more than [[*in case of non-perpetual Notes insert minimum number of days*] Payment Business Days] [*in case of perpetual Notes insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of the Fiscal Agent an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [[*in case of non-perpetual Notes insert minimum period of notice to Issuer*] Payment Business Day][[*in case of perpetual Notes insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of the Fiscal Agent in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[*in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

### 7.4 [No] Early Redemption for Reasons of Taxation

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer is, or the Guarantor, required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to the Fiscal Agent and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.

- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

## **8. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer, or the Guarantor, fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after the Fiscal Agent has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 calendar days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Notes, or the Guarantee II;
  - (vi) the Guarantee II ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee II.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of the Fiscal Agent together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## **9. FISCAL AGENT, REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT**

### **9.1 Appointment, Specified Offices**

The initial Fiscal Agent, the Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### **Fiscal Agent**

Initial Fiscal Agent:  
[Timberland Invest Ltd.]

171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[•]

**Registrar and Transfer Agent[s]:**

[E-Stream Energy GmbH & Co KG  
Wilhelmshofallee 137  
47800 Krefeld  
Germany]

[Alter Domus (Services) Malta Limited  
Vision Exchange Building Territorials Street  
Mriehel BKR 3000  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The Fiscal Agent, the Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in *[insert city]*]. Each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain a Fiscal Agent, a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of the Fiscal Agent, the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

## **10. TAXATION**

### **10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

### **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

### **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **11.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to the Fiscal Agent for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

### **11.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Notes [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Noteholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at his registered address and posted.]

[●]

### **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer or the Fiscal Agent (for onward delivery to the Issuer) by hand or mail [or [*insert other means of communication*]].

## **13. MEETINGS OF NOTEHOLDERS**

Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## **[14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]**

### **14.1 Substitution**

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]**)] as Guarantor[s]] under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Noteholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Notes after the substitution[s]. The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].



## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [14.3] Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [14.4] Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [14.][15.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [14.1][15.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### [14.2][15.2] Place of Jurisdiction

The courts of Luxemburg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### [14.3][15.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Notes[, and [●]]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [15.][16.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Issuer Register** has the meaning assigned to it in Clause 1.2(e).

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

**Notes** has the meaning assigned to it in Clause 1.1.

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business

(including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [14.2][15.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Register** has the meaning assigned to it in Clause 1.2(d).

**Registrar and Transfer Agent[s]** means [E-Stream Energy GmbH & Co KG] [and] [Alter Domus (Services) Malta Limited] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option X – Terms and Conditions of the Contingent Capital Fixed Rate Bearer Notes

### 1. CURRENCY, DENOMINATION, FORM, CLEARING SYSTEM

#### 1.1 Currency, Denomination

This tranche of subordinated contingent capital fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to][●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

The Notes are being issued in bearer form.

#### 1.3 Global Notes

[

- (a) The Notes are initially represented by a temporary global note (the **Temporary Global Note**) without coupons. The Temporary Global Note will be exchangeable for a permanent global note (the **Permanent Global Note** and together with the Temporary Global Note, the **Global Notes** or a **Global Note**) without coupons. The Temporary Global Note and the Permanent Global Note shall bear the signatures of two authorised signatories of the Issuer [and shall each be authenticated with a control signature of the Fiscal Agent]. Definitive Notes and coupons will not be issued.
- (b) The Temporary Global Note shall be exchanged for the Permanent Global Note on a date (the **Exchange Date**) not later than 180 calendar days after the date of issue of the Temporary Global Note. The Exchange Date for such exchange will not be earlier than 40 calendar days after the date of issue of the Temporary Global Note. Such exchange shall only be made to the extent that certifications have been delivered to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note is not a U.S. person or are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions). Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to this sub-paragraph (b) of Clause 1.4. Any Notes delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States.

For purposes of these Terms and Conditions, **United States** or **U.S.** means the United States of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).]

[●]

#### 1.4 Clearing System

The Global Notes will be kept in custody by or on behalf of a Clearing System as central depository for securities (*Wertpapiersammelbank*) until, in case of the Permanent Global Note, all obligations of the Issuer under the Notes have been satisfied.

## 2. STATUS

### 2.1 Ranking

The Notes constitute direct, unsecured and subordinated obligations of the Issuer, and Tier 2 Instruments.

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

(a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

(b) whereby:

[(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ii)] [•]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[iii)] [•]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [•]

Paragraphs [(i)] [•] [to] [(iii)] [•] apply both before and after the opening of insolvency proceedings.]

[[v)] [•]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [•]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[•] [•]

]

[(c)] [•] pari passu among themselves; and

[(d)] [•] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[•]]

[•]

## 2.2 No Set-off or Security

Claims of the Issuer are not permitted to be set-off against repayment obligations of the Issuer under these Notes, and no contractual collateral may be provided by the Issuer or any third person for the liabilities constituted by the Notes. The Notes are neither secured nor subject to a guarantee that enhances the seniority of the claims under the Notes. The Notes are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claims under the Notes. No subsequent agreement may limit the subordination pursuant to this Clause 2.2.

## 3. DISTRIBUTIONS

### 3.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on their Current Principal Amount at the rate of [•] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [•] (the **Distribution Commencement Date**) [to and excluding the Maturity Date]. Distributions shall be scheduled to be paid [annually][semi-annually][quarterly][•] in arrears on [•] in each year (each such date, a **Distribution Payment Date**), commencing on [•]. Distributions will fall due in accordance with the provisions set out in Clause 4.5.

### 3.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Current Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### 3.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Current Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

## 4. PAYMENTS

### 4.1 Payment of Principal

Payment of principal on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System.

## 4.2 Payment of Distributions

Payment of distributions on the Notes shall be made, subject to Clause 4.3 below, to the Clearing System or to its order for credit to the accounts of the relevant accountholders of the Clearing System, and in case of payment of distributions on Notes represented by a Temporary Global Note, upon due certification as provided for in Clause 1.4(b).

## 4.3 Manner of Payment

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

## 4.4 Discharge

The Issuer shall be discharged by payment to, or to the order of, the Clearing System.

## 4.5 Payment Business Day

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 4.6 References to Principal and Distributions

References in these Terms and Conditions to "principal" in respect of the Notes shall be deemed to include, as applicable: the Specified Denomination/Principal Amount, the Current Principal Amount[, the Call Redemption Amount], and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 8.1.

## 5. REDEMPTION

### 5.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Current Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●]<sup>1</sup> (the **Maturity Date**).]

### 5.2 No Early Redemption at the Option of a Noteholder

The Noteholders do not have a right to demand the redemption of the Notes.

### 5.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date. Any such redemption pursuant to this subsection Clause 5.3 shall not be possible before [five][●]<sup>2</sup> [months][years] after the date of issuance and shall only be possible provided that the redemption conditions laid down in Clause 5.6 are met.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 10. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[

- (c) Redemption under this Clause 5.3 shall be excluded if the Call Redemption Amount would be less than the Specified Denomination.

]]

### 5.4 [No] Early Redemption for Reasons of Taxation

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[The Notes may be redeemed at the option of the Issuer in whole, but not in part, [at any time] [on the next Distribution Payment Date] by giving not less than [*insert number of days*] Payment Business Days and nor more than [*insert number of days*] Payment Business Days prior notice of redemption to [the Fiscal Agent] [●] and, in accordance with Clause 10, to the Noteholders (which notice shall be irrevocable), if there is a change in the applicable tax treatment of the Notes, including without

<sup>1</sup> Insert maturity in line with Art. 63 lit. g CRR.

<sup>2</sup> Insert redemption date in line with Art. 63 lit. j CRR.



limitation, a Tax Deductibility Event, or a Gross-up Event, which is material and was not reasonably foreseeable at the time of the issuance of the Notes, and which the Issuer, in accordance with and subject to Article 78(4) of the CRR, if so required, demonstrates to the satisfaction of the Competent Authority, provided that the redemption conditions laid down in Clause 5.6 are met.]

### **5.5 Early Redemption for Regulatory Reasons**

The Notes may be redeemed at the option of the Issuer in whole, but not in part, [at any time] [on the next Distribution Payment Date] by giving not less than [*insert number of days*] Payment Business Days and nor more than [*insert number of days*] Payment Business Days prior notice of redemption to [the Fiscal Agent] [●] and, in accordance with Clause 10, to the Noteholders (which notice shall be irrevocable), if there is a change in the regulatory classification of the Notes that would be likely to result in their full or partial exclusion from own funds or reclassification as a lower quality form of own funds, if applicable, and provided that the following conditions are met: (i) the Competent Authority considers such a change to be sufficiently certain; (ii) the Issuer demonstrates to the satisfaction of the Competent Authority that the regulatory reclassification of the Notes was not reasonably foreseeable at the time of their issuance; and (iii) the redemption conditions laid down in Clause 5.6 are met.

### **5.6 Redemption Conditions**

Any redemption pursuant to this Clause 5 requires that the Competent Authority has granted the Issuer the prior permission in accordance with Article 78 para 1 of the CRR for the redemption, if applicable, whereas such permission may, inter alia, require that:

- (a) earlier than or at the same time as the redemption, the Issuer replaces the Notes with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the Issuer; or
- (b) the Issuer has demonstrated to the satisfaction of the Competent Authority that the own funds of the Issuer would, following the redemption, exceed the requirements laid down in Article 92(1) of the CRR and the combined buffer requirement as defined in point (6) of Article 128 of the CRD IV by a margin that the Competent Authority may consider necessary on the basis of Article 104(3) of the CRD IV.

For the avoidance of doubt, any refusal of the Competent Authority to grant permission in accordance with Article 78 para 1 of the CRR shall not constitute a default for any purpose.

### **5.7 Redemption Amount**

In case of a redemption pursuant to [Clause 5.4 or] Clause 5.5, the Notes will be redeemed at their Current Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption.

## **6. LOSS SHARING**

### **6.1 Write-down**

If the Issuer incurs an Annual Balance Sheet Loss as calculated in accordance with German GAAP or IFRS, as applicable, in any fiscal year (*Geschäftsjahr*), the Noteholder shares in such loss (excluding any loss carry forwards from previous fiscal years of the Issuer) in the proportion which their Current Principal Amount (as reduced and/or written up in previous fiscal years of the Issuer) bears in relation to the aggregate book value of all going concern loss sharing components of the Issuer's regulatory liable capital (each of them as reduced and/or written up in previous fiscal years of the Issuer), and the Current Principal Amount shall be written down accordingly. For the purpose of such calculation, the Issuer's loss sharing liable capital shall include any and all outstanding CET 1 Instruments and AT 1

Instruments and Similar Instruments. Following an Annual Balance Sheet Loss, there will be a corresponding reduction in the nominal amount of the Current Principal Amount equivalent to the amount of the Noteholder's share in such Annual Balance Sheet Loss. The Noteholder's aggregate share in an Annual Balance Sheet Loss cannot exceed the Current Principal Amount (as reduced and/or written up in previous fiscal years).

## 6.2 Write-up

Following a reduction, the Current Principal Amount will be written up in subsequent fiscal years of the Issuer in which an Annual Balance Sheet Profit is recorded in accordance with German GAAP or IFRS, as applicable. The Current Principal Amount will be written-up prior to the writing-up of AT 1 Instruments. A writing-up of shareholders' equity and allocation to reserves may only occur after the Current Principal Amount has been fully written-up again to its initial Principal Amount. No such increase of the Current Principal Amount may result in the Current Principal Amount being more than the Specified Denomination.

## 7. [FISCAL AGENT,] PRINCIPAL PAYING AGENT

### 7.1 Appointment, Specified Offices

The initial [Fiscal Agent, and] the initial Principal Paying Agent[s] and their respective initial specified offices are:

[Initial Fiscal Agent:  
Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[•]

Initial Principal Paying Agent[s]:  
[Flatex Bank AG  
Rotfeder-Ring 7  
60327 Frankfurt am Main  
Federal Republic of Germany]

[Baader Bank Aktiengesellschaft  
Weihenstephaner Str. 4  
85716 Unterschleißheim  
Federal Republic of Germany]

[Citibank, N.A., London Branch  
Citigroup Centre, Canada Square  
Canary Wharf  
London E14 5LB  
United Kingdom]

[•]

Where these Terms and Conditions refer to the term **Paying Agent[s]**, such term shall include the Principal Paying Agent.

The [Fiscal Agent and the] Paying Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city][in] [*insert city*]].

## 7.2 Variation or Termination of Appointment

The Issuer reserves the right at any time to vary or terminate the appointment of any [Fiscal Agent, or any] Paying Agent and to appoint another [Fiscal Agent,] additional or other Paying Agent[s]. The Issuer shall at all times maintain [(i) a Fiscal Agent [,] [and]] [(i)] [(ii)] so long as the Notes are listed on a stock exchange, a Paying Agent [(which may be the Fiscal Agent)] with a specified office in such place as may be required by the rules of such stock exchange or its supervisory [authority][authorities] [in case of payments in U.S. Dollars insert: [,] [and] (iii) if payments at or through the offices of [a][all] Paying Agent[s] outside the United States become illegal or are effectively precluded because of the imposition of exchange controls or similar restrictions on the full payment or receipt of such amounts in U.S. Dollars, a Paying Agent with a specified office in New York]. The Issuer will give notice to the Noteholders of any variation, termination, appointment or any other change as soon as possible upon the effectiveness of such change.

The Issuer undertakes, to the extent this is possible, to maintain a Paying Agent in a member state of the European Union in which it shall not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of 26–27 November 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, such Directive 2003/48/EC.

## 7.3 Agents of the Issuer

The [Fiscal Agent and] the Paying Agent[s] act solely as agents of the Issuer and do not have any obligations towards or relationship of agency or trust to any Noteholder.

## 7.4 Determinations Binding

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these Terms and Conditions by [the Fiscal Agent] [●] shall (in the absence of wilful default, bad faith, inequitableness or manifest error) be binding on the Issuer, the Paying Agent[s], and the Noteholders and, in the absence of the aforesaid, no liability to the Issuer, the Paying Agent[s], or the Noteholders shall attach to [the Fiscal Agent] [●] in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

## 8. TAXATION

### 8.1 Withholding Taxes and Additional Amounts

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the

Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or

- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or
- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 10, whichever occurs later.

## **8.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **8.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **9. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **9.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

## **9.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed and provided that the redemption conditions laid down in Clause 5.6 are met.

## **9.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **10. NOTICES**

### **10.1 Notices of the Issuer**

All notices of the Issuer concerning the Notes shall be published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.

### **10.2 Publication of Notices of the Issuer via the Clearing System**

If the publication of notices pursuant to Clause 10.1 is no longer required by law, the Issuer may, in lieu of publication in the media set forth in Clause 10.1, deliver the relevant notices to the Clearing System, for communication by the Clearing System to the Noteholders. Any such notice shall be deemed to have been given to the Noteholders on the [●] calendar day after the calendar day on which said notice was given to the Clearing System.

### **10.3 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer) and by hand or mail [or [*insert other means of communication*]]. The Noteholder shall provide evidence satisfactory to the Issuer of its holding of the Notes. Such evidence may be (i) in the form of a certification from the Clearing System or the Custodian with which the Noteholder maintains a securities account in respect of the Notes that such Noteholder is, at the time such notice is given, the Noteholder of the relevant Notes, or (ii) in any other appropriate manner.

## **11. MEETINGS OF NOTEHOLDERS**

Articles 470-3 – 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## **[12. SUBSTITUTION OF THE ISSUER**

### **12.1 Substitution**

[The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the **Substitute Issuer**) as principle debtor) under all Notes in respect of any and all obligations arising

from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer] [●], of at least the equivalent standing and creditworthiness to the Issuer provided that:

- (a) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;
- (c) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution shall be given to the Noteholders in accordance with Condition 10.

[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this Condition 12 and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.] [●]

[After the substitution(s) of the Issuer by a Substitute Issuer this Condition 12 shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer.] [●]

## **12.2 Change of References**

In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

## **[12.3 Further substitution**

[After a substitution pursuant to Condition 12.1, the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in Condition 12.1 and 12.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.] [●]]

## **[12.4 Reverse substitution**

[After a substitution pursuant to Condition 12.1 [or 12.3] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.] [●]]

## [12.][13.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [12.1][13.1] Governing Law

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law except for the provisions of Clause 2.1 (*Ranking*) and Clause 11 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### [12.2][13.2] Place of Jurisdiction

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 2.1 (*Ranking*) and Clause 11 (*Meetings of Noteholders*).

### [12.3][13.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes on the basis of (i) a statement issued by the Custodian with whom such Noteholder maintains a securities account in respect of the Notes (a) stating the full name and address of the Noteholder, (b) specifying the aggregate principal amount of the Notes credited to such securities account on the date of such statement and (c) confirming that the Custodian has given written notice to the Clearing System containing the information pursuant to (a) and (b), and (ii) a copy of the Global Note certified as being a true copy by a duly authorised officer of the Clearing System or a depository of the Clearing System, without the need for production in such Proceedings of the actual records or the Global Note representing the Notes. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [13.][14.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 8.1.

**Annual Balance Sheet Loss** means the net loss for the fiscal year of the Issuer on an individual basis recorded in the Relevant Financial Statements.

**Annual Balance Sheet Profit** means net profits for the fiscal year of the Issuer on an individual basis recorded in the Relevant Financial Statements.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 4.3.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**AT 1 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Additional Tier 1 instruments pursuant to Article 52 of the CRR, including any capital instruments that qualify as Additional Tier 1 instruments pursuant to transitional provisions under the CRR.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals the Current Principal Amount.]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**CET 1 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Common Equity Tier 1 instruments pursuant to Article 28 of the CRR, including any capital instruments that qualify as Common Equity Tier 1 instruments pursuant to transitional provisions under the CRR.

**Clearing System** means [Clearstream Luxembourg and Euroclear] [and/or] [Clearstream Frankfurt] [and/or] [OeKB CSD] and any successor in such capacity. [The Notes shall be kept in custody by a common depository on behalf of both ICSD.]

[**Clearstream Frankfurt** means Clearstream Banking AG, The Cube, Mergenthalerallee 61, 65760 Eschborn, Federal Republic Germany.]

[**Clearstream Luxembourg** means Clearstream Banking, société anonyme, Luxembourg, 42 Avenue J.F. Kennedy, 1855 Luxembourg, Grand Duchy of Luxembourg.]

**Code** has the meaning assigned to it in Clause 8.2.

**Competent Authority** means the [German Financial Services Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*)] [●] and any authority that succeeds into its relevant function.

**CRD IV** means the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (*Capital Requirements Directive IV*), as amended from time to time.

**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.

**Current Principal Amount** means initially the Specified Denomination, which from time to time – on one or more occasions – may be reduced by a Write-down and, subsequent to any such reduction, may be increased by a Write-up, if any (up to the Specified Denomination).

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the Clearing System.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year] [●].

[**Distributable Items** means reserves and carried forward profits.]

**Distribution Commencement Date** has the meaning assigned to it in Clause 3.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 3.1.

[**Euroclear** means Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, 1210 Brussels, Kingdom of Belgium.]



**Exchange Date** has the meaning assigned to it in Clause 1.4.

**FATCA** has the meaning assigned to it in Clause 8.2.

[**Fiscal Agent** means [Timberland Invest Ltd.][●].]

**Global Note(s)** has the meaning assigned to it in Clause 1.4.

[**Gross-up Event** occurs if there is a change in the applicable tax treatment of the Notes based on a decision of the local tax authority having competence over the Issuer as a result of which the Issuer has paid, or will or would on the next Distribution Payment Date be required to pay, any Additional Amounts, provided however that any such Additional Amounts are only payable if and to the extent they: (i) would not exceed the Distributable Items; and (ii) only relate to withholding tax applicable to distributions by or on behalf of the Issuer.]

[**ICSD** means Clearstream Luxembourg and Euroclear.]

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 5.1.

**Noteholder** means any holder of a proportionate co-ownership or other comparable right in the Global Note which may be transferred to a new holder in accordance with applicable law and the provisions of the Clearing System.

**Notes** has the meaning assigned to it in Clause 1.1.

[**OeKB CSD GmbH** means OeKB CSD GmbH Strauchgasse 1-3, 1010 Vienna, Austria.]

**Paying Agent[s]** means [Citibank, N.A., London Branch] [and] [Baader Bank Aktiengesellschaft] [Flatex Bank AG] [and] [●].

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Permanent Global Note** has the meaning assigned to it in Clause 1.4.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [12.2]13.2].

**Rate of Distributions** has the meaning assigned to it in Clause 3.1.

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by [the Fiscal Agent] [●] on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 10.

**Relevant Financial Statements** means annual accounts for the relevant end of each business year audited by an audit firm and approved by the board of directors.

**Similar Instruments** means any (directly or indirectly issued) debt instrument of the Issuer (other than the Notes) that provides for a write-down mechanism (permanent or temporary).

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

**Successor Currency** has the meaning assigned to it in Clause 4.3.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

[**Tax Deductibility Event** occurs if there is a change in the applicable tax treatment of the Notes as a result of which the Issuer would not be entitled to claim a deduction in respect of distributions paid on the Notes in computing its taxation liabilities, or such deductibility is materially reduced.]

**Temporary Global Note** has the meaning assigned to it in Clause 1.4.

**Tier 2 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Tier 2 Instruments pursuant to Article 63 of the CRR, including any capital instruments that qualify as Tier 2 Instruments pursuant to transitional provisions under the CRR.

**Withholding Taxes** has the meaning assigned to it in Clause 8.1.

[[In case the Issuer is not or not anymore subject to regulatory liable capital in connection with applicable laws and regulations any reference to “regulatory liable capital”, “CET 1 Instruments”, “AT 1 Instruments”, “**Tier 2 Instruments**”, “Regulatory Reasons”, “regulatory classification”, “CRD IV”, CRR” or “Competent Authority” shall be read *mutadis mutandis* as the Issuer would be subject to such regulatory liable capital”, “CET 1 Instruments”, “AT 1 Instruments”, “**Tier 2 Instruments**”, “Regulatory Reasons”, “regulatory classification”, “CRD IV”, CRR” or “Competent Authority”.] [●]

## Option XI – Terms and Conditions of the Contingent Capital Fixed Rate Registered Notes

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of subordinated contingent capital fixed rate notes (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to][●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being fully issued in registered form and may under no circumstances be converted into notes in bearer form.
- (b) The Issuer may issue Notes for no consideration to be held by the Issuer with a view to selling those Notes on the secondary market. All determinations made under these Terms and Conditions will reflect the fact that such Notes issued and directly held by the Issuer have been issued for no consideration (the issue price for those Notes will be deemed to be 0). So long as any Notes are held by the Issuer, any rights attached to such Notes (such as financial rights and voting rights) will be suspended.
- (c) The Notes are not clearable through any clearing system and cannot (and will not) be admitted to trading and/or listed on any stock exchange, regulated or unregulated market.
- (d) The Issuer will cause to be kept at the specified office of the Registrar and Transfer Agent a register of Noteholders of Notes (the **Register**). The Registrar and Transfer Agent will immediately inform the Issuer of any changes made to the Register.
- (e) The Issuer undertakes to keep an up-to-date copy of the Register at its registered office at all times (the **Issuer Register**).
- (f) A Noteholder may request from the Registrar and Transfer Agent an extract of the Register showing the entry relevant to its holding of the Registered Notes.

#### 1.3 Title

- (a) Title to the Notes passes only by registration (*inscription*) in the Issuer Register.
- (b) Ownership in respect of the Notes is established by the registration in the Issuer Register.
- (c) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, the Issuer may deem and treat the person registered in the Issuer Register as absolute owner of the Notes for all purposes (whether or not the Note is overdue) and no person will be liable for so treating the Noteholder.
- (d) No transfer of a Note shall be recognised by the Issuer unless entered in the Register and the Issuer Register. In the case of discrepancies between the records of the Register and the Issuer Register, the latter shall prevail.

## 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the registered Note in the form satisfactory to the Registrar and Transfer Agent and the Issuer, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent and the Issuer may reasonably require.
- (b) Registration of transfer of the Notes will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

## 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note.

## 4. STATUS

### 4.1 Ranking

The Notes constitute direct, unsecured and subordinated obligations of the Issuer, and Tier 2 Instruments.

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- [(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

## 4.2 No Set-off or Security

Claims of the Issuer are not permitted to be set-off against repayment obligations of the Issuer under these Notes, and no contractual collateral may be provided by the Issuer or any third person for the liabilities constituted by the Notes. The Notes are neither secured nor subject to a guarantee that enhances the seniority of the claims under the Notes. The Notes are not subject to any arrangement, contractual or otherwise, that enhances the seniority of the claims under the Notes. No subsequent agreement may limit the subordination pursuant to this Clause 4.2.

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on their Current Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) [to and excluding the Maturity Date]. Distributions shall be scheduled to be paid [annually][semi-annually][quarterly][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Current Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the

resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Current Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Notes shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder the details of which are recorded in the Register at a given time.

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions to "principal" in respect of the Notes shall be deemed to include, as applicable: the Specified Denomination/Principal Amount, the Current Principal Amount[, the Call Redemption Amount], and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Current Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●]<sup>3</sup>(the **Maturity Date**).]

### 7.2 No Early Redemption at the Option of a Noteholder

The Noteholders do not have a right to demand the redemption of the Notes.

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date. Any such redemption pursuant to this Clause 7.3 shall not be possible before [five][●]<sup>4</sup> [months][years] after the date of issuance and shall only be possible provided that the redemption conditions laid down in Clause 7.6 are met.
- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[

- (c) Redemption under this Clause 7.3 shall be excluded if the Call Redemption Amount would be less than the Specified Denomination.

]]

<sup>3</sup> Insert maturity in line with Art. 63 lit. g CRR.

<sup>4</sup> Insert redemption date in line with Art. 63 lit. j CRR.

#### **7.4 [No] Early Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[The Notes may be redeemed at the option of the Issuer in whole, but not in part, [at any time] [on the next Distribution Payment Date] by giving not less than [*insert number of days*] Payment Business Days and nor more than [*insert number of days*] Payment Business Days prior notice of redemption to [the Fiscal Agent] [●] and, in accordance with Clause 12, to the Noteholders (which notice shall be irrevocable), if there is a change in the applicable tax treatment of the Notes, including without limitation, a Tax Deductibility Event, or a Gross-up Event, which is material and was not reasonably foreseeable at the time of the issuance of the Notes, and which the Issuer, in accordance with and subject to Article 78(4) of the CRR, if so required, demonstrates to the satisfaction of the Competent Authority, provided that the redemption conditions laid down in Clause 7.6 are met.]

#### **7.5 Early Redemption for Regulatory Reasons**

The Notes may be redeemed at the option of the Issuer in whole, but not in part, [at any time] [on the next Distribution Payment Date] by giving not less than [*insert number of days*] Payment Business Days and nor more than [*insert number of days*] Payment Business Days prior notice of redemption to [the Fiscal Agent] [●] and, in accordance with Clause 12, to the Noteholders (which notice shall be irrevocable), if there is a change in the regulatory classification of the Notes that would be likely to result in their full or partial exclusion from own funds or reclassification as a lower quality form of own funds, if applicable, and provided that the following conditions are met: (i) the Competent Authority considers such a change to be sufficiently certain; (ii) the Issuer demonstrates to the satisfaction of the Competent Authority that the regulatory reclassification of the Notes was not reasonably foreseeable at the time of their issuance; and (iii) the redemption conditions laid down in Clause 7.6 are met.

#### **7.6 Redemption Conditions**

Any redemption pursuant to this Clause 7 requires that the Competent Authority has granted the Issuer the prior permission in accordance with Article 78 para 1 of the CRR for the redemption, if applicable, whereas such permission may, inter alia, require that:

- (a) earlier than or at the same time as the redemption, the Issuer replaces the Notes with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the Issuer; or
- (b) the Issuer has demonstrated to the satisfaction of the Competent Authority that the own funds of the Issuer would, following the redemption, exceed the requirements laid down in Article 92(1) of the CRR and the combined buffer requirement as defined in point (6) of Article 128 of the CRD IV by a margin that the Competent Authority may consider necessary on the basis of Article 104(3) of the CRD IV.

For the avoidance of doubt, any refusal of the Competent Authority to grant permission in accordance with Article 78 para 1 of the CRR shall not constitute a default for any purpose.

#### **7.7 Redemption Amount**

In case of a redemption pursuant to [Clause 7.4 or] Clause 7.5, the Notes will be redeemed at their Current Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption.



## **8. LOSS SHARING**

### **8.1 Write-down**

If the Issuer incurs an Annual Balance Sheet Loss as calculated in accordance with German GAAP or IFRS, as applicable, in any fiscal year (*Geschäftsjahr*), the Noteholder shares in such loss (excluding any loss carry forwards from previous fiscal years of the Issuer) in the proportion which their Current Principal Amount (as reduced and/or written up in previous fiscal years of the Issuer) bears in relation to the aggregate book value of all going concern loss sharing components of the Issuer's regulatory liable capital (each of them as reduced and/or written up in previous fiscal years of the Issuer), and the Current Principal Amount shall be written down accordingly. For the purpose of such calculation, the Issuer's loss sharing liable capital shall include any and all outstanding CET 1 Instruments and AT 1 Instruments and Similar Instruments. Following an Annual Balance Sheet Loss, there will be a corresponding reduction in the nominal amount of the Current Principal Amount equivalent to the amount of the Noteholder's share in such Annual Balance Sheet Loss. The Noteholder's aggregate share in an Annual Balance Sheet Loss cannot exceed the Current Principal Amount (as reduced and/or written up in previous fiscal years).

### **8.2 Write-up**

Following a reduction, the Current Principal Amount will be written up in subsequent fiscal years of the Issuer in which an Annual Balance Sheet Profit is recorded in accordance with German GAAP or IFRS, as applicable. The Current Principal Amount will be written-up prior to the writing-up of AT 1 Instruments. A writing-up of shareholders' equity and allocation to reserves may only occur after the Current Principal Amount has been fully written-up again to its initial Principal Amount. No such increase of the Current Principal Amount may result in the Current Principal Amount being more than the Specified Denomination.

## **9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT**

### **9.1 Appointment, Specified Offices**

The initial [Fiscal Agent,] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### **[Fiscal Agent**

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[•]

#### **Registrar and Transfer Agent[s]:**

[E-Stream Energy GmbH & Co KG  
Wilhelmshofallee 83  
47800 Krefeld  
Germany]

[Alter Domus (Services) Malta Limited  
Vision Exchange Building Territorials Street  
Mriehel BKR 3000  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in [insert city]]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent[s] may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agents, provided that the Issuer will at all times maintain [a Fiscal Agent,] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] the Registrar and Transfer Agents, and the Distribution Agents acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

**10. TAXATION**

**10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or

- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or
- (e) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer' domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **11.2 Purchases**

The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed and provided that the redemption conditions laid down in Clause 5.6 are met.

### **11.3 Cancellation**

All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## 12. NOTICES

### 12.1 Notices of the Issuer

[All notices of the Issuer concerning the Notes [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Noteholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at his registered address and posted.]

[●]

### 12.2 Form of Notice to be given by any Noteholder

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] by hand or mail [or [*insert other means of communication*]].

## 13. MEETINGS OF NOTEHOLDERS

Articles 470-3 – 470-19 of the Companies Act 1915 are not applicable to the Notes.

The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).

## 14. SUBSTITUTION OF THE ISSUER

### 14.1 Substitution

[The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the **Substitute Issuer**) as principle debtor) under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer] [●], of at least the equivalent standing and creditworthiness to the Issuer provided that:

- (a) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;
- (c) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each

Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution shall be given to the Noteholders in accordance with Condition 12.

[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this Condition 14 and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.] [●]

[After the substitution(s) of the Issuer by a Substitute Issuer this Condition 14 shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer]. [●]

## **14.2 Change of References**

In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

## **[14.3 Further substitution**

[After a substitution pursuant to Condition 14.1, the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.] [●]

## **[14.4 Reverse substitution**

[After a substitution pursuant to Condition 14.1 [or 14.3] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.] [●]

## **[14.][15.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT**

### **[14.1][15.1] Governing Law**

The Notes, as to form and content, and all rights and obligations of the Noteholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Luxembourg law, except for the provisions of Clause 4.1 (*Ranking*) and Clause 13 (*Meetings of Noteholders*) which shall be subject to the laws of Germany.

### **[14.2][15.2] Place of Jurisdiction**

The courts of Luxembourg shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Notes. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4.1 (*Ranking*) and Clause 13 (*Meetings of Noteholders*).

### **[14.3][15.3] Enforcement**

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Notes[,

and [●]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

## [15][16.] DEFINITIONS

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Annual Balance Sheet Loss** means the net loss for the fiscal year of the Issuer on an individual basis recorded in the Relevant Financial Statements.

**Annual Balance Sheet Profit** means net profits for the fiscal year of the Issuer on an individual basis recorded in the Relevant Financial Statements.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**AT 1 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Additional Tier 1 instruments pursuant to Article 52 of the CRR, including any capital instruments that qualify as Additional Tier 1 instruments pursuant to transitional provisions under the CRR.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[Call Redemption Amount equals the Current Principal Amount.]

[Call Redemption Date means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**CET 1 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Common Equity Tier 1 instruments pursuant to Article 28 of the CRR, including any capital instruments that qualify as Common Equity Tier 1 instruments pursuant to transitional provisions under the CRR.

**Code** has the meaning assigned to it in Clause 10.2.

**Competent Authority** means [German Financial Services Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*)] [●] and any authority that succeeds into its relevant function.

**CRD IV** means the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (*Capital Requirements Directive IV*), as amended from time to time.

**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.

**Current Principal Amount** means initially the Specified Denomination, which from time to time – on one or more occasions – may be reduced by a Write-down and, subsequent to any such reduction, may be increased by a Write-up, if any (up to the Specified Denomination).

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][●].

[**Distributable Items** means reserves and carried forward profits.]

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] Timberland Capital Management GmbH [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**FATCA** has the meaning assigned to it in Clause 10.2.

[**Gross-up Event** occurs if there is a change in the applicable tax treatment of the Notes based on a decision of the local tax authority having competence over the Issuer as a result of which the Issuer has paid, or will or would on the next Distribution Payment Date be required to pay, any Additional Amounts, provided however that any such Additional Amounts are only payable if and to the extent they: (i) would not exceed the Distributable Items; and (ii) only relate to withholding tax applicable to distributions by or on behalf of the Issuer.]

**Issuer** has the meaning assigned to it in Clause 1.1.

**Issuer Register** has the meaning assigned to it in Clause 1.2(e).

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

**Notes** has the meaning assigned to it in Clause 1.1.

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [14.2][15.2].

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Register** has the meaning assigned to it in Clause 1.2(d).

**Registrar and Transfer Agent[s]** means [E-Stream Energy GmbH & Co KG] [and] [Alter Domus (Services) Malta Limited] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 12.

**Relevant Financial Statements** means annual accounts for the relevant end of each business year audited by an audit firm and approved by the board of directors.

**Similar Instruments** means any (directly or indirectly issued) debt instrument of the Issuer (other than the Notes) that provides for a write-down mechanism (permanent or temporary).

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

[**Tax Deductibility Event** occurs if there is a change in the applicable tax treatment of the Notes as a result of which the Issuer would not be entitled to claim a deduction in respect of distributions paid on the Notes in computing its taxation liabilities, or such deductibility is materially reduced.]

**Tier 2 Instruments** means any (directly or indirectly issued) capital instruments of the Issuer that qualify (or would qualify if the Issuer was subject to the CRR) as Tier 2 Instruments pursuant to Article 63 of the CRR, including any capital instruments that qualify as Tier 2 Instruments pursuant to transitional provisions under the CRR.

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

[[In case the Issuer is not or not anymore subject to regulatory liable capital in connection with applicable laws and regulations any reference to “regulatory liable capital”, “CET 1 Instruments”, “AT 1 Instruments”, “**Tier 2 Instruments**”, “Regulatory Reasons”, “regulatory classification”, “CRD IV”, CRR” or “Competent Authority” shall be read *mutadis mutandis* as the Issuer would be subject to such regulatory liable capital”, “CET 1 Instruments”, “AT 1 Instruments”, “**Tier 2 Instruments**”, “Regulatory Reasons”, “regulatory classification”, “CRD IV”, CRR” or “Competent Authority”.] [●]]



## Option XII – Terms and Conditions of the Fixed Rate Registered Notes issued in Dematerialised Form

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of [subordinated] fixed rate registered notes issued in dematerialised form (the **Notes**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being issued in fully registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic register maintained on behalf of the Issuer at the CSD. The Notes may under no circumstances be converted into notes in bearer form.

[[For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.] [●]]

- (b) Certificates will not be delivered to Noteholders.

- [(c) [The CSD will issue, upon a request by a Noteholder, a statement of holdings to such Noteholder evidencing his/her/its entitlement to the Notes held in the register kept by the CSD.] [●]]

#### 1.3 Title

- (a) [Ownership in respect of the Notes is established by the appropriate entry in the electronic register maintained on behalf of the Issuer by the CSD (hereinafter, the **Electronic Register**). There will be entered in such Electronic Register the names, addresses, identity card numbers (in the case of natural persons) and registration numbers (in the case of companies) of the Noteholders, as well as particulars of the Notes held by them respectively. Noteholders shall have, at all reasonable times during business hours, access to the register of Noteholders held at the CSD for the purpose of inspecting information held on their respective account.] [●]
- (b) [Except as ordered by a court of competent jurisdiction or a public authority or as required by law, any person in whose name a Note is registered in the Electronic Register may, to the fullest extent permitted by applicable law, be deemed and treated at all times, by all persons and for all purposes (including the making of any payments), as the absolute owner of such Note and no person will be liable for so treating the Noteholder.] [●]
- (c) [No transfer of a Note shall be recognised by the Issuer unless entered in the Electronic Register.] [●]

### 2. TRANSFERS

- (a) [A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the Note in the form satisfactory to the Registrar and Transfer Agent, the Issuer and/or the CSD, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent, the Issuer and/or the CSD may reasonably require.] [●]
- (b) [Registration of transfer of the Notes will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.] [●]

### 3. CLOSED PERIODS

[No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Notes under Clause 7.2, to register the transfer of these Notes (or parts of these Notes) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]] [●]

### 4. STATUS

[The obligations under the Notes constitute unsecured and unsubordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and unsubordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law.]

[The Notes constitute direct, unsecured and subordinated obligations of the Issuer.]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- (i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Notes shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually]][semi-annually][quarterly][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### 5.3 Default Distributions

The Notes shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Notes are redeemed). If the Issuer fails to redeem the Notes when due, distributions shall continue to accrue on the Principal Amount of the Notes from and including the due date for redemption to but excluding the date of actual redemption of the Notes at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Noteholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Notes shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder communicated to the Issuer [in the application form].

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Notes in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Noteholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Electronic Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Notes would otherwise fall on a calendar day which is not a Payment Business Day, the Noteholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

### **6.5 References to Principal and Distributions**

References in these Terms and Conditions to "principal" in respect of the Notes shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than

distributions) which may be payable under or in respect of the Notes. References in these Terms and Conditions to "distributions" in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Notes are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Notes will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).] [●]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Noteholders do not have a right to demand the redemption of the Notes.]

[

(a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. *[in case of the Early Redemption for Reasons of Taxation, or if the Notes are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.]#*

(b) In order to exercise such option, the Noteholder must, not less than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days][[in case of perpetual Notes insert minimum number of notice years] years]* nor more than *[[in case of non-perpetual Notes insert minimum number of days] Payment Business Days] [in case of perpetual Notes insert minimum number of years] years]* before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] *[[in case of non-perpetual Notes insert minimum period of notice to Issuer] [Payment Business Day][[in case of perpetual Notes insert minimum period of notice to Issuer in years] year]* before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Notes in respect of which such option is exercised, and (ii) the International Security Code of such Notes, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

] [●]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Notes.]

[

(a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Notes in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.

- (b) Notice of redemption shall be given by the Issuer to the Noteholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Notes;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Noteholders; and
  - (iii) the Call Redemption Amount at which the Notes are to be redeemed.

[*in case the Notes are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

[

#### **7.4 [No] Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Notes for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Notes was issued, the Issuer is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, the Notes may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Noteholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer would be obligated to pay such Additional Amounts were a payment in respect of the Notes then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer so to redeem.] [●]

#### **8. EVENTS OF DEFAULT**

- (a) Each Noteholder shall be entitled to declare his Notes due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
  - (i) the Issuer fails to pay any amount due under the Notes within 30 calendar days from the relevant due date; or

- (ii) the Issuer fails duly to perform any other obligation arising from the Notes which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
- (iii) the Issuer suspends payment or announces its inability to pay its debts; or
- (iv) a court institutes insolvency proceedings against the Issuer, and such proceedings are not set aside or stayed within 60 days, or the Issuer or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
- (v) the Issuer goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer in connection with the Notes.

The right to declare Notes due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Notes due, in accordance with subparagraph (a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] together with proof that such Noteholder at the time of such notice is a holder of the relevant Notes by means of a certificate of his Custodian or in other appropriate manner. The Notes shall be redeemed following receipt of the notice declaring Notes due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### **[Fiscal Agent**

Initial Fiscal Agent:  
 [Timberland Invest Ltd.  
 171, Old Bakery Street  
 Valletta VLT 1455  
 Malta]

[●]

#### **Registrar and Transfer Agent[s]:**

[Malta Stock Exchange  
 Garrison Chapel  
 Castille Place  
 Valletta, VLT 1063  
 Malta]

[●]

#### **Distribution Agent[s]:**

[Timberland Invest Ltd.

171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent,] the Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in [insert city]]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

## 9.2 Variation or Termination of Appointment

The Issuer reserves the right at any time, without the prior approval of the Noteholders, to vary or terminate the appointment of each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

## 9.3 Agents of the Issuer

Each of[ the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

## 10. TAXATION

### 10.1 Withholding Taxes and Additional Amounts

[All amounts payable in respect of the Notes shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
  - (i) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or



- (ii) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (iii) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.] [●]

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

[Moreover, all amounts payable in respect of the Notes shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.] [●]

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF NOTES, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Notes**

The Issuer may from time to time, without the consent of the Noteholders, issue further Notes having the same terms as the Notes in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Notes.

### **[[11.2] Purchases**

[The Issuer may at any time purchase Notes in the open market or otherwise at any price. Notes purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.] [●]]

### **[[11.2.] [11.3] Cancellation**

[All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.] [●]]

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Notes [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][insert any other website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Noteholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Noteholder at his registered address and posted.]

[•]

## **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Notes which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] by hand or mail [or *insert other means of communication*].

## **13. MEETINGS OF NOTEHOLDERS**

[Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Notes.]

[The Base Prospectus in respect of the Notes contains detailed provisions for convening (i) meetings of the Noteholders and (ii) joint meetings of holders of more than one series of notes issued by the Issuer (including, where applicable, the Notes).]

[•]

## **14. SUBSTITUTION OF THE ISSUER**

### **14.1 Substitution**

[The Issuer shall be entitled at any time, without the consent of the Noteholders, if no payment of principal of any of the Notes is in default, to substitute for itself as the Issuer another person (the **Substitute Issuer**) as principle debtor) under all Notes in respect of any and all obligations arising from and in connection with the Notes, which is, on the date of such substitution and in the opinion of [the Issuer] [•], of at least the equivalent standing and creditworthiness to the Issuer provided that:

- (a) the Substitute Issuer is solvent and can perform all obligations under and in connection with the Notes;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of the Substitute Issuer;
- (c) the Substitute Issuer has been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Notes) from the authorities of the country in which it has its registered office;
- (d) the substitution of the Substitute Issuer for the Issuer (as the case may be) does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Noteholders and the Substitute Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [•]

Notice of any such substitution shall be given to the Noteholders in accordance with Condition 12.

[The Issuer will not guarantee the obligations of the Substitute Issuer under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Issuer effected in accordance with this Condition 14 and to the release of the Issuer from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof.] [•]

[After the substitution(s) of the Issuer by a Substitute Issuer this Condition 14 shall apply again. In the event of such a substitution(s), every reference in these Conditions to the Issuer shall be deemed to refer to the Substitute Issuer]. [●]

## **14.2 Change of References**

In the event of any such substitution(s), any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the Substitute Issuer and any reference to the country in which the Issuer is domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of the Substitute Issuer.

## **[14.3 Further substitution**

[After a substitution pursuant to Condition 14.1, the Substitute Issuer may, without the consent of any Noteholders, effect a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer shall, where the context so requires, be deemed to be or include references to any such further the Substitute Issuer.] [●]]

## **[14.4 Reverse substitution**

[After a substitution pursuant to Condition 14.1 [or 14.3] any the Substitute Issuer may, without the consent of any Noteholder, reverse the substitution, mutatis mutandis.] [●]]

## **[14.][15.] GENERAL**

For as long as the Notes remain in dematerialised form, these terms and conditions, including the terms applicable to issuance, transfer, exchange, redemption and/or cancellation of the Notes shall be subject to the applicable rules and procedures set out by CSD (the **CSD Rules**) and in the event of inconsistency between these terms and conditions and the CSD Rules, the CSD Rules shall prevail. Any amendment, variation or deletion of this clause shall be subject to the express written approval of the CSD to be obtained prior to the approval of the Noteholders.

## **[15.][16.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT**

### **[15.1][16.2] Governing Law**

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Maltese law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### **[15.2][16.2] Place of Jurisdiction**

The courts of Malta shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### **[15.3][16.3] Enforcement**

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Notes (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Notes[, and [●]]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Notes also in any other way which is admitted in the country of the Proceedings.

[16.][17.]      **DEFINITIONS**

For the purposes of the Notes, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxemburg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**CSD** means the Central Securities Depository of the Malta Stock Exchange, having its address at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta.

**CSD Rules** has the meaning assigned to it in Clause 10.2.

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Notes and includes the CSD.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**Electronic Register** has the meaning assigned to it in Clause 1.3.

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

**Notes** has the meaning assigned to it in Clause 1.1.

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System or its successor is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [15.2][16.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Registrar and Transfer Agent[s]** means [Malta Stock Exchange] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Noteholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 12 (*Substitution of the Issuer*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Bonds issued in Dematerialised Form

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate registered bonds issued in dematerialised form (the **Bonds**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being issued in fully registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic register maintained on behalf of the Issuer at the CSD. The Notes may under no circumstances be converted into notes in bearer form.

[[For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.] [●]]

- (b) Certificates will not be delivered to Noteholders.

- [(c) [The CSD will issue, upon a request by a Noteholder, a statement of holdings to such Noteholder evidencing his/her/its entitlement to the Notes held in the register kept by the CSD.] [●]]

#### 1.3 Title

- (a) Ownership in respect of the Bonds is established by the appropriate entry in the electronic register maintained on behalf of the Issuer by the CSD (hereinafter, the **Electronic Register**). There will be entered in such Electronic Register the names, addresses, identity card numbers (in the case of natural persons) and registration numbers (in the case of companies) of the Bondholders, as well as particulars of the Bonds held by them respectively. Bondholders shall have, at all reasonable times during business hours, access to the register of Bondholders held at the CSD for the purpose of inspecting information held on their respective account.
- (b) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, any person in whose name a Note is registered in the Electronic Register may, to the fullest extent permitted by applicable law, be deemed and treated at all times, by all persons and for all purposes (including the making of any payments), as the absolute owner of such Note and no person will be liable for so treating the Noteholder.
- (c) No transfer of a Note shall be recognised by the Issuer unless entered in the Electronic Register.

### 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the Note in the form satisfactory to the Registrar and Transfer Agent, the Issuer and/or the CSD, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent, the Issuer and/or the CSD may reasonably require.
- (b) Registration of transfer of the Bonds will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

### 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Bonds under Clause 7.2, to register the transfer of these Bonds (or parts of these Bonds) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

### 4. STATUS AND GUARANTEE

The obligations under the Bonds constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law. [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- [(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to

pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee**) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Bonds][*insert specified currency*] [●] The Guarantee constitute a contract for the benefit of the Bondholders from time to time as third party beneficiaries, giving rise to the right of each Noteholder to require performance of the Guarantee directly from the Guarantor and to enforce the Guarantee directly against the Guarantor.

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Bonds shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually][semi-annually][quarterly]][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions



The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Bonds shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Bonds are redeemed). If the Issuer fails to redeem the Bonds when due, distributions shall continue to accrue on the Principal Amount of the Bonds from and including the due date for redemption to but excluding the date of actual redemption of the Bonds at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Bondholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Bonds shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder communicated to the Issuer [in the application form].

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Bonds shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Bonds in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Bondholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Electronic Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Bonds would otherwise fall on a calendar day which is not a Payment Business Day, the Bondholders shall not be entitled to payment until the next

following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee, to "principal" in respect of the Bonds shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Bonds. References in these Terms and Conditions to "distributions" in respect of the Bonds shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Bonds are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Bonds will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Bondholders do not have a right to demand the redemption of the Bonds.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Bonds are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.*]
  
- (b) In order to exercise such option, the Noteholder must, not less than [*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days][*in case of perpetual Bonds insert minimum number of notice years*] years] nor more than [*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days] [*in case of perpetual Bonds insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [*in case of non-perpetual Bonds insert minimum period of notice to Issuer*] [Payment Business Day][*in case of perpetual Bonds insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Bonds in respect of which such option is exercised, and (ii) the International Security Code of such Bonds, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Bonds.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Bonds in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Bondholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Bonds;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Bondholders; and
  - (iii) the Call Redemption Amount at which the Bonds are to be redeemed.

[*in case the Bonds are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

[

#### **7.4 [No] Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Bonds for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Bonds was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Bonds may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Bondholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Bonds then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

## 8. EVENTS OF DEFAULT

- (a) Each Noteholder shall be entitled to declare his Bonds due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
- (i) the Issuer, or the Guarantor, fails to pay any amount due under the Bonds within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Bonds which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Bonds, or the Guarantee;
  - (vi) the Guarantee ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee.

The right to declare Bonds due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Bonds due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Bonds by means of a certificate of his Custodian or in other appropriate manner. The Bonds shall be redeemed following receipt of the notice declaring Bonds due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### [Fiscal Agent

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

**Registrar and Transfer Agent[s]:**

[Malta Stock Exchange  
Garrison Chapel  
Castille Place  
Valletta, VLT 1063  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in *[insert city]*]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Bondholders, to vary or terminate the appointment of each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] [•] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Bondholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

**10. TAXATION**

**10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Bonds shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Bondholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the

absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (b) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
  - (i) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Bonds are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
  - (ii) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
  - (iii) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Bonds shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF BONDS, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Bonds**

[The Issuer may from time to time, without the consent of the Bondholders, issue further Bonds having the same terms as the Bonds in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Bonds.]

[The Issuer may, from time to time, without the consent of the Bondholders, create and issue further debentures, debenture stock, bonds, loan notes, or any other debt securities, either having the same terms and conditions as any outstanding debt securities of any series (including the Bonds) and so that such further issue shall be consolidated and form a single series with the outstanding debt securities of the relevant series (including the Bonds), or upon such terms as the Issuer may determine at the time of their issue[.] [, provided that no issue may be made that would rank senior to the Bonds in respect of the Collateral.]

[●]

## 11.2 Purchases

The Issuer may at any time purchase Bonds in the open market or otherwise at any price. Bonds purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [●] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

## 11.3 Cancellation

All Bonds redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## 12. NOTICES

### 12.1 Notices of the Issuer

[All notices of the Issuer concerning the Bonds [shall be] [may be] published in [●] and in electronic form on the website of the Issuer [(www.estream-energy.com)][*insert any other website*] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5<sup>th</sup> calendar day following the date of such publication (or, if published more than once, on the 5<sup>th</sup> calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Bondholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Bondholder at his registered address and posted.]

[●]

### 12.2 Form of Notice to be given by any Noteholder

Notices regarding the Bonds which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] [●] by hand or mail [or [*insert other means of communication*]].

## 13. MEETINGS OF BONDHOLDERS

[Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Bonds.]

[The Issuer may, through the Security Trustee, from time to time call meetings of Bondholders for the purpose of consultation with Bondholders or for the purpose of obtaining the consent of Bondholders on matters which in terms of the Final Terms [and] [or] require the approval of a Bondholders' meeting and to effect any change to the applicable Terms and Conditions of the Bonds.

A meeting of Bondholders shall be called by the Directors by giving the Security Trustee not less than twenty-one (21) days' notice in writing. Upon receiving due notice from the Directors, the Security Trustee shall call such meeting by giving all Bondholders listed on the register of Bondholders as at a date being not more than thirty (30) days preceding the date scheduled for the meeting, not less than fourteen (14) days' notice in writing. Such notice shall set out the time, place and date set for the meeting and the matters to be discussed or decided thereat, including, if applicable, sufficient information on any amendment to [the Terms and Conditions] [and] [or] [the Base Prospectus] that is proposed to be voted upon at the meeting and seeking the approval of the Bondholders. Following a meeting of Bondholders held in accordance with the provisions contained hereunder, the Issuer shall, acting in accordance with the resolution(s) taken at the meeting, communicate to the Bondholders whether the necessary consent to the proposal made by the Issuer has been granted or withheld. Subject to having obtained the necessary approval by the Bondholders in accordance with the provisions of

this section 13 at a meeting called for that purpose as aforesaid, any such decision shall subsequently be given effect to by the Issuer. The amendment or waiver of any of the Terms and Conditions contained in this Securities Note may only be made with the approval of Bondholders at a meeting called and held for that purpose in accordance with the terms hereof. A meeting of Bondholders shall only validly and properly proceed to business if there is a quorum present at the commencement of the meeting. For this purpose, at least two Bondholders present, in person or by proxy, representing not less than [fifty per cent (50%)] [●] in nominal value of the Bonds then outstanding, shall constitute a quorum. If a quorum is not present within 30 minutes from the time scheduled for the commencement of the meeting as indicated on the notice convening same, the meeting shall stand adjourned to a place, date and time as shall be communicated by the Directors to the Bondholders present at that meeting. The Issuer shall within two days from the date of the original meeting publish by way of a company announcement the date, time and place where the adjourned meeting is to be held. An adjourned meeting shall be held not earlier than [seven] [days] [●], and not later than [fifteen (15)] [days] [●], following the original meeting. At an adjourned meeting: the number of Bondholders present, in person or by proxy, shall constitute a quorum; and only the matters specified in the notice calling the original meeting shall be placed on the agenda of, and shall be discussed at, the adjourned meeting.

[Any person who in accordance with the Memorandum and Articles of Association of the Issuer is to chair the annual general meetings of shareholders shall also chair meetings of Bondholders.] [●]

Once a quorum is declared present by [the chairman of the meeting] [●], the meeting may then proceed to business and address the matters set out in the notice convening the meeting. In the event of decisions which are required to be taken at the meeting, the Directors or their representative shall present to the Bondholders the reasons why it is deemed necessary or desirable and appropriate that a particular decision is taken. The meeting shall allow reasonable and adequate time to Bondholders to present their views to the Issuer and the other Bondholders present at the meeting. The meeting shall then put the matter as proposed by the Issuer to a vote of the Bondholders present at the time at which the vote is being taken, and any Bondholders taken into account for the purpose of constituting a quorum who are no longer present for the taking of the vote shall not be taken into account for the purpose of such vote.

The voting process shall be managed by the person or company in charge as of the Issuer under the supervision and scrutiny of [the auditors of the Issuer] [and] [the Security Trustee] [and] [●].

The proposal placed before a meeting of Bondholders shall only be considered approved if at least [seventy-five per cent (75%)] [●] in nominal value of the Bonds held by the Bondholders present at the meeting at the time when the vote is being taken, in person or by proxy, shall have voted in favour of the proposal.

Save for the above, the rules generally applicable to proceedings at general meetings of shareholders of the Issuer shall mutatis mutandis apply to meetings of Bondholders.]

[●]

The Base Prospectus in respect of the Bonds contains detailed provisions for convening (i) meetings of the Bondholders and (ii) joint meetings of holders of more than one series of Bonds issued by the Issuer (including, where applicable, the Bonds).

## **[14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]**

### **14.1 Substitution**

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Bondholders, if no payment of principal of any of the Bonds is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]]]) as Guarantor[s]] under all Bonds in respect of any and all obligations**



arising from and in connection with the Bonds, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Bonds;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Bonds) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Bondholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Bondholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Bonds after the substitution[s]. The Bondholders, by subscribing for, or otherwise acquiring, the Bonds, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Bonds and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●]].

## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

### [14.3] Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Bondholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

### [14.4] Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

### [14.][15.] GENERAL

For as long as the Bonds remain in dematerialised form, these terms and conditions, including the terms applicable to issuance, transfer, exchange, redemption and/or cancellation of the Bonds shall be subject to the applicable rules and procedures set out by CSD (the **CSD Rules**) and in the event of inconsistency between these terms and conditions and the CSD Rules, the CSD Rules shall prevail. Any amendment, variation or deletion of this clause shall be subject to the express written approval of the CSD to be obtained prior to the approval of the Bondholders.

### [15.][16.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

#### [15.1][16.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Maltese law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

#### [15.2][16.2] Place of Jurisdiction

The courts of Malta shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

#### [15.3][16.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Bonds (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Bonds[, and [●]]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Bonds also in any other way which is admitted in the country of the Proceedings.

### [16.][17.] DEFINITIONS

For the purposes of the Bonds, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxembourg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Bonds** has the meaning assigned to it in Clause 1.1.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**CSD** means the Central Securities Depository of the Malta Stock Exchange, having its address at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta.

**CSD Rules** has the meaning assigned to it in Clause 10.2.

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Bonds and includes the CSD.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**Electronic Register** has the meaning assigned to it in Clause 1.3.

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

[[Notes has the same meaning as Bonds assigned to it in Clause 1.1.] [Any reference in these Terms and Conditions [and] [or] the Base Prospectus to Bonds or Notes shall be deemed to refer to [as the case may be] Notes.] [●]]

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System or its successor is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [15.2][16.2].

[Put Notice has the meaning assigned to it in Clause 7.2(c).]

[Put Redemption Amount(s) means [●].]

[Put Redemption Date(s) means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Registrar and Transfer Agent[s]** means [Malta Stock Exchange] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Bondholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[Substitute Issuer has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[Substitute Guarantor[s] has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate registered bonds issued in dematerialised form (the **Bonds**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Notes are being issued in fully registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic register maintained on behalf of the Issuer at the CSD. The Notes may under no circumstances be converted into notes in bearer form.

[[For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.] [●]]

- (b) Certificates will not be delivered to Noteholders.

- [(c) [The CSD will issue, upon a request by a Noteholder, a statement of holdings to such Noteholder evidencing his/her/its entitlement to the Notes held in the register kept by the CSD.] [●]]

#### 1.3 Title

- (a) Ownership in respect of the Bonds is established by the appropriate entry in the electronic register maintained on behalf of the Issuer by the CSD (hereinafter, the **Electronic Register**). There will be entered in such Electronic Register the names, addresses, identity card numbers (in the case of natural persons) and registration numbers (in the case of companies) of the Bondholders, as well as particulars of the Bonds held by them respectively. Bondholders shall have, at all reasonable times during business hours, access to the register of Bondholders held at the CSD for the purpose of inspecting information held on their respective account.
- (b) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, any person in whose name a Note is registered in the Electronic Register may, to the fullest extent permitted by applicable law, be deemed and treated at all times, by all persons and for all purposes (including the making of any payments), as the absolute owner of such Note and no person will be liable for so treating the Noteholder.
- (c) No transfer of a Note shall be recognised by the Issuer unless entered in the Electronic Register.

### 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the Note in the form satisfactory to the Registrar and Transfer Agent, the Issuer and/or the CSD, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent, the Issuer and/or the CSD may reasonably require.
- (b) Registration of transfer of the Bonds will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

### 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Bonds under Clause 7.2, to register the transfer of these Bonds (or parts of these Bonds) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

### 4. STATUS AND GUARANTEE

The obligations under the Bonds constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law. [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- [(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to

pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee II**) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Bonds][*insert specified currency*] [●] The Guarantee II constitute a contract for the benefit of the Bondholders from time to time as third party beneficiaries in accordance with section 328 subparagraph 1 German Civil Code (*Bürgerliches Gesetzbuch*), giving rise to the right of each Noteholder to require performance of the Guarantee II directly from the Guarantor and to enforce the Guarantee II directly against the Guarantor.

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Bonds shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually]][semi-annually][quarterly][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Bonds shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Bonds are redeemed). If the Issuer fails to redeem the Bonds when due, distributions shall continue to accrue on the Principal Amount of the Bonds from and including the due date for redemption to but excluding the date of actual redemption of the Bonds at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Bondholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Bonds shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder communicated to the Issuer [in the application form].

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Bonds shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Bonds in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Bondholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Electronic Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Bonds would otherwise fall on a calendar day which is not a Payment Business Day, the Bondholders shall not be entitled to payment until the next



following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee II, to "principal" in respect of the Bonds shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Bonds. References in these Terms and Conditions to "distributions" in respect of the Bonds shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Bonds are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Bonds will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Bondholders do not have a right to demand the redemption of the Bonds.]

[

- (a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Bonds are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert:* The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.]
- (b) In order to exercise such option, the Noteholder must, not less than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days][[*in case of perpetual Bonds insert minimum number of notice years*] years] nor more than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days] [*in case of perpetual Bonds insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [[*in case of non-perpetual Bonds insert minimum period of notice to Issuer*] [Payment Business Day]][[*in case of perpetual Bonds insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Bonds in respect of which such option is exercised, and (ii) the International Security Code of such Bonds, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Bonds.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Bonds in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Bondholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Bonds;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Bondholders; and
  - (iii) the Call Redemption Amount at which the Bonds are to be redeemed.

[*in case the Bonds are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

[

#### **7.4 [No] Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Bonds for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Bonds was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Bonds may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Bondholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Bonds then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

## 8. EVENTS OF DEFAULT

- (a) Each Noteholder shall be entitled to declare his Bonds due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
- (i) the Issuer, or the Guarantor, fails to pay any amount due under the Bonds within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Bonds which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Bonds, or the Guarantee II;
  - (vi) the Guarantee II ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee II.

The right to declare Bonds due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Bonds due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Bonds by means of a certificate of his Custodian or in other appropriate manner. The Bonds shall be redeemed following receipt of the notice declaring Bonds due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### [Fiscal Agent

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

### **Registrar and Transfer Agent[s]:**

[Malta Stock Exchange  
Garrison Chapel  
Castille Place  
Valletta, VLT 1063  
Malta]

[•]

### **Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in [*insert city*]]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

## **9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Bondholders, to vary or terminate the appointment of each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] [•] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Bondholders in accordance with Clause 12.

## **9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

## **10. TAXATION**

### **10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Bonds shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Bondholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the

absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Bonds are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Bonds shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF BONDS, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Bonds**

[The Issuer may from time to time, without the consent of the Bondholders, issue further Bonds having the same terms as the Bonds in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Bonds.]

[The Issuer may, from time to time, without the consent of the Bondholders, create and issue further debentures, debenture stock, bonds, loan notes, or any other debt securities, either having the same terms and conditions as any outstanding debt securities of any series (including the Bonds) and so that such further issue shall be consolidated and form a single series with the outstanding debt securities of the relevant series (including the Bonds), or upon such terms as the Issuer may determine at the

time of their issue[.] [, provided that no issue may be made that would rank senior to the Bonds in respect of the Collateral.]

[•]

## **11.2 Purchases**

The Issuer may at any time purchase Bonds in the open market or otherwise at any price. Bonds purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [•] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

## **11.3 Cancellation**

All Bonds redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Bonds [shall be] [may be] published in [•] and in electronic form on the website of the Issuer [(www.estream-energy.com)][insert any other website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5th calendar day following the date of such publication (or, if published more than once, on the 5th calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Bondholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Bondholder at his registered address and posted.]

[•]

### **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Bonds which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] [•] by hand or mail [or *insert other means of communication*].

## **13. MEETINGS OF BONDHOLDERS**

[Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Bonds.]

[The Issuer may, through the Security Trustee, from time to time call meetings of Bondholders for the purpose of consultation with Bondholders or for the purpose of obtaining the consent of Bondholders on matters which in terms of the Final Terms [and] [or] require the approval of a Bondholders' meeting and to effect any change to the applicable Terms and Conditions of the Bonds.

A meeting of Bondholders shall be called by the Directors by giving the Security Trustee not less than twenty-one (21) days' notice in writing. Upon receiving due notice from the Directors, the Security Trustee shall call such meeting by giving all Bondholders listed on the register of Bondholders as at a date being not more than thirty (30) days preceding the date scheduled for the meeting, not less than fourteen (14) days' notice in writing. Such notice shall set out the time, place and date set for the meeting and the matters to be discussed or decided thereat, including, if applicable, sufficient information on any amendment to [the Terms and Conditions] [and] [or] [the Base Prospectus] that is

proposed to be voted upon at the meeting and seeking the approval of the Bondholders. Following a meeting of Bondholders held in accordance with the provisions contained hereunder, the Issuer shall, acting in accordance with the resolution(s) taken at the meeting, communicate to the Bondholders whether the necessary consent to the proposal made by the Issuer has been granted or withheld. Subject to having obtained the necessary approval by the Bondholders in accordance with the provisions of this section 13 at a meeting called for that purpose as aforesaid, any such decision shall subsequently be given effect to by the Issuer. The amendment or waiver of any of the Terms and Conditions contained in this Securities Note may only be made with the approval of Bondholders at a meeting called and held for that purpose in accordance with the terms hereof. A meeting of Bondholders shall only validly and properly proceed to business if there is a quorum present at the commencement of the meeting. For this purpose, at least two Bondholders present, in person or by proxy, representing not less than [fifty per cent (50%)] [●] in nominal value of the Bonds then outstanding, shall constitute a quorum. If a quorum is not present within 30 minutes from the time scheduled for the commencement of the meeting as indicated on the notice convening same, the meeting shall stand adjourned to a place, date and time as shall be communicated by the Directors to the Bondholders present at that meeting. The Issuer shall within two days from the date of the original meeting publish by way of a company announcement the date, time and place where the adjourned meeting is to be held. An adjourned meeting shall be held not earlier than [seven] [days] [●], and not later than [fifteen (15)] [days] [●], following the original meeting. At an adjourned meeting: the number of Bondholders present, in person or by proxy, shall constitute a quorum; and only the matters specified in the notice calling the original meeting shall be placed on the agenda of, and shall be discussed at, the adjourned meeting.

[Any person who in accordance with the Memorandum and Articles of Association of the Issuer is to chair the annual general meetings of shareholders shall also chair meetings of Bondholders.] [●]

Once a quorum is declared present by [the chairman of the meeting] [●], the meeting may then proceed to business and address the matters set out in the notice convening the meeting. In the event of decisions which are required to be taken at the meeting, the Directors or their representative shall present to the Bondholders the reasons why it is deemed necessary or desirable and appropriate that a particular decision is taken. The meeting shall allow reasonable and adequate time to Bondholders to present their views to the Issuer and the other Bondholders present at the meeting. The meeting shall then put the matter as proposed by the Issuer to a vote of the Bondholders present at the time at which the vote is being taken, and any Bondholders taken into account for the purpose of constituting a quorum who are no longer present for the taking of the vote shall not be taken into account for the purpose of such vote.

The voting process shall be managed by the person or company in charge as of the Issuer under the supervision and scrutiny of [the auditors of the Issuer] [and] [the Security Trustee] [and] [●].

The proposal placed before a meeting of Bondholders shall only be considered approved if at least [seventy-five per cent (75%)] [●] in nominal value of the Bonds present at the meeting at the time when the vote is being taken, in person or by proxy, shall have voted in favour of the proposal.

Save for the above, the rules generally applicable to proceedings at general meetings of shareholders of the Issuer shall mutatis mutandis apply to meetings of Bondholders.]

[●]

The Base Prospectus in respect of the Bonds contains detailed provisions for convening (i) meetings of the Bondholders and (ii) joint meetings of holders of more than one series of Bonds issued by the Issuer (including, where applicable, the Bonds).

## 14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]

### 14.1 Substitution

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Bondholders, if no payment of principal of any of the Bonds is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]**)] as Guarantor[s]] under all Bonds in respect of any and all obligations arising from and in connection with the Bonds, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Bonds;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Bonds) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Bondholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Bondholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Bonds after the substitution[s]. The Bondholders, by subscribing for, or otherwise acquiring, the Bonds, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Bonds and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].



## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [14.3 Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Bondholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [14.4 Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [14.][15.] GENERAL

For as long as the Bonds remain in dematerialised form, these terms and conditions, including the terms applicable to issuance, transfer, exchange, redemption and/or cancellation of the Bonds shall be subject to the applicable rules and procedures set out by CSD (the **CSD Rules**) and in the event of inconsistency between these terms and conditions and the CSD Rules, the CSD Rules shall prevail. Any amendment, variation or deletion of this clause shall be subject to the express written approval of the CSD to be obtained prior to the approval of the Bondholders.

## [15.][16.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [15.1][16.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Maltese law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### [15.2][16.2] Place of Jurisdiction

The courts of Malta shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### [15.3][16.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Bonds (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Bonds[,

and [●]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Bonds also in any other way which is admitted in the country of the Proceedings.

## [16.][17.] DEFINITIONS

For the purposes of the Bonds, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxemburg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).

**Bonds** has the meaning assigned to it in Clause 1.1.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**CSD** means the Central Securities Depository of the Malta Stock Exchange, having its address at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta.

**CSD Rules** has the meaning assigned to it in Clause 10.2.

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Bonds and includes the CSD.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**Electronic Register** has the meaning assigned to it in Clause 1.3.

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

[[**Notes** has the same meaning as Bonds assigned to it in Clause 1.1.] [Any reference in these Terms and Conditions [and] [or] the Base Prospectus to Bonds or Notes shall be deemed to refer to [as the case may be] Notes.] [●]]

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System or its successor is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [15.2][16.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Registrar and Transfer Agent[s]** means [Malta Stock Exchange] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Bondholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option XV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate registered bonds issued in dematerialised form (the **Bonds**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Bonds are being issued in fully registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic register maintained on behalf of the Issuer at the CSD. The Bonds may under no circumstances be converted into Bonds in bearer form. For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.
- (b) Certificates will not be delivered to Bondholders.
- (c) The CSD will issue, upon a request by a Noteholder, a statement of holdings to such Noteholder evidencing his/her/its entitlement to the Bonds held in the register kept by the CSD.

#### 1.3 Title

- (a) Ownership in respect of the Bonds is established by the appropriate entry in the electronic register maintained on behalf of the Issuer by the CSD (hereinafter, the **Electronic Register**). There will be entered in such Electronic Register the names, addresses, identity card numbers (in the case of natural persons) and registration numbers (in the case of companies) of the Bondholders, as well as particulars of the Bonds held by them respectively. Bondholders shall have, at all reasonable times during business hours, access to the register of Bondholders held at the CSD for the purpose of inspecting information held on their respective account.
- (b) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, any person in whose name a Note is registered in the Electronic Register may, to the fullest extent permitted by applicable law, be deemed and treated at all times, by all persons and for all purposes (including the making of any payments), as the absolute owner of such Note and no person will be liable for so treating the Noteholder.
- (c) No transfer of a Note shall be recognised by the Issuer unless entered in the Electronic Register.

### 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the Note in the form satisfactory to the Registrar

and Transfer Agent, the Issuer and/or the CSD, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent, the Issuer and/or the CSD may reasonably require.

- (b) Registration of transfer of the Bonds will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

### 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Bonds under Clause 7.2, to register the transfer of these Bonds (or parts of these Bonds) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

### 4. STATUS AND GUARANTEE

The obligations under the Bonds constitute unsecured and [un]subordinated obligations of the Issuer ranking pari passu without any preference among themselves and pari passu with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law. [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- [(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying mutatis mutandis the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the Guarantor) has given its unconditional and irrevocable guarantee (the Guarantee III) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Bonds][*insert specified currency*] [●]. [The Guarantee III constitute a contract for the benefit of the Bondholders from time to time as third party beneficiaries, giving rise to the right of each Noteholder to require performance of the Guarantee III directly from the Guarantor and to enforce the Guarantee III directly against the Guarantor.] [●]

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Bonds shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually][semi-annually][quarterly]][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure

to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Bonds shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Bonds are redeemed). If the Issuer fails to redeem the Bonds when due, distributions shall continue to accrue on the Principal Amount of the Bonds from and including the due date for redemption to but excluding the date of actual redemption of the Bonds at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Bondholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Bonds shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder communicated to the Issuer [in the application form].

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Bonds shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Bonds in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Bondholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Electronic Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Bonds would otherwise fall on a calendar day which is not a Payment Business Day, the Bondholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee III, to "principal" in respect of the Bonds shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Bonds. References in these Terms and Conditions to "distributions" in respect of the Bonds shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Bonds are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Bonds will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Bondholders do not have a right to demand the redemption of the Bonds.]

[

(a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Bonds are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert:* The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.]

(b) In order to exercise such option, the Noteholder must, not less than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days][[*in case of perpetual Bonds insert minimum number of notice years*] years] nor more than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days] [*in case of perpetual Bonds insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [[*in case of non-perpetual Bonds insert minimum period of notice to Issuer*] [Payment Business Day]][[*in case of perpetual Bonds insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Bonds in respect of which such option is exercised, and (ii) the International Security Code of such Bonds, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Bonds.]

[



- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Bonds in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Bondholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Bonds;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Bondholders; and
  - (iii) the Call Redemption Amount at which the Bonds are to be redeemed.

*[in case the Bonds are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

[

#### **7.4 [No] Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Bonds for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Bonds was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Bonds may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Bondholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Bonds then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]

## 8. EVENTS OF DEFAULT

- (a) Each Noteholder shall be entitled to declare his Bonds due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
- (i) the Issuer, or the Guarantor, fails to pay any amount due under the Bonds within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Bonds which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Bonds, or the Guarantee III;
  - (vi) the Guarantee III ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee III.

The right to declare Bonds due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Bonds due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Bonds by means of a certificate of his Custodian or in other appropriate manner. The Bonds shall be redeemed following receipt of the notice declaring Bonds due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### [Fiscal Agent

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

**Registrar and Transfer Agent[s]:**

[Malta Stock Exchange  
Garrison Chapel  
Castille Place  
Valletta, VLT 1063  
Malta]

[•]

**Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in [*insert city*]]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

**9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Bondholders, to vary or terminate the appointment of each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] [•] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Noteholders in accordance with Clause 12.

**9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

**10. TAXATION**

**10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Bonds shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Bondholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the

absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Bonds are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Bonds shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF BONDS, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Bonds**

[The Issuer may from time to time, without the consent of the Bondholders, issue further Bonds having the same terms as the Bonds in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Bonds.]

[The Issuer may, from time to time, without the consent of the Bondholders, create and issue further debentures, debenture stock, bonds, loan notes, or any other debt securities, either having the same terms and conditions as any outstanding debt securities of any series (including the Bonds) and so that such further issue shall be consolidated and form a single series with the outstanding debt securities of the relevant series (including the Bonds), or upon such terms as the Issuer may determine at the

time of their issue[.] [, provided that no issue may be made that would rank senior to the Bonds in respect of the Collateral.]

[•]

## **11.2 Purchases**

The Issuer may at any time purchase Bonds in the open market or otherwise at any price. Bonds purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [•] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

## **11.3 Cancellation**

All Bonds redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Bonds [shall be] [may be] published in [•] and in electronic form on the website of the Issuer [(www.estream-energy.com)][insert any other website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5th calendar day following the date of such publication (or, if published more than once, on the 5th calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Bondholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Bondholder at his registered address and posted.]

[•]

### **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Bonds which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] [•] by hand or mail [or *insert other means of communication*].

## **13. MEETINGS OF BONDHOLDERS**

[Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Bonds.]

[The Issuer may, through the Security Trustee, from time to time call meetings of Bondholders for the purpose of consultation with Bondholders or for the purpose of obtaining the consent of Bondholders on matters which in terms of the Final Terms [and] [or] require the approval of a Bondholders' meeting and to effect any change to the applicable Terms and Conditions of the Bonds.

A meeting of Bondholders shall be called by the Directors by giving the Security Trustee not less than twenty-one (21) days' notice in writing. Upon receiving due notice from the Directors, the Security Trustee shall call such meeting by giving all Bondholders listed on the register of Bondholders as at a date being not more than thirty (30) days preceding the date scheduled for the meeting, not less than fourteen (14) days' notice in writing. Such notice shall set out the time, place and date set for the meeting and the matters to be discussed or decided thereat, including, if applicable, sufficient information on any amendment to [the Terms and Conditions] [and] [or] [the Base Prospectus] that is

proposed to be voted upon at the meeting and seeking the approval of the Bondholders. Following a meeting of Bondholders held in accordance with the provisions contained hereunder, the Issuer shall, acting in accordance with the resolution(s) taken at the meeting, communicate to the Bondholders whether the necessary consent to the proposal made by the Issuer has been granted or withheld. Subject to having obtained the necessary approval by the Bondholders in accordance with the provisions of this section 13 at a meeting called for that purpose as aforesaid, any such decision shall subsequently be given effect to by the Issuer. The amendment or waiver of any of the Terms and Conditions contained in this Securities Note may only be made with the approval of Bondholders at a meeting called and held for that purpose in accordance with the terms hereof. A meeting of Bondholders shall only validly and properly proceed to business if there is a quorum present at the commencement of the meeting. For this purpose, at least two Bondholders present, in person or by proxy, representing not less than [fifty per cent (50%)] [●] in nominal value of the Bonds then outstanding, shall constitute a quorum. If a quorum is not present within 30 minutes from the time scheduled for the commencement of the meeting as indicated on the notice convening same, the meeting shall stand adjourned to a place, date and time as shall be communicated by the Directors to the Bondholders present at that meeting. The Issuer shall within two days from the date of the original meeting publish by way of a company announcement the date, time and place where the adjourned meeting is to be held. An adjourned meeting shall be held not earlier than [seven] [days] [●], and not later than [fifteen (15)] [days] [●], following the original meeting. At an adjourned meeting: the number of Bondholders present, in person or by proxy, shall constitute a quorum; and only the matters specified in the notice calling the original meeting shall be placed on the agenda of, and shall be discussed at, the adjourned meeting.

[Any person who in accordance with the Memorandum and Articles of Association of the Issuer is to chair the annual general meetings of shareholders shall also chair meetings of Bondholders.] [●]

Once a quorum is declared present by [the chairman of the meeting] [●], the meeting may then proceed to business and address the matters set out in the notice convening the meeting. In the event of decisions which are required to be taken at the meeting, the Directors or their representative shall present to the Bondholders the reasons why it is deemed necessary or desirable and appropriate that a particular decision is taken. The meeting shall allow reasonable and adequate time to Bondholders to present their views to the Issuer and the other Bondholders present at the meeting. The meeting shall then put the matter as proposed by the Issuer to a vote of the Bondholders present at the time at which the vote is being taken, and any Bondholders taken into account for the purpose of constituting a quorum who are no longer present for the taking of the vote shall not be taken into account for the purpose of such vote.

The voting process shall be managed by the person or company in charge as of the Issuer under the supervision and scrutiny of [the auditors of the Issuer] [and] [the Security Trustee] [and] [●].

The proposal placed before a meeting of Bondholders shall only be considered approved if at least [seventy-five per cent (75%)] [●] in nominal value of the Bonds present at the meeting at the time when the vote is being taken, in person or by proxy, shall have voted in favour of the proposal.

Save for the above, the rules generally applicable to proceedings at general meetings of shareholders of the Issuer shall mutatis mutandis apply to meetings of Bondholders.]

[●]

The Base Prospectus in respect of the Bonds contains detailed provisions for convening (i) meetings of the Bondholders and (ii) joint meetings of holders of more than one series of Bonds issued by the Issuer (including, where applicable, the Bonds).

## **[14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]**

### **14.1 Substitution**

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Bondholders, if no payment of principal of any of the Bonds is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]]]) as Guarantor[s]] under all Bonds in respect of any and all obligations arising from and in connection with the Bonds, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:**

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Bonds;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Bonds) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Bondholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Bondholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Bonds after the substitution[s]. The Bondholders, by subscribing for, or otherwise acquiring, the Bonds, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Bonds and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].

## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [14.3] Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Bondholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [14.4] Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [14.][15.] GENERAL

For as long as the Bonds remain in dematerialised form, these terms and conditions, including the terms applicable to issuance, transfer, exchange, redemption and/or cancellation of the Bonds shall be subject to the applicable rules and procedures set out by CSD (the **CSD Rules**) and in the event of inconsistency between these terms and conditions and the CSD Rules, the CSD Rules shall prevail. Any amendment, variation or deletion of this clause shall be subject to the express written approval of the CSD to be obtained prior to the approval of the Bondholders.

## [15.][16.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [15.1][16.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Maltese law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### [15.2][16.2] Place of Jurisdiction

The courts of Malta shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### [15.3][16.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Bonds (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Bonds[,



and [●]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Bonds also in any other way which is admitted in the country of the Proceedings.

## [16.][17.] DEFINITIONS

For the purposes of the Bonds, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

[**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxemburg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).]

**Bonds** has the meaning assigned to it in Clause 1.1.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**CSD** means the Central Securities Depository of the Malta Stock Exchange, having its address at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta.

**CSD Rules** has the meaning assigned to it in Clause 10.2.

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Bonds and includes the CSD.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].

**Electronic Register** has the meaning assigned to it in Clause 1.3.

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

[[**Notes** has the same meaning as Bonds assigned to it in Clause 1.1.] [Any reference in these Terms and Conditions [and] [or] the Base Prospectus to Bonds or Notes shall be deemed to refer to [as the case may be] Notes.] [●]]

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System or its successor is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [15.2][16.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Registrar and Transfer Agent[s]** means [Malta Stock Exchange] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Bondholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## Option XVI – Terms and Conditions of the guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form

### 1. CURRENCY, DENOMINATION, FORM, TITLE

#### 1.1 Currency, Denomination

This tranche of guaranteed fixed rate registered bonds issued in dematerialised form (the **Bonds**) is being issued by E-Stream Energy GmbH & Co KG (the **Issuer**) in [Euro (**EUR**)] [British Pound (**GBP**)] [Swiss Franc (**CHF**)] [US Dollar (**USD**)] [Hungarian Forint (**HUF**)] [Polish Złoty (**PLN**)] [Czech Koruna (**CZK**)] [Croatian Kuna (**HRK**)] [●] (the **Specified Currency**) in the aggregate principal amount of [up to] [●] (in words: [●]) in the denomination of EUR 1,000 (or the equivalent in other currencies) (the **Specified Denomination** or the **Principal Amount**).

#### 1.2 Form

- (a) The Bonds are being issued in fully registered and dematerialised form and will be represented in uncertificated form by the appropriate entry in the Electronic register maintained on behalf of the Issuer at the CSD. The Bonds may under no circumstances be converted into Bonds in bearer form. For as long as any of the securities issued by the company shall be and remain dematerialised under the Financial Markets Act (Cap 345 of the Laws of Malta) the terms and conditions relating to such securities including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and or cancellation shall be governed in accordance with the applicable rules and procedures set out by the relevant central securities depository providing dematerialisation and any other provision shall apply only to the extent that it is not inconsistent with such rules and procedures.
- (b) Certificates will not be delivered to Bondholders.
- (c) The CSD will issue, upon a request by a Noteholder, a statement of holdings to such Noteholder evidencing his/her/its entitlement to the Bonds held in the register kept by the CSD.

#### 1.3 Title

- (a) Ownership in respect of the Bonds is established by the appropriate entry in the electronic register maintained on behalf of the Issuer by the CSD (hereinafter, the **Electronic Register**). There will be entered in such Electronic Register the names, addresses, identity card numbers (in the case of natural persons) and registration numbers (in the case of companies) of the Bondholders, as well as particulars of the Bonds held by them respectively. Bondholders shall have, at all reasonable times during business hours, access to the register of Bondholders held at the CSD for the purpose of inspecting information held on their respective account.
- (b) Except as ordered by a court of competent jurisdiction or a public authority or as required by law, any person in whose name a Note is registered in the Electronic Register may, to the fullest extent permitted by applicable law, be deemed and treated at all times, by all persons and for all purposes (including the making of any payments), as the absolute owner of such Note and no person will be liable for so treating the Noteholder.
- (c) No transfer of a Note shall be recognised by the Issuer unless entered in the Electronic Register.

### 2. TRANSFERS

- (a) A Note may be transferred by depositing at the specified office of the Registrar and Transfer Agent a document evidencing the transfer of the Note in the form satisfactory to the Registrar

and Transfer Agent, the Issuer and/or the CSD, together with a copy of the passport or ID card of each of the transferor and the transferee and/or such other documents as the Registrar and Transfer Agent, the Issuer and/or the CSD may reasonably require.

- (b) Registration of transfer of the Bonds will be effected without charge by or on behalf of the Issuer but upon payment (or the giving of such indemnity as the Issuer may reasonably require) in respect of any tax or other governmental charges which may be imposed in relation to such transfer.

### 3. CLOSED PERIODS

No Noteholder may require the transfer of a Note to be registered (i) after an event of default notice has been issued pursuant to Clause 8(b) or (ii) during the period of [15][●] calendar days ending on the due date for any payment in respect of that Note. [Furthermore, the Issuer shall not be required, in the event of an early redemption of the Bonds under Clause 7.2, to register the transfer of these Bonds (or parts of these Bonds) during the period beginning on the [twenty-fifth (25<sup>th</sup>)] [●] calendar day before the Put Redemption Date and ending on the Put Redemption Date (both inclusive).]

### 4. STATUS AND GUARANTEE

The obligations under the Bonds constitute unsecured and [un]subordinated obligations of the Issuer ranking *pari passu* without any preference among themselves and *pari passu* with all other, present and future, unsecured and [un]subordinated obligations of the Issuer, unless such obligations are given priority under mandatory provisions of statutory law. [●]

[[Qualified] subordination clause:

In the insolvency or liquidation of the Issuer, the obligations of the Issuer under the Notes will rank:

- (a) junior to all present or future unsubordinated instruments or obligations of the Issuer[.];]

[

- (b) whereby:

- [(i) All claims under the Notes, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions, applying *mutatis mutandis* in accordance with section 19 (2) sentence 2 of the German Insolvency Code (*Insolvenzordnung*, InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Notes may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]

[[ (ii) ] [●]

Payments under the Notes may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]

[[ (iii) ] [●]

The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Issuer becoming overindebted (*überschuldet*) or unable to pay its debts (*zahlungsunfähig*) within applying *mutatis mutandis* the meaning of German insolvency law.]

[[iv)] [●]

Paragraphs [(i)] [●] [to] [(iii)] [●] apply both before and after the opening of insolvency proceedings.]

[[v)] [●]

In all other respects, the Noteholders are entitled without restriction to assert their rights under the Notes and to claim performance.]

[[vi)] [●]

For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Issuer as a whole (*Gläubigergesamtheit*) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (*Bürgerliches Gesetzbuch*). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of the Issuer.]

[●] [●]

]

[(c)] [●] pari passu among themselves; and

[(d)] [●] senior to [all present or future (a) obligations under any CRR Instruments, and (b)] all other subordinated instruments or obligations of the Issuer ranking or expressed to rank subordinated to the obligations of the Issuer under the Notes.

[●]

[●]

Timberland Securities Investment plc (the **Guarantor**) has given its unconditional and irrevocable guarantee (the **Guarantee IV**) dated [*insert date*] for the due and punctual payment of principal of, and interest on, and any other amounts payable under any Note in a total amount of up to [the aggregate principal amount of the Bonds][*insert specified currency*] [●]. [The Guarantee IV constitute a contract for the benefit of the Bondholders from time to time as third party beneficiaries, giving rise to the right of each Noteholder to require performance of the Guarantee IV directly from the Guarantor and to enforce the Guarantee IV directly against the Guarantor.] [●]

## 5. DISTRIBUTIONS

### 5.1 Distribution Rate and Distribution Payment Dates

The Bonds shall bear distributions on the Principal Amount at the rate of [●] per cent. per annum (the **Rate of Distributions**) (and with respect to each Calculation Period) from and including [●] (the **Distribution Commencement Date**) to and excluding the Maturity Date. Distributions shall be scheduled to be paid [[●], [annually][semi-annually][quarterly]][●] in arrears on [●] in each year (each such date, a **Distribution Payment Date**), commencing on [●]. Distributions will fall due in accordance with the provisions set out in Clause 6.4.

### 5.2 Calculation of Amount of Distributions

The amount of distributions shall be calculated by applying the Rate of Distributions to the Principal Amount multiplying such sum by the applicable Day Count Fraction, and rounding the resultant figure

to the nearest sub-unit of the Specified Currency, half of such sub-unit being rounded upwards or otherwise in accordance with the applicable market convention.

### **5.3 Default Distributions**

The Bonds shall cease to bear distributions from the expiry of the calendar day preceding the due date for redemption (if the Bonds are redeemed). If the Issuer fails to redeem the Bonds when due, distributions shall continue to accrue on the Principal Amount of the Bonds from and including the due date for redemption to but excluding the date of actual redemption of the Bonds at the default rate of distributions established by law. This does not affect any additional rights that might be available to the Bondholders.

## **6. PAYMENTS**

### **6.1 Payment of Principal and Distributions**

Payment of principal and distributions on the Bonds shall be made, subject to Clause 6.2 below, by credit or transfer to in the Specified Currency in the account of the relevant Noteholder communicated to the Issuer [in the application form].

### **6.2 Manner of Payment**

Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Bonds shall be made in the Specified Currency.

If the Issuer determines that it is impossible to make payments of amounts due on the Bonds in freely negotiable and convertible funds on the relevant due date for reasons beyond its control or that the Specified Currency or any successor currency provided for by law (the **Successor Currency**) is no longer used for the settlement of international financial transactions, the Issuer may fulfil its payment obligations by making such payments in Euro on the relevant due date on the basis of the Applicable Exchange Rate. Bondholders shall not be entitled to further interest or any additional amounts as a result of such payment. The **Applicable Exchange Rate** shall be (i) (if such exchange rate is available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) determined and published by the European Central Bank for the most recent calendar day falling within a reasonable period of time prior to the relevant due date, or (ii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) which [the Fiscal Agent] [●] has calculated as the arithmetic mean of offered rates concerning the Specified Currency or the Successor Currency (if applicable) quoted to [the Fiscal Agent] [●] by four leading banks operating in the international foreign exchange market for the most recent calendar day falling within a reasonable (as determined by [the Fiscal Agent] [●] in its reasonable discretion) period of time prior to the relevant due date, or (iii) (if such exchange rate is not available) the exchange rate of Euro against the Specified Currency or the Successor Currency (if applicable) as determined by [the Fiscal Agent] [●] in its reasonable discretion.

### **6.3 Discharge**

The Issuer and the Guarantor shall be discharged by payment to the account of the relevant Noteholder which is recorded in the Electronic Register.

### **6.4 Payment Business Day**

If the due date for any payment in respect of the Bonds would otherwise fall on a calendar day which is not a Payment Business Day, the Bondholders shall not be entitled to payment until the next following Payment Business Day in the relevant place and shall not be entitled to further distributions or other payment in respect of such delay.

## 6.5 References to Principal and Distributions

References in these Terms and Conditions, or the Guarantee IV, to "principal" in respect of the Bonds shall be deemed to include, as applicable: the Principal Amount[, the Call Redemption Amount][, the Put Redemption Amount], the Early Redemption Amount, and any premium and any other amounts (other than distributions) which may be payable under or in respect of the Bonds. References in these Terms and Conditions to "distributions" in respect of the Bonds shall be deemed to include, as applicable, any Additional Amounts which may be payable under Clause 10.1.

## 7. REDEMPTION

### 7.1 Maturity Date

[The Bonds are perpetual and have no scheduled maturity date.][Unless previously redeemed, or cancelled, the Bonds will be redeemed at their Principal Amount together with distributions, if any, accrued to, but excluding, the date of redemption, on [●] (the **Maturity Date**).]

### 7.2 [No] Early Redemption at the Option of a Noteholder

[The Bondholders do not have a right to demand the redemption of the Bonds.]

[

(a) The Issuer shall, at the option of a Noteholder of any Note, redeem such Note on the Put Redemption Date(s) at the Put Redemption Amount(s) together with accrued distributions, if any, to (but excluding) the Put Redemption Date. [*in case of the Early Redemption for Reasons of Taxation, or if the Bonds are subject to the Early Redemption at the Option of the Issuer for other than tax reasons, insert: The Noteholder may not exercise such option in respect of any Note which is the subject of the prior exercise by the Issuer of any of its options to redeem such Note under Clause 7.*]

(b) In order to exercise such option, the Noteholder must, not less than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days][[*in case of perpetual Bonds insert minimum number of notice years*] years] nor more than [[*in case of non-perpetual Bonds insert minimum number of days*] Payment Business Days] [*in case of perpetual Bonds insert minimum number of years*] years] before the Put Redemption Date on which such redemption is required to be made as specified in the Put Notice, send to the specified office of [the Fiscal Agent] [●] an early redemption notice in written form (the **Put Notice**). In the event that the Put Notice is received after 5:00 p.m. [●] time on the [●] [[*in case of non-perpetual Bonds insert minimum period of notice to Issuer*] [Payment Business Day]][[*in case of perpetual Bonds insert minimum period of notice to Issuer in years*] year] before the Put Redemption Date, the option shall not have been validly exercised. The Put Notice must specify (i) the total principal amount of the Bonds in respect of which such option is exercised, and (ii) the International Security Code of such Bonds, if any. The Put Notice may be in the form available from the specified offices of [the Fiscal Agent] [●] in the [English] [or] [German] language and includes further information. No option so exercised may be revoked or withdrawn.

]

### 7.3 [No] Early Redemption at the Option of the Issuer

[The Issuer does not have a right to demand the redemption of the Bonds.]

[

- (a) The Issuer may, upon notice given in accordance with subparagraph (b), redeem the Bonds in whole, but not in part, on the Call Redemption Date(s) at the applicable Call Redemption Amount together with accrued distributions, if any, to, but excluding, the (relevant) Call Redemption Date.
- (b) Notice of redemption shall be given by the Issuer to the Bondholders in accordance with Clause 12. Such notice shall be irrevocable and shall specify:
  - (i) the series number of the Bonds;
  - (ii) the Call Redemption Date which shall be not less than [*insert minimum notice period, which shall not be less than five Payment Business Days: [insert number of days]*] Payment Business Days [*in case of a maximum notice period insert: nor more than [insert number of days]*] Payment Business Days after the calendar day on which notice is given by the Issuer to the Bondholders; and
  - (iii) the Call Redemption Amount at which the Bonds are to be redeemed.

*[in case the Bonds are subject to the Early Redemption at the Option of a Noteholder, insert:*

- (c) The Issuer may not exercise such option in respect of any Note which is the subject of the prior exercise by the Noteholder thereof of its option to require the redemption of such Note under Clause 7.2.

]]

[

#### **7.4 [No] Redemption for Reasons of Taxation**

[The Issuer does not have a right to demand the redemption of the Bonds for reasons of taxation.]

[

- (a) If as a result of any change in, or amendment to, the laws or regulations of Malta or any political subdivision or taxing authority thereto or therein affecting taxation or the obligation to pay duties of any kind, or any change in, or amendment to, an official interpretation or application of such laws or regulations, which amendment or change is effective on or after the date on which the last tranche of the Bonds was issued, the Issuer, or the Guarantor, is required to pay Additional Amounts under Clause 10.1 on the next succeeding Distribution Payment Date, and if this obligation cannot be avoided by the use of reasonable measures available to the Issuer, or the Guarantor, the Bonds may be redeemed, in whole but not in part, at the option of the Issuer, upon not less than 60 calendar days' prior notice of redemption given to [the Fiscal Agent] [●] and, in accordance with Clause 10 to the Bondholders, at their Principal Amount, together with distributions, if any, accrued to, but excluding, the date of redemption. However, no such notice of redemption may be given (i) earlier than 90 calendar days prior to the earliest date on which the Issuer, or the Guarantor, would be obligated to pay such Additional Amounts were a payment in respect of the Bonds then to be due, or (ii) if at the time such notice is given, such obligation to pay such Additional Amounts does not remain in effect.
- (b) Any such notice shall be irrevocable, must specify the date fixed for redemption and must set forth a statement in summary form of the facts constituting the basis for the right of the Issuer, or the Guarantor, so to redeem.]



## 8. EVENTS OF DEFAULT

- (a) Each Noteholder shall be entitled to declare his Bonds due and demand immediate redemption thereof at the Early Redemption Amount, together with distributions, if any, accrued to, but excluding, the date of redemption, in the event that:
- (i) the Issuer, or the Guarantor, fails to pay any amount due under the Bonds within 30 calendar days from the relevant due date; or
  - (ii) the Issuer, or the Guarantor, fails duly to perform any other obligation arising from the Bonds which failure is not capable of remedy or, if such failure is capable of remedy, such failure continues for more than 30 calendar days after [the Fiscal Agent] [●] has received notice thereof from a Noteholder; or
  - (iii) the Issuer, or the Guarantor, suspends payment or announces its inability to pay its debts; or
  - (iv) a court institutes insolvency proceedings against the Issuer, or the Guarantor, and such proceedings are not set aside or stayed within 60 days, or the Issuer, or the Guarantor, or the competent supervisory authority, or resolution authority, respectively, applies for or institutes any such proceedings; or
  - (v) the Issuer, or the Guarantor, goes into liquidation unless this is done in connection with a merger, consolidation or other form of combination with another company or in connection with a conversion and the other or new company assumes all obligations contracted by the Issuer, or the Guarantor, in connection with the Bonds, or the Guarantee IV;
  - (vi) the Guarantee IV ceases to be legally valid and binding or the Guarantor fails to fulfil its obligations under the Guarantee IV.

The right to declare Bonds due shall terminate if the situation giving rise to it has been cured before the right is exercised.

- (b) Any notice, including any notice declaring Bonds due, in accordance with subparagraph 8(a) shall be made by means of a written declaration in the [English] [or] [German] language and sent to the specified office of [the Fiscal Agent] [●] together with proof that such Noteholder at the time of such notice is a holder of the relevant Bonds by means of a certificate of his Custodian or in other appropriate manner. The Bonds shall be redeemed following receipt of the notice declaring Bonds due.

## 9. [FISCAL AGENT,] REGISTRAR AND TRANSFER AGENT, DISTRIBUTION AGENT

### 9.1 Appointment, Specified Offices

The initial [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] and their respective initial specified offices are:

#### [Fiscal Agent

Initial Fiscal Agent:  
[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[●]

### **Registrar and Transfer Agent[s]:**

[Malta Stock Exchange  
Garrison Chapel  
Castille Place  
Valletta, VLT 1063  
Malta]

[•]

### **Distribution Agent[s]:**

[Timberland Invest Ltd.  
171, Old Bakery Street  
Valletta VLT 1455  
Malta]

[Timberland Capital Management GmbH  
Hüttenallee 137  
47800 Krefeld  
Germany]

[•]

The [Fiscal Agent, the] Registrar and Transfer Agent[s], and the Distribution Agent[s] reserve the right at any time to change their respective specified office to some other specified office [in the same city] [in *[insert city]*]. Each of [the Fiscal Agent,] the Registrar and Transfer Agent, and the Distribution Agent may, with the consent of the Issuer, delegate any of its obligations and functions to a third party as it deems appropriate.

## **9.2 Variation or Termination of Appointment**

The Issuer reserves the right at any time, without the prior approval of the Bondholders, to vary or terminate the appointment of each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent, provided that the Issuer will at all times maintain [a Fiscal Agent,] [•] a Registrar and Transfer Agent, and a Distribution Agent having a specified office in the European Union. Notice of any such change will promptly be given to the Bondholders in accordance with Clause 12.

## **9.3 Agents of the Issuer**

Each of [the Fiscal Agent,] [•] the Registrar and Transfer Agent, and the Distribution Agent acts solely as agents of the Issuer and does not have any obligations towards or relationship of agency or trust to any Noteholder.

## **10. TAXATION**

### **10.1 Withholding Taxes and Additional Amounts**

All amounts payable in respect of the Bonds shall be made without deduction or withholding for or on account of any present or future taxes, duties or governmental charges of any nature whatsoever imposed or levied by way of deduction or withholding by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax (**Withholding Taxes**) unless such deduction or withholding is required by law. In such event, the Issuer shall, to the fullest extent permitted by law, pay such additional amounts of principal and interest (the **Additional Amounts**) as shall be necessary in order that the net amounts received by the Bondholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the

absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes, duties or governmental charges which:

- (c) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
  - (i) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Bonds are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
  - (ii) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta, or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
  - (iii) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with Clause 12, whichever occurs later.

## **10.2 U.S. Foreign Account Tax Compliance Act (FATCA)**

Moreover, all amounts payable in respect of the Bonds shall be made subject to compliance with sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the **Code**), any regulations or agreements thereunder, including any agreement pursuant to section 1471(b) of the Code, and official interpretations thereof (**FATCA**) and any law implementing an intergovernmental approach to FATCA. The Issuer will have no obligation to pay additional amounts or otherwise indemnify a Noteholder in connection with any such compliance.

## **10.3 Transfer of Issuer's domicile**

In case of a transfer of the Issuer's domicile to another country, territory or jurisdiction, the preceding provisions shall apply with the understanding that any reference to the Issuer's domicile shall from then on be deemed to refer to such other country, territory or jurisdiction.

## **11. FURTHER ISSUES OF BONDS, PURCHASES AND CANCELLATION**

### **11.1 Further Issues of Bonds**

[The Issuer may from time to time, without the consent of the Bondholders, issue further Bonds having the same terms as the Bonds in all respects (or in all respects except for the issue date, issue price, Distribution Commencement Date and/or first Distribution Payment Date) so as to form a single series with the Bonds.]

[The Issuer may, from time to time, without the consent of the Bondholders, create and issue further debentures, debenture stock, bonds, loan notes, or any other debt securities, either having the same terms and conditions as any outstanding debt securities of any series (including the Bonds) and so that such further issue shall be consolidated and form a single series with the outstanding debt securities of the relevant series (including the Bonds), or upon such terms as the Issuer may determine at the

time of their issue[.] [, provided that no issue may be made that would rank senior to the Bonds in respect of the Collateral.]

[•]

## **11.2 Purchases**

The Issuer may at any time purchase Bonds in the open market or otherwise at any price. Bonds purchased by the Issuer may, at the option of the Issuer, be held, resold or surrendered to [the Fiscal Agent] [•] for cancellation. No purchase shall be possible unless all applicable regulatory and other statutory restrictions are observed.

## **11.3 Cancellation**

All Bonds redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **12. NOTICES**

### **12.1 Notices of the Issuer**

[All notices of the Issuer concerning the Bonds [shall be] [may be] published in [•] and in electronic form on the website of the Issuer [(www.estream-energy.com)][insert any other website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. Any notice so given will be deemed to have been validly given on the 5th calendar day following the date of such publication (or, if published more than once, on the 5th calendar day following the date of the first such publication) unless the notice provides for a later effective date.]

[Notices to Bondholders [will be] [may be] mailed to their registered addresses and shall be deemed to have been served at the expiration of twenty-four (24) hours after the letter containing the notice is posted, and in proving such service it shall be sufficient to prove that a prepaid letter containing such notice was properly addressed to such Bondholder at his registered address and posted.]

[•]

### **12.2 Form of Notice to be given by any Noteholder**

Notices regarding the Bonds which are to be given by any Noteholder to the Issuer shall be validly given if delivered in writing in [English] [or] [German] language to the Issuer [or the Fiscal Agent (for onward delivery to the Issuer)] [•] by hand or mail [or *insert other means of communication*].

## **13. MEETINGS OF BONDHOLDERS**

[Articles 470-3 - 470-19 of the Companies Act 1915 are not applicable to the Bonds.]

[The Issuer may, through the Security Trustee, from time to time call meetings of Bondholders for the purpose of consultation with Bondholders or for the purpose of obtaining the consent of Bondholders on matters which in terms of the Final Terms [and] [or] require the approval of a Bondholders' meeting and to effect any change to the applicable Terms and Conditions of the Bonds.

A meeting of Bondholders shall be called by the Directors by giving the Security Trustee not less than twenty-one (21) days' notice in writing. Upon receiving due notice from the Directors, the Security Trustee shall call such meeting by giving all Bondholders listed on the register of Bondholders as at a date being not more than thirty (30) days preceding the date scheduled for the meeting, not less than fourteen (14) days' notice in writing. Such notice shall set out the time, place and date set for the meeting and the matters to be discussed or decided thereat, including, if applicable, sufficient information on any amendment to [the Terms and Conditions] [and] [or] [the Base Prospectus] that is

proposed to be voted upon at the meeting and seeking the approval of the Bondholders. Following a meeting of Bondholders held in accordance with the provisions contained hereunder, the Issuer shall, acting in accordance with the resolution(s) taken at the meeting, communicate to the Bondholders whether the necessary consent to the proposal made by the Issuer has been granted or withheld. Subject to having obtained the necessary approval by the Bondholders in accordance with the provisions of this section 13 at a meeting called for that purpose as aforesaid, any such decision shall subsequently be given effect to by the Issuer. The amendment or waiver of any of the Terms and Conditions contained in this Securities Note may only be made with the approval of Bondholders at a meeting called and held for that purpose in accordance with the terms hereof. A meeting of Bondholders shall only validly and properly proceed to business if there is a quorum present at the commencement of the meeting. For this purpose, at least two Bondholders present, in person or by proxy, representing not less than [fifty per cent (50%)] [●] in nominal value of the Bonds then outstanding, shall constitute a quorum. If a quorum is not present within 30 minutes from the time scheduled for the commencement of the meeting as indicated on the notice convening same, the meeting shall stand adjourned to a place, date and time as shall be communicated by the Directors to the Bondholders present at that meeting. The Issuer shall within two days from the date of the original meeting publish by way of a company announcement the date, time and place where the adjourned meeting is to be held. An adjourned meeting shall be held not earlier than [seven] [days] [●], and not later than [fifteen (15)] [days] [●], following the original meeting. At an adjourned meeting: the number of Bondholders present, in person or by proxy, shall constitute a quorum; and only the matters specified in the notice calling the original meeting shall be placed on the agenda of, and shall be discussed at, the adjourned meeting.

[Any person who in accordance with the Memorandum and Articles of Association of the Issuer is to chair the annual general meetings of shareholders shall also chair meetings of Bondholders.] [●]

Once a quorum is declared present by [the chairman of the meeting] [●], the meeting may then proceed to business and address the matters set out in the notice convening the meeting. In the event of decisions which are required to be taken at the meeting, the Directors or their representative shall present to the Bondholders the reasons why it is deemed necessary or desirable and appropriate that a particular decision is taken. The meeting shall allow reasonable and adequate time to Bondholders to present their views to the Issuer and the other Bondholders present at the meeting. The meeting shall then put the matter as proposed by the Issuer to a vote of the Bondholders present at the time at which the vote is being taken, and any Bondholders taken into account for the purpose of constituting a quorum who are no longer present for the taking of the vote shall not be taken into account for the purpose of such vote.

The voting process shall be managed by the person or company in charge as of the Issuer under the supervision and scrutiny of [the auditors of the Issuer] [and] [the Security Trustee] [and] [●].

The proposal placed before a meeting of Bondholders shall only be considered approved if at least [seventy-five per cent (75%)] [●] in nominal value of the Bonds present at the meeting at the time when the vote is being taken, in person or by proxy, shall have voted in favour of the proposal.

Save for the above, the rules generally applicable to proceedings at general meetings of shareholders of the Issuer shall mutatis mutandis apply to meetings of Bondholders.]

[●]

The Base Prospectus in respect of the Bonds contains detailed provisions for convening (i) meetings of the Bondholders and (ii) joint meetings of holders of more than one series of Bonds issued by the Issuer (including, where applicable, the Bonds).

## 14. SUBSTITUTION OF THE ISSUER [AND THE GUARANTOR[S]]

### 14.1 Substitution

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Guarantor[s]] [as the case may be] shall be entitled at any time, without the consent of the Bondholders, if no payment of principal of any of the Bonds is in default, to substitute for itself as [the Issuer] [or] [as [the] [a] Guarantor[s]] [as the case may be] [an]other person[s] [each] [(the **Substitute Issuer**) as principle debtor] [and] [or] [(the **Substitute Guarantor[s]]]) as Guarantor[s]] under all Bonds in respect of any and all obligations arising from and in connection with the Bonds, which is, on the date of such substitution[s] and in the opinion of [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] [●], of at least the equivalent standing and creditworthiness to [either] [the Issuer] [and] [or] [[each of] [any of] the Guarantor[s]] [, as the case may be,] provided that:**

- (a) [either] [the Substitute Issuer] [and] [or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] is [are] solvent and can perform all obligations under and in connection with the Bonds;
- (b) no liquidation, winding-up, insolvency proceedings or similar reorganisation measures are opened or imminent in respect of [either] [the Substitute Issuer] [and] [or] [the Substitute Guarantor[s]] [as the case may be];
- (c) [either] [the Substitute Issuer] [and] [or] [[each of] the Substitute Guarantor[s]] [as the case may be] [has] [have] been granted all necessary consents (excluding, for the avoidance of any doubt, the approval of a prospectus for the public offering of the Bonds) from the authorities of the country in which it has its registered office;
- (d) the substitution[s] of [the Substitute Issuer for the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s] for the Guarantor] [as the case may be] does not result in additional tax, duty or governmental charge being directly or indirectly imposed on the Bondholders or [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [●] [as the case may be] [has] [have] agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution.] [●]

Notice of any such substitution[s] shall be given to the Bondholders in accordance with Condition 10.

[[Either] [The] [the] [Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] will not guarantee the obligations of [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] under the Bonds after the substitution[s]. The Bondholders, by subscribing for, or otherwise acquiring, the Bonds, are deemed to have (i) consented to any substitution[s] [either] [of the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] effected in accordance with this Condition 14 and to the release [either] [of the Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] from any and all obligations in respect of the relevant Bonds and these presents; and (ii) accepted such substitution[s] and the consequences thereof.] [●]

[After the substitution[s] of [either] [the Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] by [a Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] this Condition 14 shall apply again. In the event of such a substitution[s], every reference in these Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [●].

## 14.2 Change of References

In the event of any such substitution[s], any reference in these Terms and Conditions to [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] shall from then on be deemed to refer to [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] and any reference to the country in which [either] [the Issuer] [and][or] [the Substitute Guarantor[s]] [as the case may be] [is] [are] domiciled or resident for taxation purposes shall from then on be deemed to refer to the country of domicile or residence for taxation purposes of [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]] [respectively] [as the case may be].

## [14.3 Further substitution

[After a substitution pursuant to Condition 14.1, [either] [the Substitute Issuer] [and][or] [[each of] [any of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Bondholders, effect [each] a further substitution. All the provisions specified in Condition 14.1 and 14.2 shall apply mutatis mutandis, and references in these Conditions to the Issuer [and] [or] [the Guarantor[s]] [, as the case may be,] shall, where the context so requires, be deemed to be or include references to any such further [either] [the Substitute Issuer] [and][or] [the Substitute Guarantor[s]].] [●]]

## [14.4 Reverse substitution

[After a substitution pursuant to Condition 14.1 [or 14.3] any [either] [the Substitute Issuer] [and][or] [[each of] [any of] [all of] the Substitute Guarantor[s]] [as the case may be] may, without the consent of any Noteholder, reverse the substitution[s], mutatis mutandis.] [●]]

## [14.][15.] GENERAL

For as long as the Bonds remain in dematerialised form, these terms and conditions, including the terms applicable to issuance, transfer, exchange, redemption and/or cancellation of the Bonds shall be subject to the applicable rules and procedures set out by CSD (the **CSD Rules**) and in the event of inconsistency between these terms and conditions and the CSD Rules, the CSD Rules shall prevail. Any amendment, variation or deletion of this clause shall be subject to the express written approval of the CSD to be obtained prior to the approval of the Bondholders.

## [15.][16.] APPLICABLE LAW, PLACE OF JURISDICTION AND ENFORCEMENT

### [15.1][16.1] Governing Law

The Bonds, as to form and content, and all rights and obligations of the Bondholders and the Issuer, shall be governed by, and shall be construed exclusively in accordance with, Maltese law except for the provisions of Clause 4 (*Ranking*) which shall be subject to the laws of Germany and Clause 13 (*Meetings of Bondholders*) which shall be subject to the laws of Germany.

### [15.2][16.2] Place of Jurisdiction

The courts of Malta shall have non-exclusive jurisdiction for any action or other legal proceedings (the **Proceedings**) arising out of or in connection with the Bonds. The courts of [Duisburg, Germany] [●] shall have non-exclusive jurisdiction for any action or other legal proceedings arising out of or in connection with Clause 4 (*Ranking*) and Clause 13 (*Meetings of Bondholders*).

### [15.3][16.3] Enforcement

Any Noteholder may in any Proceedings against the Issuer, or to which such Noteholder and the Issuer are parties, protect and enforce in its own name its rights arising under such Bonds (a) stating the full name and address of the Noteholder, [and] (b) specifying the aggregate principal amount of the Bonds[,

and [●]. Each Noteholder may, without prejudice to the foregoing, protect and enforce its rights under the Bonds also in any other way which is admitted in the country of the Proceedings.

## [16.][17.] DEFINITIONS

For the purposes of the Bonds, the following expressions shall have the following meanings:

**Additional Amounts** has the meaning assigned to it in Clause 10.1.

**Applicable Exchange Rate** has the meaning assigned to it in Clause 6.2.

[**Articles 470-3 - 470-19 of the Companies Act 1915** has the meaning assigned to it in the Luxemburg Law of 10 August 1915 on Commercial Companies as amended (and as consolidated resulting from the Grand Ducal Regulation of 5 December 2017 as published in the legal gazette of the Grand Duchy of Luxembourg).]

**Bonds** has the meaning assigned to it in Clause 1.1.

**Business Day Financial Centre** means [●].

**Calculation Period** means any period of time in respect of the calculation of an amount of distributions on any Note.

[**Call Redemption Amount** equals [the Principal Amount][●].]

[**Call Redemption Date** means the Distribution Commencement Date and each [anniversary date thereof][Distribution Payment Date thereafter].]

**Code** has the meaning assigned to it in Clause 10.2.

[**CRR** means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (*Capital Requirements Regulation*), as amended from time to time.]

[**CRR Instrument** means any capital instrument governed by the CRR regime.]

**CSD** means the Central Securities Depository of the Malta Stock Exchange, having its address at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta.

**CSD Rules** has the meaning assigned to it in Clause 10.2.

**Custodian** means any bank or other financial institution of recognised standing authorised to engage in securities custody business with which the Noteholder maintains a securities account in respect of the Bonds and includes the CSD.

**Day Count Fraction** means [the actual number of calendar days in the Calculation Period divided by the actual number of calendar days in the respective interest year][the actual number of calendar days in the Calculation Period divided by 360][●].

**Distribution Agent[s]** means [Timberland Invest Ltd.] [and] [Timberland Capital Management GmbH] [and] [●].

**Distribution Commencement Date** has the meaning assigned to it in Clause 5.1.

**Distribution Payment Date** has the meaning assigned to it in Clause 5.1.

**Early Redemption Amount** means [the Principal Amount][●].



**Electronic Register** has the meaning assigned to it in Clause 1.3.

**FATCA** has the meaning assigned to it in Clause 10.2.

**Issuer** has the meaning assigned to it in Clause 1.1.

**Maturity Date** has the meaning assigned to it in Clause 7.1.

**Noteholder** means each person holding one or more Note(s).

[[**Notes** has the same meaning as Bonds assigned to it in Clause 1.1.] [Any reference in these Terms and Conditions [and] [or] the Base Prospectus to Bonds or Notes shall be deemed to refer to [as the case may be] Notes.] [●]]

**Payment Business Day** means a calendar day (other than a Saturday or a Sunday) (i) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in the Business Day Financial Centre, and (ii) on which the TARGET2 System or its successor is open for business.

**Principal Amount** has the meaning assigned to it in Clause 1.1.

**Proceedings** has the meaning assigned to it in Clause [15.2][16.2].

[**Put Notice** has the meaning assigned to it in Clause 7.2(c).]

[**Put Redemption Amount(s)** means [●].]

[**Put Redemption Date(s)** means [●].]

**Rate of Distributions** has the meaning assigned to it in Clause 5.1.

**Registrar and Transfer Agent[s]** means [Malta Stock Exchange] [and] [●].

**Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Noteholder in accordance with Clause 6.1 on or before the due date, it means the date on which, the full amount of the money having been so received, notice to that effect shall have been duly given to the Bondholders by the Issuer in accordance with Clause 12.

**Specified Currency** has the meaning assigned to it in Clause 1.1.

**Specified Denomination** has the meaning assigned to it in Clause 1.1.

[**Substitute Issuer** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer*).]

[**Substitute Guarantor[s]** has the meaning assigned to it in Condition 14 (*Substitution of the Issuer and the Guarantor[s]*).]

**Successor Currency** has the meaning assigned to it in Clause 6.2.

**TARGET2 System** means the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 or its successor (**TARGET**).

**Withholding Taxes** has the meaning assigned to it in Clause 10.1.

## NOTEHOLDER MEETING PROVISIONS

**[Please note: The Noteholder Meeting Provisions of Option I Fixed Rate Bearer Notes under German law and of Option II guaranteed Fixed Rate Bearer Notes under German law and Option III guaranteed Fixed Rate Bearer Notes II under German law are not defined in this section, but are directly part of the relevant Terms and Conditions of the Notes.]**

[

### 1. DEFINITIONS

As used herein, the following expressions have the following meanings unless the context otherwise requires:

*[in the case of bearer Notes, the following applies:*

**voting certificate** means an [English] [or] [●] language certificate issued by the Paying Agent and dated in which it is stated that the bearer of the voting certificate is entitled to attend and vote at the meeting and any adjourned meeting in respect of the Notes represented by the certificate;

**block voting instruction** means an [English] [or] [●] language document issued by the Paying Agent and dated which:

- (a) relates to a specified nominal amount of Notes and a meeting (or adjourned meeting) of the holders of the series of which those Notes form part;
- (b) states that the Paying Agent has been instructed (either by the holders of the Notes or by a relevant clearing system) to attend the meeting and procure that the votes attributable to the Notes are cast at the meeting in accordance with the instructions given;
- (c) identifies with regard to each resolution to be proposed at the meeting the nominal amount of Notes in respect of which instructions have been given that the votes attributable to them should be cast in favour of the resolution and the nominal amount of Notes in respect of which instructions have been given that the votes attributable to them should be cast against the resolution; and
- (d) states that one or more named persons (each a proxy) is or are authorised and instructed by the Paying Agent to cast the votes attributable to the Notes identified in accordance with the instructions referred to in (c) as set out in the block voting instruction;

**a relevant clearing system** means, in respect of any Notes represented by a Global Note, any clearing system on behalf of which the Global Note is held or which is the bearer of the Global Note, in either case whether alone or jointly with any other clearing system(s);]

**24 hours** means a period of 24 hours including all or part of a day on which banks are open for business both in the place where the meeting is to be held and in the place where the *[in the case of bearer Notes, the following applies: Paying Agent] [and][or] [in the case of registered Notes, the following applies: Registrar and Transfer Agent]* has its specified office (disregarding for this purpose the day on which the meeting is to be held); and

**48 hours** means a period of 48 hours including all or part of two days on which banks are open for business both in the place where the meeting is to be held and in the place where the *[in the case of bearer Notes, the following applies: Paying Agent] [and][or] [in the case of registered Notes, the following applies: Registrar and Transfer Agent]* has its specified office (disregarding for this purpose the day on which the meeting is to be held).

References in this section to the Notes are to the series of [*in the case of bearer Notes, the following applies: bearer*] [and][or] [*in the case of registered Notes, the following applies: registered*] Notes in respect of which the meeting is, or is proposed to be, convened. References in this section to the Notes are to the series of [*in the case of bearer Notes, the following applies: bearer*] [or] [*in the case of registered Notes, the following applies: registered*] Notes [, or to the series of bearer Notes and series the registered Notes collectively] in respect of which the meeting is, or is proposed to be, convened and references to the Noteholders shall be construed accordingly.

For the purposes of calculating a period of clear days, no account shall be taken of the day on which a period commences or the day on which a period ends.

## **2. EVIDENCE OF ENTITLEMENT TO ATTEND AND VOTE**

### **2.1** The following persons (each an **Eligible Person**) are entitled to attend and vote at a meeting of the holders of Notes:

*[in the case of bearer Notes, the following applies:*

- (a) a holder of any Notes in definitive bearer form;
- (b) a bearer of any voting certificate in respect of the Notes;
- (c) a proxy specified in any block voting instruction.]

*[in the case of registered Notes, the following applies:*

- [(a)][(d)] a holder of a registered Note; and
- [(b)][(e)] a proxy appointed by a holder of a registered Note.]

*[In the case of bearer Notes, the following applies:* A Noteholder may require the issue by the Paying Agent of voting certificates and block voting instructions in accordance with the terms of subclauses 2.2 to 2.5.

For the purposes of subclauses 2.2 and 2.5, the Paying Agent shall be entitled to rely, without further enquiry, on any information or instructions received from a relevant clearing system and shall have no liability to any Noteholder or other person for any loss, damage, cost, claim or other liability caused by its reliance on those instructions, nor for any failure by a relevant clearing system to deliver information or instructions to the Paying Agent.

The holder of any voting certificate or the proxies named in any block voting instruction shall for all purposes in connection with the meeting or adjourned meeting be deemed to be the holder of the Notes to which the voting certificate or block voting instruction relates and the Paying Agent with which the Notes have been deposited or the person holding the Notes to the order or under the control of any Paying Agent shall be deemed for those purposes not to be the holder of those Notes.

### **2.2 Definitive bearer Notes – voting certificate**

A holder of a Note in definitive form may obtain a voting certificate in respect of that Note from the Paying Agent (unless the Note is the subject of a block voting instruction which has been issued and is outstanding in respect of the meeting specified in the voting certificate or any adjourned meeting) subject to the holder procuring that the Note is deposited with the Paying Agent or (to the satisfaction of the Paying Agent) is held to its order or under its control or blocked in an account with a relevant clearing system upon terms that the Note will not cease to be deposited or held or blocked until the first to occur of:

- (a) the conclusion of the meeting specified in the voting certificate or, if later, of any adjourned meeting; and
- (b) the surrender of the voting certificate to the Paying Agent who issued it.

### **2.3 Global Notes – voting certificate**

A holder of a Note (not being a Note in respect of which instructions have been given to the Paying Agent in accordance with subclause 2.5) represented by a Global Note may procure the delivery of a voting certificate in respect of that Note by giving notice to the relevant clearing system specifying by name a person (an **Identified Person**) (which need not be the holder himself) to collect the voting certificate and attend and vote at the meeting. The voting certificate will be made available at or shortly before the start of the meeting by the Paying Agent against presentation by the Identified Person of the form of identification previously notified by the holder to the relevant clearing system. The relevant clearing system may prescribe forms of identification (including, without limitation, passports) which it considers appropriate for these purposes. Subject to receipt by the Paying Agent from the relevant clearing system, no later than 48 hours before the time for which the meeting is convened, of notification of the nominal amount of the Notes to be represented by any voting certificate and the form of identification against presentation of which the voting certificate should be released, the Paying Agent shall, without any obligation to make further enquiry, make available voting certificates against presentation of forms of identification corresponding to those notified.

### **2.4 Definitive bearer Notes – block voting instruction**

A holder of a Note in definitive form may require the Paying Agent to issue a block voting instruction in respect of that Note (unless the Note is the subject of a voting certificate which has been issued and is outstanding in respect of the meeting specified in the block voting instruction or any adjourned meeting) by depositing the Note with the Paying Agent or (to the satisfaction of the Paying Agent) by:

- (a) procuring that, not less than 48 hours before the time fixed for the meeting, the Note is held to the Paying Agent's order or under its control or is blocked in an account with a relevant clearing system, in each case on terms that the Note will not cease to be so deposited or held or blocked until the first to occur of:
  - (i) the conclusion of the meeting specified in the block voting instruction or, if later, of any adjourned meeting; and
  - (ii) the surrender to the Paying Agent, not less than 48 hours before the time for which the meeting or any adjourned meeting is convened, of the receipt issued by the Paying Agent in respect of each deposited Note which is to be released or (as the case may require) the Note ceasing with the agreement of the Paying Agent to be held to its order or under its control or to be blocked and the giving of notice by the Paying Agent to the Issuer in accordance with subclause 2.5 of the necessary amendment to the block voting instruction; and
- (b) instructing the Paying Agent that the vote(s) attributable to each Note so deposited or held or blocked should be cast in a particular way in relation to the resolution or resolutions to be put to the meeting or any adjourned meeting and that the instruction is, during the period commencing 48 hours before the time for which the meeting or any adjourned meeting is convened and ending at the conclusion or adjournment of the meeting, neither revocable nor capable of amendment.

### **2.5 Global Notes - block voting instruction**

- (a) A holder of a Note (not being a Note in respect of which a voting certificate has been issued) represented by a Global Note may require the Paying Agent to issue a block voting instruction in respect of the Note by first instructing the relevant clearing system to procure that the votes

attributable to the holder's Note should be cast at the meeting in a particular way in relation to the resolution or resolutions to be put to the meeting. Any such instruction shall be given in accordance with the rules of the relevant clearing system then in effect. Subject to receipt by the Paying Agent, no later than 48 hours before the time for which the meeting is convened, of (i) instructions from the relevant clearing system, (ii) notification of the nominal amount of the Notes in respect of which instructions have been given and (iii) the manner in which the votes attributable to the Notes should be cast, the Paying Agent shall, without any obligation to make further enquiry, attend the meeting and cast votes in accordance with those instructions.

- (b) Each block voting instruction shall be deposited by the relevant Paying Agent at the place specified by the Paying Agent for the purpose not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the proxies named in the block voting instruction propose to vote, and in default the block voting instruction shall not be treated as valid unless the chairman of the meeting decides otherwise before the meeting or adjourned meeting proceeds to business. A certified copy of each block voting instruction shall (if so requested by the Issuer) be deposited with the Issuer before the start of the meeting or adjourned meeting but the Issuer shall not as a result be obliged to investigate or be concerned with the validity of or the authority of the proxies named in the block voting instruction.
- (c) Any vote given in accordance with the terms of a block voting instruction shall be valid notwithstanding the previous revocation or amendment of the block voting instruction or of any of the instructions of the relevant Noteholder or the relevant clearing system (as the case may be) pursuant to which it was executed provided that no indication in writing of any revocation or amendment has been received from the relevant Paying Agent by the Issuer at its registered office by the time being 24 hours before the time appointed for holding the meeting or adjourned meeting at which the block voting instruction is to be used.]

*[in the case of registered Notes, the following applies:*

[

**[2.2][2.6]** Registered Notes - appointment of proxy

- (a) A holder of Notes may, by an instrument in writing in the [English] [or] [●] language (a form of proxy) signed by the holder or, in the case of a corporation, executed under its common seal or signed on its behalf by an attorney or a duly authorised officer of the corporation and delivered to the specified office of the Registrar and Transfer Agent not less than 48 hours before the time fixed for the relevant meeting, appoint any person (a proxy) to act on his or its behalf in connection with any meeting.
- (b) Any proxy appointed pursuant to subclause (a) above shall so long as such appointment remains in force be deemed, for all purposes in connection with the relevant meeting, to be the holder of the Notes to which such appointment relates and the holders of the Notes shall be deemed for such purposes not to be the holder.
- (c) Each form of proxy shall be deposited by the Registrar and Transfer Agent with the Issuer at its registered office not less than 24 hours before the time appointed for holding the meeting at which the proxy or proxies named in the form of proxy proposes to vote, and in default form of proxy shall not be treated as valid unless the chairman of the meeting decides otherwise before such meeting proceeds to business. A copy of each form of proxy shall be deposited with the Issuer before the commencement of the meeting but the Issuer shall not thereby be obliged to investigate or be concerned with the validity of or the authority of the proxy or proxies named in any such form of proxy.

- (d) Any vote given in accordance with the terms of a form of proxy shall be valid notwithstanding the previous revocation or amendment of the form of proxy provided that no indication in writing of such revocation or amendment has been received from the holder thereof by the Issuer at its registered office by the time being 48 hours before the time appointed for holding the meeting at which the form of proxy is to be used.]

[●]

### 3. CONVENING OF MEETINGS, QUORUM, ADJOURNED MEETINGS

- 3.1 The Issuer may at any time and, if required in writing by Noteholders holding not less than [51.01][●] per cent. in nominal amount of the Notes for the time being outstanding, shall convene a meeting of the Noteholders and if the Issuer fails for a period of seven days to convene the meeting, the meeting may be convened by the relevant Noteholders. Whenever the Issuer is about to convene any meeting it shall immediately give notice in writing to the [*in the case of bearer Notes, the following applies: Paying Agent*] [and][or] [*in the case of registered Notes, the following applies: Registrar and Transfer Agent*] of the day, time and place of the meeting and of the nature of the business to be transacted at the meeting.
- 3.2 At least [21][●] clear days' notice specifying the place, day and hour of the meeting shall be given to the Noteholders in the manner provided in the relevant terms and conditions of the Notes. The notice, which shall be in the [English] [or] [●] language, shall state generally the nature of the business to be transacted at the meeting and shall either (i) include statements as to the manner in which holders may, if applicable, appoint proxies or representatives [*in the case of bearer Notes, the following applies: and arrange for voting certificates or block voting instructions to be issued*], or (ii) inform Noteholders that details of the voting arrangements are available free of charge from the [*in the case of bearer Notes, the following applies: Paying Agent*] [and][or] [*in the case of registered Notes, the following applies: Registrar and Transfer Agent*], provided that, in the case of (ii) the final form of such details are so available with effect on and from the date on which the notice convening such meeting is given as aforesaid. A copy of the notice shall be sent by post to the Issuer (unless the meeting is convened by the Issuer).
- 3.3 The person (who may but need not be a Noteholder) nominated in writing by the Issuer shall be entitled to take the chair at each meeting but if no nomination is made or if at any meeting the person nominated is not present within 15 minutes after the time appointed for holding the meeting the Noteholders present shall choose one of their number to be chairman failing which the Issuer may appoint a chairman. The chairman of an adjourned meeting need not be the same person as was chairman of the meeting from which the adjournment took place.
- 3.4 At any meeting one or more Eligible Persons present and holding or representing in the aggregate not less than [51][●] per cent. in nominal amount of the Notes for the time being outstanding shall form a quorum for the transaction of business and no business (other than the choosing of a chairman) shall be transacted at any meeting unless the required quorum is present at the commencement of business.
- 3.5 If within [15][●] minutes (or such longer period not exceeding 30 minutes as the chairman may decide) after the time appointed for any meeting a quorum is not present for the transaction of any particular business, then, subject and without prejudice to the transaction of the business (if any) for which a quorum is present, the meeting shall if convened by Noteholders be dissolved. In any other case it shall be adjourned to the same day in the next week (or if that day is a public holiday the next following business day) at the same time and place.
- 3.6 At any adjourned meeting one or more Eligible Persons present (whatever the nominal amount of the Notes so held or represented by them) shall form a quorum and shall have power to pass any resolution or any other resolution and to decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had the required quorum been present.

- [3.7.] [The provisions set out in this "Noteholder Meeting Provisions" shall apply mutatis mutandis (as applicable) to the Guarantee of the Guarantor (or its Successor Guarantor(s) as applicable) as set out in the relevant Final Terms [but solely in regard to the Notes issued with the Conditions titled ["Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes"] [or] ["Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II"] [or] ["Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes"] [or] ["Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II"] [or] ["Option X – Terms and Conditions of the Contingent Capital Fixed Rate Bearer Notes"] [or] ["Option XI – Terms and Conditions of the Contingent Capital Fixed Rate Registered Notes"].[●]]

#### 4. CONDUCT OF BUSINESS AT MEETINGS

- 4.1 Every question submitted to a meeting shall be decided by a poll. In the case of an equality of votes for any resolution which does not require any particular quorum, the resolution shall be deemed to be rejected.
- 4.2 The chairman may, with the consent of any meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting except business which might lawfully (but for lack of required quorum) have been transacted at the meeting from which the adjournment took place.
- 4.3 Any poll on the election of a chairman or on any question of adjournment shall be taken at the meeting without adjournment.
- 4.4 Any director or officer of the Issuer and its lawyers and financial advisers may attend and speak at any meeting. Subject to this, no person shall be entitled to attend and speak nor shall any person be entitled to vote at any meeting of the Noteholders or join with others in requiring the convening of a meeting unless he is an Eligible Person. No person shall be entitled to vote at any meeting in respect of Notes held by, for the benefit of, or on behalf of the Issuer. Nothing contained in this subclause shall prevent any of the proxies named in any block voting instruction from being a director, officer or representative of or otherwise connected with the Issuer.
- 4.5 Subject as provided in subclause 4.4 above, at any meeting, every Eligible Person present shall have one vote in respect of one Note.

*[In the case of bearer Notes, the following applies:* Without prejudice to the obligations of the proxies named in any block voting instruction,] [A][a]ny person entitled to cast more than one vote need not use all his votes or cast all the votes to which he is entitled in the same way.

*[In the case of bearer Notes, the following applies:*

- 4.6 The proxies named in any block voting instruction need not be Noteholders.]

- [4.6][4.7] A meeting of the Noteholders shall have powers specified in the terms and conditions of the relevant Notes. All powers shall be exercisable by a meeting of the Noteholders by a resolution adopted by a simple majority of the votes cast (subject to the provisions relating to quorum contained in subclauses 3.4 and 3.6). Notwithstanding any provision to the contrary in this section or the terms and conditions of the Notes, no modification may be made to the terms and conditions of the Notes without the prior written consent of entities acting as account banks in connection with the Notes *[in the case of bearer Notes, the following applies:* and/or paying agents and securities custodians if such modification would have an effect to lower the rank of such entities in the order of payment of costs set out in the terms and conditions of the Notes].

- [4.7][4.8] Any resolution passed at a meeting of the Noteholders duly convened and held in accordance with these provisions shall be binding upon all the Noteholders whether present or not present at the meeting and whether or not voting and each of them shall be bound to give effect to the resolution

accordingly and the passing of any resolution shall be conclusive evidence that the circumstances justify its passing. Notice of the result of voting on any resolution duly considered by the Noteholders shall be published in accordance with the terms and conditions of the Notes by the Issuer within 14 days of the result being known provided that non-publication shall not invalidate the resolution.

**[4.8][4.9]** Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be from time to time provided for that purpose by the Issuer and any minutes signed by the chairman of the meeting at which any resolution was passed or proceedings had shall be conclusive evidence of the matters contained in them and, until the contrary is proved, every meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed or proceedings had at the meeting to have been duly passed or had.

If and whenever the Issuer has issued and has outstanding Notes of more than one series the previous provisions of this section shall have effect subject to the following changes:

- a resolution which affects the Notes of only one series shall be deemed to have been duly passed if passed at a separate meeting of the holders of the Notes of that series;
- a resolution which affects the Notes of more than one series but does not give rise to a conflict of interest between the holders of Notes of any of the series so affected shall be deemed to have been duly passed if passed at a single meeting of the holders of the Notes of all the series so affected;
- a resolution which affects the Notes of more than one series and gives or may give rise to a conflict of interest between the holders of the Notes of one series or group of series so affected and the holders of the Notes of another series or group of series so affected shall be deemed to have been duly passed only if it is duly passed at separate meetings of the holders of the Notes of each series or group of series so affected; and
- to all such meetings all the preceding provisions of this section shall *mutatis mutandis* apply as though references therein to Notes, Noteholders and holders were references to the Notes of the series or group of series in question or to the holders of such Notes, as the case may be.]

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**GUARANTEES OF TIMBERLAND SECURITIES INVESTMENT PLC**

**GUARANTEE**

<p align="center"><b>GUARANTEE</b></p> <p align="center">of</p> <p align="center"><b>Timberland Securities Investment plc, St. Julian's, Malta,</b></p> <p>for the benefit of the holders of notes to be issued by E-Stream Energy GmbH &amp; Co KG on the legal grounds of a base prospectus dated [●] 2019 (the <b>Base Prospectus</b>)</p> <p>and solely based on the terms and conditions either titled</p> <p>"Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes issued in Dematerialised Form" (the <b>Notes</b>)</p>	<p align="center"><b>GARANTIE</b></p> <p align="center">der</p> <p align="center"><b>Timberland Securities Investment plc, St. Julian's, Malta,</b></p> <p>zu Gunsten der Inhaber von Schuldverschreibungen die durch die E-Stream Energy GmbH &amp; Co KG auf Basis eines Basisprospekt datierend auf den [●] 2019 (der <b>Basisprospekt</b>)</p> <p>und ausschließlich basierend auf den Endgültigen Bedingungen die bezeichnet sind entweder mit</p> <p>"Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" oder "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" oder "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" oder "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes issued in Dematerialised Form" (die <b>Schuldverschreibungen</b>) auszugeben sein werden</p>
<p><b>WHEREAS:</b></p>	<p><b>WOBEI:</b></p>
<p>(A) E-Stream Energy GmbH &amp; Co KG (<b>E-Stream Energy</b>) intends to issue Notes under the Base Prospectus from time to time.</p>	<p>(A) Die E-Stream Energy GmbH &amp; Co KG (<b>E-Stream Energy</b>) beabsichtigt, von Zeit zu Zeit Schuldverschreibungen auf Grundlage des Basisprospektes zu begeben.</p>
<p>(B) The Notes will be issued with Terms and Conditions (either titled "Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes Issued in Dematerialised Form") (as amended, supplemented or modified by the applicable Final Terms, the <b>Conditions</b>).</p>	<p>(B) Die Schuldverschreibungen werden zu Bedingungen (entweder mit dem Titel "Option II – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen nach deutschem Recht" oder "Option VI – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen" oder "Option VIII – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen" oder "Option XIII – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form ausgegebenen</p>

		Namenschuldverschreibungen") (in der jeweils gültigen Fassung, ergänzt oder geändert durch die geltenden Endgültigen Bedingungen, die <b>Bedingungen</b> ) ausgegeben.
(C) Timberland Securities Investment plc (the <b>Guarantor</b> ) wishes to guarantee the due payment of principal and interest and any other amounts payable in respect of Notes that may be issued by E-Stream Energy under the Base Prospectus (but solely Notes issued with the Conditions titled "Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes Issued in Dematerialised Form" and in an amount as set out in the relevant Final Terms).	(C) Timberland Securities Investment plc (der <b>Garantiegeber</b> ) möchte die ordnungsgemäße Zahlung von Kapital und Zinsen sowie alle anderen Beträge, die für Schuldverschreibungen zu zahlen sind, die von E-Stream Energy unter dem Basisprospekt ausgegeben werden können (aber ausschließlich Schuldverschreibungen, die mit den Bedingungen "Option II – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen nach deutschem Recht" oder "Option VI – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen" oder "Option VIII – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen" oder "Option XIII – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form begebenen Namensschuldverschreibungen" und in einer in den jeweiligen Endgültigen Bedingungen festgelegten Höhe begeben wurden).	
(D) In case the relevant Conditions set out (i) a Guarantor Substitution clause and (ii) such Substitution clause is declared in connection with one or more series of Notes and (iii) one or more Substitute Guarantor(s) declare(s) to accept such substitution and to enter into the obligations of the previous Guarantor subject to this Guarantee and as set out in the relevant Conditions, the Guarantors obligations in regard to the relevant Note or Notes in connection with this Guarantee is passed over completely to the successor Guarantor(s) in regard to the relevant Note or Notes ( <b>Substitution</b> ).	(D) Für den Fall, dass die relevanten Bedingungen, die (i) eine Garantieklausel und (ii) eine solche Ersatzklausel im Zusammenhang mit einer oder mehreren Serien von Schuldverschreibungen und (iii) ein oder mehrere Ersatzgaranten enthalten, erklären, dass sie diese Substitution akzeptieren und die Verpflichtungen des früheren Garantiegebers eingehen, die dieser Garantie unterliegen und in den entsprechenden Bedingungen festgelegt sind, die Verpflichtungen des Garantiegebers in Bezug auf die betreffende(n) Schuldverschreibung(en) im Zusammenhang mit dieser Garantie vollständig auf den/die Nachfolger des/der Garantiegeber(s) in Bezug auf die betreffende(n) Schuldverschreibung(en) übertragen werden ( <b>Substitution</b> ).	
In such case of Substitution Timberland Securities Investment plc will not guarantee the obligations of the Substitute		In diesem Fall garantiert Timberland Securities Investment plc nicht die Verpflichtungen des/der stellvertretenden

<p>Guarantor(s) under the Notes after the substitution(s). The Noteholders, by subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Guarantor effected in accordance with the Conditions and to the release of the Guarantor from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof. In such case of Substitution Timberland Securities Investment plc has no further obligations for payment of principal and interest and any other amounts payable in respect of the relevant Note or Notes that have been, will be or may be issued by E-Stream Energy under the Base Prospectus (as amended, supplemented or modified) and Timberland Securities Investment plc is indemnified against such obligations and liabilities (<b>Indemnification</b>).</p>	<p>Garantiegebers aus den Schuldverschreibungen nach der/den Ersetzung(en). Es wird davon ausgegangen, dass die Anleihegläubiger durch die Zeichnung oder den sonstigen Erwerb der Schuldverschreibungen (i) einer gemäß den Bedingungen vorgenommenen Ersetzung(en) des Garantiegebers und der Befreiung des Garantiegebers von allen Verpflichtungen in Bezug auf die betreffenden Schuldverschreibungen und diese Präsentationen zugestimmt haben und (ii) diese Ersetzung(en) und die Folgen derselben akzeptiert haben. In diesem Fall hat die Timberland Securities Investment plc keine weiteren Verpflichtungen zur Zahlung von Kapital und Zinsen und alle anderen Beträge, die in Bezug auf die betreffende(n) Schuldverschreibung(en) zu zahlen sind, die von der E-Stream Energy im Rahmen des Basisprospekts (in der erweiterten, ergänzten oder geänderten Fassung) ausgegeben wurden, werden oder werden können, und die Timberland Securities Investment plc wird von diesen Verpflichtungen und Verbindlichkeiten freigestellt (<b>Freistellung</b>).</p>
<p>In such case the indemnification is effective for and against any and all existing and future Noteholder. The obligations for payment of any principal and any interest and any other amounts payable in respect of Notes that have been, will be or may be issued by E-Stream Energy under the Base Prospectus (but solely Notes issued with the Conditions titled "Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes Issued in Dematerialised Form") are in such case(s) solely to be performed by the Substitute Guarantor(s).</p>	<p>In diesem Fall gilt die Freistellung für und gegen alle bestehenden und zukünftigen Anleihegläubiger. Die Verpflichtungen zur Zahlung von Kapital und Zinsen sowie alle anderen Beträge, die in Bezug auf die Schuldverschreibungen zu zahlen sind, wird oder kann durch E-Stream Energy unter dem Basisprospekt (aber ausschließlich Schuldverschreibungen, die mit den Bedingungen "Option II – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen nach deutschem Recht" oder "Option VI – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen" oder "Option VIII – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen" oder "Option XIII – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form begebenen Namensschuldverschreibungen") ausgegeben wurden, sind in diesem Fall ausschließlich durch den/die Ersatz-Garanten zu erfüllen.</p>

IT IS AGREED AS FOLLOWS:	WIRD WIE FOLGT VEREINBART:
<p>(1) Subject to paragraph (2) hereunder, the Guarantor unconditionally and irrevocably guarantees to the holder of each Note (which expression shall include any Temporary Global Note or Permanent Global Note representing Notes) (each a <b>Noteholder</b>) issued by E-Stream Energy now or at any time hereafter under the Base Prospectus, the due and punctual payment of the principal of, and interest on, the Notes and any other amounts which may be expressed to be payable under any Note, as and when the same shall become due, in accordance with the Conditions but only up to an amount as specified in the relevant Final Terms and in accordance and subject to point (D) in regard to Substitution and Indemnification.</p>	<p>(1) Vorbehaltlich des Absatzes (2) garantiert der Garantiegeber dem Inhaber jeder Schuldverschreibung vorbehaltlos und unwiderruflich (wobei der Ausdruck jede vorübergehende Globalurkunde oder permanente Globalurkunde, die Schuldverschreibungen darstellt, enthalten muss) (jeder ein <b>Anleihegläubiger</b>), die von der E-Stream Energy jetzt oder jederzeit danach im Rahmen des Basisprospekts ausgegeben werden, die fällige und rechtzeitige Zahlung des Kapitals und der Zinsen der Schuldverschreibungen und aller anderen Beträge, die ausgedrückt werden können, um unter einer Schuldverschreibung zahlbar zu sein, als und wann diese fällig werden, in Übereinstimmung mit den Bedingungen, jedoch nur bis zu einem Betrag, der in den jeweiligen Endgültigen Bedingungen und in Übereinstimmung mit und vorbehaltlich von Punkt (D) in Bezug auf die Ersetzung und Entschädigung angegeben ist.</p>
<p>(2) This Guarantee is given in respect of Notes which are or will be issued by E-Stream Energy under the Base Prospectus but only for Notes issued with the Conditions titled either "Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes Issued in Dematerialised Form" on or after the date hereof and in accordance and subject to point (D) in regard to Substitution and Indemnification.</p>	<p>(2) Diese Garantie wird für Schuldverschreibungen übernommen, die von E-Stream Energy im Rahmen des Basisprospektes ausgestellt sind oder werden, jedoch nur für Schuldverschreibungen, die mit den Bedingungen "Option II – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen nach deutschem Recht" oder "Option VI – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen" oder "Option VIII – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen" oder "Option XIII – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form ausgegebenen Namensschuldverschreibungen" am oder nach dem Datum dieses Dokuments und in Übereinstimmung mit Punkt (D) hinsichtlich der Ersetzung und Freistellung ausgegeben werden.</p>
<p>(3) This Guarantee constitutes an irrevocable, unsecured and unsubordinated obligation of the Guarantor and ranks pari passu with all other present or future unsecured and</p>	<p>(3) Diese Garantie stellt eine unwiderrufliche, ungesicherte und nicht nachrangige Verpflichtung des Garantiegebers dar und steht</p>

<p>unsubordinated obligations of the Guarantor outstanding from time to time, subject to any obligations preferred by law.</p>	<p>gleichberechtigt neben allen anderen gegenwärtigen oder zukünftigen ungesicherten und nicht nachrangigen Verpflichtungen des Garantiegebers, die von Zeit zu Zeit ausstehen, vorbehaltlich der gesetzlich bevorzugten Verpflichtungen.</p>
<p>(4) All amounts payable in respect of this Guarantee shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of the Federal Republic of Germany or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Guarantor will pay such additional amounts (the <b>Additional Amounts</b>) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:</p>	<p>(4) Alle in Bezug auf diese Garantie zu zahlenden Beträge erfolgen ohne Abgeltung oder Abzug für oder aufgrund gegenwärtiger oder zukünftiger Steuern oder Abgaben jeglicher Art, die von oder im Namen der Bundesrepublik Deutschland oder einer politischen Unterabteilung oder einer Behörde davon erhoben oder erhoben werden oder die steuerlich befugt sind, es sei denn, ein solcher Abzugs- oder Abzug ist gesetzlich vorgeschrieben. In diesem Fall zahlt der Garantiegeber die zusätzlichen Beträge (die <b>zusätzlichen Beträge</b>), die erforderlich sind, damit die von den Anleihegläubigern nach einem solchen Einbehalt oder Abzug erhaltenen Nettobeträge den jeweiligen Beträgen entsprechen, die andernfalls ohne einen solchen Einbehalt oder Abzug fällig gewesen wären; mit der Ausnahme, dass diese zusätzlichen Beträge nicht aufgrund von Steuern oder Abgaben zu zahlen sind:</p>
<p>(a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by E-Stream Energy from payments of principal or interest made by it; or</p>	<p>(a) von einer Person, die als Depotbank oder Inkassostelle im Namen eines Anleihegläubigers handelt, oder anderweitig in einer Weise zu zahlen sind, die keinen Abzug oder Einbehalt von Kapital- oder Zinszahlungen durch E-Stream Energy darstellt; oder</p>
<p>(b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Germany and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Germany; or</p>	<p>(b) zahlbar sind, weil der Anleihegläubiger eine persönliche oder geschäftliche Verbindung mit Deutschland hat oder hatte und nicht nur deshalb, weil die Zahlungen in Bezug auf die Schuldverschreibungen aus Quellen in Deutschland stammen oder für Steuerzwecke als solche gelten; oder</p>
<p>(c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding</p>	<p>(c) gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union über die Besteuerung von Zinserträgen oder (ii) einem internationalen Vertrag oder einer</p>

<p>relating to such taxation and to which Germany or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or</p>	<p>Vereinbarung, die sich auf diese Besteuerung bezieht und an der Deutschland oder die Europäische Union beteiligt ist, oder (iii) einer Bestimmung des Gesetzes zur Umsetzung oder Einhaltung oder Einführung einer solchen Richtlinie, einer solchen Verordnung, eines solchen Vertrages oder einer solchen Vereinbarung abgezogen oder zurückgehalten werden; oder</p>
<p>(d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or</p>	<p>(d) mehr als 30 Kalendertage nach dem Stichtag zur Zahlung aufgelegt werden, es sei denn, ein Anleihegläubiger hätte Anspruch auf zusätzliche Beträge gehabt, wenn er diese am letzten Kalendertag des Zeitraums von 30 Kalendertagen zur Zahlung vorgelegt hätte, wobei davon ausgegangen wurde, dass dieser Tag ein Zahlungsgeschäftstag war; oder</p>
<p>(e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or</p>	<p>(e) in Bezug auf eine von oder im Namen eines Anleihegläubigers zur Zahlung vorgelegte Schuldverschreibung einbehalten oder abgezogen werden, der einen solchen Einbehalt oder Abzug hätte vermeiden können, indem er die betreffende Schuldverschreibung einer anderen Zahlstelle in einem Mitgliedstaat der Europäischen Union vorgelegt hätte; oder</p>
<p>(f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or</p>	<p>(f) von einer Zahlstelle von einer Zahlung abgezogen oder einbehalten werden, wenn die Zahlung von einer anderen Zahlstelle ohne diesen Abzug oder Einbehalt hätte geleistet werden können; oder</p>
<p>(g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or</p>	<p>(g) nicht zahlbar wäre, wenn die Schuldverschreibung bei einem Bankinstitut verwahrt und die Zahlungen von diesem eingezogen worden wären; oder</p>
<p>(h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with</p>	<p>(h) aufgrund einer Gesetzes- oder Praxisänderung zahlbar sind, die mehr als 30 Kalendertage nach Fälligkeit der betreffenden Kapital- oder Zinszahlung wirksam wird, oder ordnungsgemäß vorgesehen ist und deren Bekanntmachung in</p>

<p>applicable provisions of the Conditions, whichever occurs later.</p>	<p>Übereinstimmung mit den geltenden Bestimmungen der Bedingungen veröffentlicht wird, je nachdem, was später eintritt.</p>
<p>(5) The obligations of the Guarantor under this Guarantee (i) shall be separate and independent from the obligations of E-Stream Energy under the Notes, (ii) shall exist irrespective of the legality, validity and binding effect or enforceability of the Notes, and (iii) shall not be affected by any event, condition or circumstance of whatever nature, whether factual or legal, save the full, definitive and irrevocable satisfaction of any and all payment obligations expressed to be assumed under the Notes.</p>	<p>(5) Die Verpflichtungen des Garantiegebers aus dieser Garantie (i) sind getrennt und unabhängig von den Verpflichtungen von E-Stream Energy aus den Schuldverschreibungen, (ii) bestehen unabhängig von der Rechtmäßigkeit, Gültigkeit und Verbindlichkeit oder Durchsetzbarkeit der Schuldverschreibungen und (iii) sind von Ereignissen, Bedingungen oder Umständen jeglicher Art, ob sachlicher oder rechtlicher Art, nicht betroffen, es sei denn, es handelt sich um die vollständige, endgültige und unwiderrufliche Erfüllung aller in den Schuldverschreibungen zum Ausdruck kommenden Zahlungsverpflichtungen.</p>
<p>(6) The obligations of the Guarantor under this Guarantee shall, without any further act or thing being required to be done or to occur, extend to the obligations of any substitute debtor which is not the/a Guarantor arising in respect of any Note by virtue of a substitution pursuant to the Conditions (if any).</p>	<p>(6) Die Verpflichtungen des Garantiegebers aus dieser Garantie erstrecken sich, ohne dass weitere Handlungen oder Vorkommnisse erforderlich sind, auf die Verpflichtungen eines Ersatzschuldners, der nicht der/ein Garantiegeber ist, die sich aus einer Schuldverschreibung aufgrund einer Ersetzung gemäß den Bedingungen (falls vorhanden) ergeben.</p>
<p>(7) This Guarantee and all undertakings contained herein constitute a contract for the benefit of the Noteholders from time to time as third-party beneficiaries pursuant to section 328 paragraph 1 German Civil Code (<i>Bürgerliches Gesetzbuch</i>)<sup>5</sup>. They give rise to the right of each such Noteholder to require performance of the obligations undertaken herein directly from the Guarantor, and to enforce such obligations directly against the Guarantor. Any Noteholder has the right in case of non-performance of any payments on the Notes to enforce the Guarantee by filing a suit directly against the Guarantor without the need to take prior proceedings against E-Stream Energy.</p>	<p>(7) Diese Garantie und alle darin enthaltenen Verpflichtungen stellen von Zeit zu Zeit einen Vertrag zugunsten der Anleihegläubiger als Drittbegünstigte gemäß § 328 Abs. 1 BGB dar. Sie begründen das Recht jedes solchen Anleihegläubigers, die Erfüllung der hierin direkt vom Garantiegeber übernommenen Verpflichtungen zu verlangen und diese Verpflichtungen direkt gegenüber dem Garantiegeber durchzusetzen. Jeder Anleihegläubiger hat das Recht, im Falle der Nichterfüllung von Zahlungen auf die Schuldverschreibungen die Garantie durchzusetzen, indem er eine Klage direkt gegen den Garantiegeber einreicht, ohne dass zuvor ein Verfahren gegen E-Stream Energy eingeleitet werden muss.</p>

<p>(8) [Timberland Invest Ltd.] [●] which accepted this Guarantee, in its capacity as Fiscal Agent does not act in a relationship of agency or trust, a fiduciary or in any other similar capacity for the Noteholders. [Timberland Invest Ltd.] [●] serves the right, to substitute itself in regard to its Fiscal Agent function and/or in regard to the acceptance of the Guarantee by one or more successor(s).</p>	<p>(8) [Timberland Invest Ltd.] [●] , die diese Garantie übernommen, d.h. in Empfang genommen, hat, handelt in ihrer Eigenschaft als steuerlicher Vertreter (Fiscal Agent) nicht in einem Beauftragungs- oder Treuhandverhältnis, einem Treuhänder oder in einer anderen ähnlichen Eigenschaft für die Anleihegläubiger. Die [Timberland Invest Ltd.] [●] hat das Recht, sich in Bezug auf ihre Funktion als steuerlicher Vertreter und/oder in Bezug auf die Übernahme der Garantie durch einen oder mehrere Nachfolger zu vertreten.</p>
<p>(9) Terms used in this Guarantee and not otherwise defined herein shall have the meaning attributed to them in the Conditions.</p>	<p>(9) Begriffe, die in dieser Garantie verwendet werden und nicht anders definiert sind, haben die ihnen in den Bedingungen zugewiesene Bedeutung.</p>
<p>(10) If Notes provide that the provisions regarding the amendment of the Conditions and the Noteholders' Representative apply to such Notes, such provisions shall be applicable mutatis mutandis also to this Guarantee.</p>	<p>(10) Wenn die Schuldverschreibungen vorsehen, dass die Bestimmungen über die Änderung der Bedingungen und des Vertreters der Anleihegläubiger für diese Schuldverschreibungen gelten, gelten diese Bestimmungen entsprechend auch für diese Garantie.</p>
<p>(11) This Guarantee shall be governed by, and construed in accordance with, German law.</p>	<p>(11) Diese Garantie unterliegt dem deutschen Recht und wird in Übereinstimmung mit diesem ausgelegt.</p>
<p>(12) This Guarantee is written in the English language and provided with an German language translation. The English text will be the only legally binding version. The German language translation is provided for convenience only.</p>	<p>(12) Diese Garantie ist in englischer Sprache abgefasst und mit einer Übersetzung in die deutsche Sprache versehen. Der englische Wortlaut ist allein rechtsverbindlich. Die deutsche Übersetzung dient nur zur Information.</p>
<p>(13) The original version of this Guarantee shall be delivered to, and kept by, [Timberland Invest Ltd.] [●]</p>	<p>(13) Die Originalversion dieser Garantie wird an die [Timberland Invest Ltd.] [●] geliefert und von dieser aufbewahrt.</p>
<p>(14) Exclusive place of jurisdiction for all legal proceedings arising out of or in connection with this Guarantee against the Guarantor shall be Duisburg.</p>	<p>(14) Ausschließlicher Gerichtsstand für alle Rechtsstreitigkeiten aus oder im Zusammenhang mit dieser Garantie gegen den Garantiegeber ist Duisburg.</p>
<p>(15) On the basis of a copy of this Guarantee certified as being a true copy by a duly authorised officer of [Timberland Invest Ltd.] [●] each Noteholder may protect and enforce in his own name his rights arising under this Guarantee in any legal proceedings against the Guarantor or to</p>	<p>(15) Auf der Grundlage einer Kopie dieser Garantie, die von einem ordnungsgemäß bevollmächtigten Vertreter der [Timberland Invest Ltd.] [●] als wahrheitsgetreue Kopie beglaubigt wurde, kann jeder Anleihegläubiger seine Rechte aus dieser Garantie in einem</p>



<p>which such Noteholder and the Guarantor are parties, without the need for production of this Guarantee in such proceedings.</p>	<p>Gerichtsverfahren gegen den Garantiegeber stützen und im eigenen Namen durchsetzen, ohne dass in diesem Verfahren diese Garantie vorgelegt werden muss.</p>
<p>[insert date]</p> <p><b>Timberland Securities Investment plc</b></p> <p>_____  [Mr Thomas Kraemer] [●]  acting on behalf of the Board of Directors</p> <p>_____  [Mr Dirk Koester] [●]  acting on behalf of the Board of Directors</p> <p>We, [Timberland Invest Ltd.] [●] , accept the terms of the above Guarantee without recourse, warranty or liability.</p> <p>[insert date]</p> <p><b>[Timberland Invest Ltd.] [●]</b></p> <p>_____  [Mr Thomas Kraemer] [●]  acting on behalf of the Board of Directors</p> <p>_____  [Mr Anthony Paris] [●]  acting on behalf of the Board of Directors</p>	<p>[insert date]</p> <p><b>Timberland Securities Investment plc</b></p> <p>_____  [Mr Thomas Kraemer] [●]  Handelnd im Namen des Vorstandes</p> <p>_____  [Herr Dirk Koester] [●]  Handelnd im Namen des Vorstandes</p> <p>Wir, [Timberland Invest Ltd.] [●] , akzeptieren die Bedingungen der obigen Garantie ohne Rückgriff, Garantie oder Haftung.</p> <p>[insert date]</p> <p><b>[Timberland Invest Ltd.] [●]</b></p> <p>_____  [Mr Thomas Kraemer] [●]  Handelnd im Namen der Geschäftsführung</p> <p>_____  [Mr Anthony Paris] [●]  Handelnd im Namen der Geschäftsführung</p>

## GUARANTEE II

<p><b>GUARANTEE II</b></p> <p>of</p> <p><b>Timberland Securities Investment plc, St. Julian's, Malta,</b></p> <p>for the benefit of the holders of notes to be issued by E-Stream Energy GmbH &amp; Co KG on the legal grounds of a base prospectus dated [●] 2019 (the <b>Base Prospectus</b>)</p> <p>and solely based on the terms and conditions either titled</p> <p>"Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form" (the <b>Notes</b>)</p>	<p><b>GARANTIE II</b></p> <p>der</p> <p><b>Timberland Securities Investment plc, St. Julian's, Malta,</b></p> <p>zu Gunsten der Inhaber von Schuldverschreibungen die durch die E-Stream Energy GmbH &amp; Co KG auf Basis eines Basisprospekt datierend auf den [●] 2019 (der <b>Basisprospekt</b>)</p> <p>und ausschließlich basierend auf den Endgültigen Bedingungen die bezeichnet sind entweder mit</p> <p>"Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" oder "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" oder "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" oder "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form" (die <b>Schuldverschreibungen</b>) auszugeben sein werden</p>
<b>WHEREAS:</b>	<b>WOBEI:</b>
(A) E-Stream Energy GmbH & Co KG ( <b>E-Stream Energy</b> ) intends to issue Notes under the Base Prospectus from time to time.	(A) Die E-Stream Energy GmbH & Co KG ( <b>E-Stream Energy</b> ) beabsichtigt, von Zeit zu Zeit Schuldverschreibungen auf Grundlage des Basisprospektes zu geben.
(B) The Notes will be issued with Terms and Conditions (either titled "Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form") (as amended, supplemented or modified by the applicable Final Terms, the <b>Conditions</b> ).	(B) Die Schuldverschreibungen II werden zu Bedingungen (entweder mit dem Titel "Option III – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II nach deutschem Recht" oder "Option VII – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II" oder "Option IX – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen II" oder "Option XIV – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form ausgegebenen Namensschuldverschreibungen II") (in der jeweils gültigen Fassung, ergänzt oder

	geändert durch die geltenden Endgültigen Bedingungen, die <b>Bedingungen</b> ) ausgegeben.
(C) Timberland Securities Investment plc (the <b>Guarantor</b> ) wishes to guarantee the due payment of principal and interest and any other amounts payable in respect of Notes that may be issued by E-Stream Energy under the Base Prospectus (but solely Notes issued with the Conditions titled "Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form" and in an amount as set out in the relevant Final Terms).	(C) Timberland Securities Investment plc (der <b>Garantiegeber</b> ) möchte die ordnungsgemäße Zahlung von Kapital und Zinsen sowie alle anderen Beträge, die für Schuldverschreibungen zu zahlen sind, die von E-Stream Energy unter dem Basisprospekt ausgegeben werden können (aber ausschließlich Schuldverschreibungen, die mit den Bedingungen "Option III – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II nach deutschem Recht" oder "Option VII – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II" oder "Option IX – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen II" oder "Option XIV – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form begebenen Namensschuldverschreibungen II" und in einer in den jeweiligen Endgültigen Bedingungen festgelegten Höhe begeben wurden).
(D) In case the relevant Conditions set out (i) a Guarantor Substitution clause and (ii) such Substitution clause is declared in connection with one or more series of Notes and (iii) one or more Substitute Guarantor(s) declare(s) to accept such substitution and to enter into the obligations of the previous Guarantor subject to this Guarantee II and as set out in the relevant Conditions, the Guarantors obligations in regard to the relevant Note or Notes in connection with this Guarantee II is passed over completely to the successor Guarantor(s) in regard to the relevant Note or Notes ( <b>Substitution</b> ).	(D) Für den Fall, dass die relevanten Bedingungen, die (i) eine Garantieklausel und (ii) eine solche Ersatzklausel im Zusammenhang mit einer oder mehreren Serien von Schuldverschreibungen und (iii) ein oder mehrere Ersatzgaranten enthalten, erklären, dass sie diese Substitution akzeptieren und die Verpflichtungen des früheren Garantiegebers eingehen, die dieser Garantie II unterliegen und in den entsprechenden Bedingungen festgelegt sind, die Verpflichtungen des Garantiegebers in Bezug auf die Schuldverschreibung(en) im Zusammenhang mit dieser Garantie II vollständig auf den/die Nachfolger des/der Garantiegeber(s) in Bezug auf die betreffende(n) Schuldverschreibung(en) übertragen werden ( <b>Substitution</b> ).
In such case of Substitution Timberland Securities Investment plc will not guarantee the obligations of the Substitute Guarantor(s) under the Notes after the substitution(s). The Noteholders, by	In diesem Fall garantiert Timberland Securities Investment plc nicht die Verpflichtungen des/der stellvertretenden Garantiegebers aus den Schuldverschreibungen nach der/den

<p>subscribing for, or otherwise acquiring, the Notes, are deemed to have (i) consented to any substitution(s) of the Guarantor effected in accordance with the Conditions and to the release of the Guarantor from any and all obligations in respect of the relevant Notes and these presents; and (ii) accepted such substitution(s) and the consequences thereof. In such case of Substitution Timberland Securities Investment plc has no further obligations for payment of principal and interest and any other amounts payable in respect of the relevant Note or Notes that have been, will be or may be issued by E-Stream Energy under the Base Prospectus (as amended, supplemented or modified) and Timberland Securities Investment plc is indemnified against such obligations and liabilities (<b>Indemnification</b>).</p>	<p>Ersetzung(en). Es wird davon ausgegangen, dass die Anleihegläubiger durch die Zeichnung oder den sonstigen Erwerb der Schuldverschreibungen (i) einer gemäß den Bedingungen vorgenommenen Ersetzung(en) des Garantiegebers und der Befreiung des Garantiegebers von allen Verpflichtungen in Bezug auf die betreffenden Schuldverschreibungen und diese Präsentationen zugestimmt haben und (ii) diese Ersetzung(en) und die Folgen derselben akzeptiert haben. In diesem Fall hat die Timberland Securities Investment plc keine weiteren Verpflichtungen zur Zahlung von Kapital und Zinsen und alle anderen Beträge, die in Bezug auf die betreffende(n) Schuldverschreibung(en) zu zahlen sind, die von der E-Stream Energy im Rahmen des Basisprospekts (in der erweiterten, ergänzten oder geänderten Fassung) ausgegeben wurden, werden oder werden können, und die Timberland Securities Investment plc wird von diesen Verpflichtungen und Verbindlichkeiten freigestellt (<b>Freistellung</b>).</p>
<p>In such case the indemnification is effective for and against any and all existing and future Noteholder. The obligations for payment of any principal and any interest and any other amounts payable in respect of Notes that have been, will be or may be issued by E-Stream Energy under the Base Prospectus (but solely Notes issued with the Conditions titled "Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form") are in such case(s) solely to be performed by the Substitue Guarantor(s).</p>	<p>In diesem Fall gilt die Freistellung für und gegen alle bestehenden und zukünftigen Anleihegläubiger. Die Verpflichtungen zur Zahlung von Kapital und Zinsen sowie alle anderen Beträge, die in Bezug auf die Schuldverschreibungen zu zahlen sind, wird oder kann durch E-Stream Energy unter dem Basisprospekt (aber ausschließlich Schuldverschreibungen, die mit den Bedingungen "Option III – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II nach deutschem Recht" oder "Option VII – Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II" oder "Option IX – Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen II" oder "Option XIV – Bedingungen der garantierten festverzinslichen, in dematerialisierter Form begebenen Namensschuldverschreibungen II") ausgegeben wurden, sind in diesem Fall ausschließlich durch den/die Ersatz-Garanten zu erfüllen.</p>
<p><b>IT IS AGREED AS FOLLOWS:</b></p>	<p><b>WIRD WIE FOLGT VEREINBART:</b></p>

<p>(1) Subject to paragraph (2) hereunder, the Guarantor unconditionally and irrevocably guarantees to the holder of each Note (which expression shall include any Temporary Global Note or Permanent Global Note representing Notes) (each a <b>Noteholder</b>) issued by E-Stream Energy now or at any time hereafter under the Base Prospectus, the due and punctual payment of the principal of, and interest on, the Notes and any other amounts which may be expressed to be payable under any Note, as and when the same shall become due, in accordance with the Conditions but only up to an amount as specified in the relevant Final Terms and in accordance and subject to point (D) in regard to Substitution and Indemnification.</p>	<p>(1) Vorbehaltlich des Absatzes (2) garantiert der Garantiegeber dem Inhaber jeder Schuldverschreibung vorbehaltlos und unwiderruflich (wobei der Ausdruck jede vorübergehende Globalurkunde oder permanente Globalurkunde, die Schuldverschreibungen darstellt, enthalten muss) (jeder ein <b>Anleihegläubiger</b>), die von der E-Stream Energy jetzt oder jederzeit danach im Rahmen des Basisprospekts ausgegeben werden, die fällige und rechtzeitige Zahlung des Kapitals und der Zinsen der Schuldverschreibungen und aller anderen Beträge, die ausgedrückt werden können, um unter einer Schuldverschreibung zahlbar zu sein, als und wann diese fällig werden, in Übereinstimmung mit den Bedingungen, jedoch nur bis zu einem Betrag, der in den jeweiligen Endgültigen Bedingungen und in Übereinstimmung mit und vorbehaltlich von Punkt (D) in Bezug auf die Ersetzung und Entschädigung angegeben ist.</p>
<p>(2) This Guarantee II is given in respect of Notes which are or will be issued by E-Stream Energy under the Base Prospectus but only for Notes issued with the Conditions titled either "Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form" on or after the date hereof and in accordance and subject to point (D) in regard to Substitution and Indemnification.</p>	<p>(2) Diese Garantie II wird für Schuldverschreibungen übernommen, die von E-Stream Energy im Rahmen des Basisprospektes ausgestellt sind oder werden, jedoch nur für Anleihen, die mit den Bedingungen "Option III - Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II nach deutschem Recht" oder "Option VII - Bedingungen der garantierten festverzinslichen Inhaberschuldverschreibungen II" oder "Option IX - Bedingungen der garantierten festverzinslichen Namensschuldverschreibungen II" oder "Option XIV - Bedingungen der garantierten festverzinslichen, in dematerialisierter Form ausgegebenen Namensschuldverschreibungen II" am oder nach dem Datum dieses Dokuments und in Übereinstimmung mit Punkt (D) hinsichtlich der Ersetzung und Freistellung ausgegeben werden.</p>
<p>(3) This Guarantee II constitutes an irrevocable, unsecured and subordinated obligation of the Guarantor and ranks pari passu with all other present or future unsecured and subordinated obligations of the Guarantor outstanding from time to</p>	<p>(3) Diese Garantie II stellt eine unwiderrufliche, ungesicherte und nachrangige Verpflichtung des Garantiegebers dar und steht gleichberechtigt neben allen anderen gegenwärtigen oder zukünftigen ungesicherten und nachrangigen</p>

time, subject to any obligations preferred by law.	Verpflichtungen des Garantiegebers, die von Zeit zu Zeit ausstehen, vorbehaltlich der gesetzlich bevorzugten Verpflichtungen.
[[Qualified] subordination clause:	[[Qualifizierte] Nachrangabrede:
In the insolvency or liquidation of the Guarantor, the obligations of the Guarantor under the Guarantee II will rank:	In der Insolvenz oder Liquidation des Garantiegebers gelten die Verpflichtungen des Garantiegebers aus der Garantie II:
(a) junior to all present or future unsubordinated instruments or obligations or guarantees of the Guarantor[.];] [whereby:	(a) nachrangig gegenüber allen gegenwärtigen oder zukünftigen nicht nachrangigen Instrumenten oder Verpflichtungen oder Garantien des Garantiegebers[.];];]wobei:
[ (i) All claims under the Guarantee II, including but not limited to the claims for payment of the Principal Amount[, the Call Redemption Amount] and the payment of distributions of the guaranteed Notes, applying mutatis mutandis in accordance with section 19 (2) sentence 2 of the German Insolvency Code ( <i>Insolvenzordnung</i> , InsO) are subordinated to all claims of other current or future creditors in such a manner that any payments of principal and interest under the Guarantee II may be demanded only after satisfaction of all other creditors ranking as stipulated in section 39 (1) nos. 1 to 5 InsO, i.e. at the ranking position stipulated in section 39 (2) InsO. A waiver with respect to the claims is not possible.]	[ (i) Alle Ansprüche aus der Garantie II, einschließlich, aber nicht beschränkt auf die Ansprüche auf Zahlung des Nennbetrags[, des Rückzahlungsbetrags] und die Zahlung von Ausschüttungen der garantierten Schuldverschreibungen, die sinngemäß gemäß § 19 Abs. 2 S. 2 der Insolvenzordnung gelten, sind allen Ansprüchen anderer gegenwärtiger oder zukünftiger Gläubiger in der Weise untergeordnet, dass etwaige Zahlungen von Kapital und Zinsen aus der Garantie II erst nach Befriedigung aller anderen Gläubiger, die gemäß § 39 Abs. 1 Nr. 1 klassifiziert sind, verlangt werden können. 1 bis 5 InsO, d.h. an der in § 39 Abs. 2 InsO festgelegten Rangfolgeposition. Ein Verzicht auf die Ansprüche ist nicht möglich.]
[[ii)] [●] Payments under the Guarantee II may only be demanded from future annual net profits, from any liquidation surplus or from other disposable assets.]	[[ii)] [●] Zahlungen aus der Garantie II können nur aus zukünftigen Jahresüberschüssen, aus einem etwaigen Liquidationsüberschuss oder aus anderen verfügbaren Vermögenswerten verlangt werden.]
[[iii)] [●]	[[iii)] [●]

<p>The Noteholders may not demand satisfaction of their claims if this results, or threatens to result, in the Guarantor becoming overindebted (<i>überschuldet</i>) or unable to pay its debts (<i>zahlungsunfähig</i>) within applying mutatis mutandis the meaning of German insolvency law.]</p>	<p>Die Anleihegläubiger können keine Befriedigung ihrer Forderungen verlangen, wenn dies dazu führt oder zu führen droht, dass der Garantiegebers überschuldet oder zahlungsunfähig wird, und zwar in entsprechender Anwendung im Sinne des deutschen Insolvenzrechts.</p>
<p>[[iv)] [●] Paragraphs [(i)] [●] to [(iii)] [●] apply both before and after the opening of insolvency proceedings.]</p>	<p>[[iv)] [●] Die Absätze [(i)] [●] bis [(iii)] [●] gelten sowohl vor als auch nach der Eröffnung des Insolvenzverfahrens.]</p>
<p>[[v)] [●] In all other respects, the Noteholders are entitled without restriction to assert their rights under the Guarantee II and to claim performance.]</p>	<p>[[v)] [●] Im Übrigen sind die Anleihegläubiger uneingeschränkt berechtigt, ihre Rechte aus der Garantie II geltend zu machen und Leistung zu verlangen.]</p>
<p>[[vi)] [●] For the avoidance of doubt, this clause constitutes an agreement for the benefit of all creditors of the Guarantor as a whole (<i>Gläubigergesamtheit</i>) applying mutatis mutandis within the meaning of section 328 (2) of the German Civil Code (<i>Bürgerliches Gesetzbuch</i>). Any cancellation of this subordination agreement without the creditors' cooperation will therefore be permitted only in the event that the criteria for insolvency (paragraph (iii)) are not met or no longer met in respect of E-Stream Energy.]</p>	<p>[[vi)] [●] Zur Vermeidung von Zweifeln stellt diese Klausel eine Vereinbarung zugunsten aller Gläubiger des Garantiegebers als Ganzes dar, die sinngemäß im Sinne des § 328 Abs. 2 BGB gilt. Eine Aufhebung dieser Rangrücktrittsvereinbarung ohne Mitwirkung der Gläubiger ist daher nur zulässig, wenn die Insolvenzskriterien (Ziffer (iii)) gegenüber der E-Stream Energy nicht oder nicht mehr erfüllt sind.]</p>
<p>[●] [●]</p>	<p>[●] [●]</p>
<p>[(b)] [●] pari passu among themselves;] [and]</p>	<p>[(b)] [●] pari passu untereinander;][und][und]]</p>
<p>[(c)] [●] senior to all present or future (a) obligations under any CRR Instruments,</p>	<p>[(c)] [●] vor allen gegenwärtigen oder zukünftigen (a) Verpflichtungen aus CRR-Instrumenten</p>

<p>and (b) all other subordinated instruments or obligations of E-StreamEnergy ranking or expressed to rank subordinated to the obligations of E-Stream Energy under the Notes. [●]]</p> <p>]</p> <p>[●]</p>	<p>und (b) allen anderen nachrangigen Instrumenten oder Verpflichtungen der E-Stream Energy, die den Verpflichtungen der E-Stream Energy aus den Schuldverschreibungen nachrangig sind oder ausgedrückt werden. [●]]</p> <p>]</p> <p>[●]</p>
<p>[●]</p>	<p>[●]</p>
<p>(4) All amounts payable in respect of this Guarantee II shall be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of the Federal Republic of Germany or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Guarantor will pay such additional amounts (the <b>Additional Amounts</b>) as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:</p>	<p>(4) Alle in Bezug auf diese Garantie II zu zahlenden Beträge erfolgen ohne Abgeltung oder Abzug für oder aufgrund gegenwärtiger oder zukünftiger Steuern oder Abgaben jeglicher Art, die von oder im Namen der Bundesrepublik Deutschland oder einer politischen Unterabteilung oder einer Behörde davon erhoben oder erhoben werden oder die steuerlich befugt sind, es sei denn, ein solcher Abzugs- oder Abzug ist gesetzlich vorgeschrieben. In diesem Fall zahlt der Garantiegeber die zusätzlichen Beträge (die <b>zusätzlichen Beträge</b>), die erforderlich sind, damit die von den Anleihegläubigern nach einem solchen Einbehalt oder Abzug erhaltenen Nettobeträge den jeweiligen Beträgen entsprechen, die andernfalls ohne einen solchen Einbehalt oder Abzug fällig gewesen wären; mit der Ausnahme, dass diese zusätzlichen Beträge nicht aufgrund von Steuern oder Abgaben zu zahlen sind:</p>
<p>(a) are payable by any person acting as custodian bank or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by E-Stream Energy from payments of principal or interest made by it; or</p>	<p>(a) von einer Person, die als Depotbank oder Inkassostelle im Namen eines Anleihegläubigers handelt, oder anderweitig in einer Weise zu zahlen sind, die keinen Abzug oder Einbehalt von Kapital- oder Zinszahlungen durch E-Stream Energy darstellt; oder</p>
<p>(b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or</p>	<p>(b) aus dem Grund zahlbar sind, weil der Anleihegläubiger eine persönliche oder geschäftliche Verbindung mit Malta unterhält oder hatte, und zwar nicht nur deshalb, weil die Zahlungen in Bezug auf die Schuldverschreibungen aus Quellen in Malta stammen oder zu Steuerzwecken als solche gelten; oder weil sie in Malta gesichert sind.</p>



<p>(c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or</p>	<p>c) gemäß (i) einer Richtlinie oder Verordnung der Europäischen Union über die Besteuerung von Zinserträgen oder (ii) einem internationalen Vertrag oder einer Vereinbarung, die sich auf diese Besteuerung bezieht und an der Malta oder die Europäische Union beteiligt ist, oder (iii) einer Bestimmung des Gesetzes zur Umsetzung oder Einhaltung oder Einführung einer solchen Richtlinie, einer solchen Verordnung, eines solchen Vertrages oder einer solchen Vereinbarung abgezogen oder zurückgehalten werden; oder</p>
<p>(d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or</p>	<p>d) mehr als 30 Kalendertage nach dem Stichtag zur Zahlung aufgelegt werden, es sei denn, ein Anleihegläubiger hätte Anspruch auf zusätzliche Beträge gehabt, wenn er diese am letzten Kalendertag des Zeitraums von 30 Kalendertagen zur Zahlung vorgelegt hätte, wobei davon ausgegangen wurde, dass dieser Tag ein Zahlungsgeschäftstag war; oder</p>
<p>(e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or</p>	<p>(e) in Bezug auf eine von oder im Namen eines Anleihegläubigers zur Zahlung vorgelegte Schuldverschreibung einbehalten oder abgezogen werden, der einen solchen Einbehalt oder Abzug hätte vermeiden können, indem er die betreffende Schuldverschreibung einer anderen Zahlstelle in einem Mitgliedstaat der Europäischen Union vorgelegt hätte; oder</p>
<p>(f) are deducted or withheld by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such deduction or withholding; or</p>	<p>(f) von einer Zahlstelle von einer Zahlung abgezogen oder einbehalten werden, wenn die Zahlung von einer anderen Zahlstelle ohne diesen Abzug oder Einbehalt hätte geleistet werden können; oder</p>
<p>(g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution; or</p>	<p>(g) nicht zahlbar wäre, wenn die Schuldverschreibungen bei einem Bankinstitut verwahrt und die Zahlungen von diesem eingezogen worden wären; oder</p>

<p>(h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with applicable provisions of the Conditions, whichever occurs later.</p>	<p>(h) aufgrund einer Gesetzes- oder Praxisänderung zahlbar sind, die mehr als 30 Kalendertage nach Fälligkeit der betreffenden Kapital- oder Zinszahlung wirksam wird, oder ordnungsgemäß vorgesehen ist und deren Bekanntmachung in Übereinstimmung mit den geltenden Bestimmungen der Bedingungen veröffentlicht wird, je nachdem, was später eintritt.</p>
<p>(5) The obligations of the Guarantor under this Guarantee II (i) shall be separate and independent from the obligations of E-Stream Energy under the Notes, (ii) shall exist irrespective of the legality, validity and binding effect or enforceability of the Notes, and (iii) shall not be affected by any event, condition or circumstance of whatever nature, whether factual or legal, save the full, definitive and irrevocable satisfaction of any and all payment obligations expressed to be assumed under the Notes.</p>	<p>(5) Die Verpflichtungen des Garantiegebers aus dieser Garantie II (i) sind getrennt und unabhängig von den Verpflichtungen von E-Stream Energy aus den Schuldverschreibungen, (ii) bestehen unabhängig von der Rechtmäßigkeit, Gültigkeit und Verbindlichkeit oder Durchsetzbarkeit der Schuldverschreibungen und (iii) sind von Ereignissen, Bedingungen oder Umständen jeglicher Art, ob sachlicher oder rechtlicher Art, nicht betroffen, es sei denn, es handelt sich um die vollständige, endgültige und unwiderrufliche Erfüllung aller in den Schuldverschreibungen zum Ausdruck kommenden Zahlungsverpflichtungen.</p>
<p>(6) The obligations of the Guarantor under this Guarantee II shall, without any further act or thing being required to be done or to occur, extend to the obligations of any substitute debtor which is not the/a Guarantor arising in respect of any Note by virtue of a substitution pursuant to the Conditions (if any).</p>	<p>(6) Die Verpflichtungen des Garantiegebers aus dieser Garantie II erstrecken sich, ohne dass weitere Handlungen oder Vorkommnisse erforderlich sind, auf die Verpflichtungen eines Ersatzschuldners, der nicht der/ein Garantiegeber ist, die sich aus einer Schuldverschreibung aufgrund einer Ersetzung gemäß den Bedingungen (falls vorhanden) ergeben.</p>
<p>(7) This Guarantee II and all undertakings contained herein constitute a contract for the benefit of the Noteholders from time to time as third-party beneficiaries pursuant to section 328 paragraph 1 German Civil Code (<i>Bürgerliches Gesetzbuch</i>)<sup>6</sup>. They give rise to the right of each such Noteholder to require performance of the obligations undertaken herein directly from the Guarantor, and to enforce such obligations directly against the Guarantor. Any Noteholder has the right in case of non-performance of any payments on the Notes to enforce the Guarantee II by filing</p>	<p>(7) Diese Garantie II und alle darin enthaltenen Verpflichtungen stellen von Zeit zu Zeit einen Vertrag zugunsten der Anleihegläubiger als Drittbegünstigte gemäß § 328 Abs. 1 BGB dar. Sie begründen das Recht jedes solchen Anleihegläubigers, die Erfüllung der hierin direkt vom Garantiegeber übernommenen Verpflichtungen zu verlangen und diese Verpflichtungen direkt gegenüber dem Garantiegeber durchzusetzen. Jeder Anleihegläubiger hat das Recht, im Falle der Nichterfüllung von Zahlungen auf die Schuldverschreibungen die Garantie II</p>

<sup>6</sup> An English language translation of § 328 paragraph 1 German Civil Code (*Bürgerliches Gesetzbuch*) reads as follow: "A Contract may stipulate performance for the benefit of a third party, to the effect that the third party acquires the right directly to demand performance."

<p>a suit directly against the Guarantor without the need to take prior proceedings against E-Stream Energy.</p>	<p>durchzusetzen, indem er eine Klage direkt gegen den Garantiegeber einreicht, ohne dass zuvor ein Verfahren gegen E-Stream Energy eingeleitet werden muss.</p>
<p>(8) [Timberland Invest Ltd.] [●] which accepted this Guarantee II, in its capacity as Fiscal Agent does not act in a relationship of agency or trust, a fiduciary or in any other similar capacity for the Noteholders. [Timberland Invest Ltd.] [●] . serves the right, to substitute itself in regard to its Fiscal Agent function and/or in regard to the acceptance of the Guarantee II by one or more successor(s).</p>	<p>(8) [Timberland Invest Ltd.] [●] , die diese Garantie II übernommen, d.h. in Empfang genommen, hat, handelt in ihrer Eigenschaft als steuerlicher Vertreter (Fiscal Agent) nicht in einem Beauftragungs- oder Treuhandverhältnis, einem Treuhänder oder in einer anderen ähnlichen Eigenschaft für die Anleihegläubiger. Die [Timberland Invest Ltd.] [●] hat das Recht, sich in Bezug auf ihre Funktion als steuerlicher Vertreter und/oder in Bezug auf die Übernahme der Garantie II durch einen oder mehrere Nachfolger zu vertreten.</p>
<p>(9) Terms used in this Guarantee II and not otherwise defined herein shall have the meaning attributed to them in the Conditions.</p>	<p>(9) Begriffe, die in dieser Garantie II verwendet werden und nicht anders definiert sind, haben die ihnen in den Bedingungen zugewiesene Bedeutung.</p>
<p>(10) If Notes provide that the provisions regarding the amendment of the Conditions and the Noteholders' Representative apply to such Notes, such provisions shall be applicable mutatis mutandis also to this Guarantee II.</p>	<p>(10) Wenn die Schuldverschreibungen vorsehen, dass die Bestimmungen über die Änderung der Bedingungen und des Vertreters der Anleihegläubiger für diese Schuldverschreibungen gelten, gelten diese Bestimmungen entsprechend auch für diese Garantie II.</p>
<p>(11) This Guarantee II shall be governed by, and construed in accordance with, German law.</p>	<p>(11) Diese Garantie II unterliegt dem deutschen Recht und wird in Übereinstimmung mit diesem ausgelegt.</p>
<p>(12) This Guarantee II is written in the English language and provided with an German language translation. The English text will be the only legally binding version. The German language translation is provided for convenience only.</p>	<p>(12) Diese Garantie II ist in englischer Sprache abgefasst und mit einer Übersetzung in die deutsche Sprache versehen. Der englische Wortlaut ist allein rechtsverbindlich. Die deutsche Übersetzung dient nur zur Information.</p>
<p>(13) The original version of this Guarantee II shall be delivered to, and kept by, [Timberland Invest Ltd.] [●]</p>	<p>(13) Die Originalversion dieser Garantie II wird an die [Timberland Invest Ltd.] [●] geliefert und von dieser aufbewahrt.</p>
<p>(14) Exclusive place of jurisdiction for all legal proceedings arising out of or in connection with this Guarantee II against the Guarantor shall be Duisburg.</p>	<p>(14) Ausschließlicher Gerichtsstand für alle Rechtsstreitigkeiten aus oder im Zusammenhang mit dieser Garantie II gegen den Garantiegeber ist Duisburg.</p>
<p>(15) On the basis of a copy of this Guarantee II certified as being a true copy by a duly authorised officer of [Timberland Invest</p>	<p>(15) Auf der Grundlage einer Kopie dieser Garantie II, die von einem ordnungsgemäß bevollmächtigten Vertreter der</p>

<p>Ltd.] [●] each Noteholder may protect and enforce in his own name his rights arising under this Guarantee II in any legal proceedings against the Guarantor or to which such Noteholder and the Guarantor are parties, without the need for production of this Guarantee II in such proceedings.</p>	<p>[Timberland Invest Ltd.] [●] als wahrheitsgetreue Kopie beglaubigt wurde, kann jeder Anleihegläubiger seine Rechte aus dieser Garantie II in einem Gerichtsverfahren gegen den Garantiegeber stützen und im eigenen Namen durchsetzen, ohne dass in diesem Verfahren diese Garantie II vorgelegt werden muss.</p>
<p>[insert date]</p> <p><b>Timberland Securities Investment plc</b></p> <hr/> <p>[Mr Thomas Kraemer] [●] acting on behalf of the Board of Directors</p> <hr/> <p>[Mr Dirk Koester] [●] acting on behalf of the Board of Directors</p> <p>We, [Timberland Invest Ltd.] [●] , accept the terms of the above Guarantee II without recourse, warranty or liability.</p> <p>[insert date]</p> <p><b>[Timberland Invest Ltd.] [●]</b></p> <hr/> <p>[Mr Thomas Kraemer] [●] acting on behalf of the Board of Directors</p> <hr/> <p>[Mr Anthony Paris] [●] acting on behalf of the Board of Directors</p>	<p>[insert date]</p> <p><b>Timberland Securities Investment plc</b></p> <hr/> <p>[Mr Thomas Kraemer] [●] Handelnd im Namen des Vorstandes</p> <hr/> <p>[Herr Dirk Koester] [●] Handelnd im Namen des Vorstandes</p> <p>Wir, [Timberland Invest Ltd.] [●] , akzeptieren die Bedingungen der obigen Garantie ohne Rückgriff, Garantie oder Haftung.</p> <p>[insert date]</p> <p><b>[Timberland Invest Ltd.] [●]</b></p> <hr/> <p>[Mr Thomas Kraemer] [●] Handelnd im Namen der Geschäftsführung</p> <hr/> <p>[Mr Anthony Paris] [●] Handelnd im Namen der Geschäftsführung</p>

### **GUARANTEE III**

To: CSB Trustees & Fiduciaries Limited (C 40390)  
Level 3, Tower Business Centre,  
Tower Street,  
Swatar, Birkirkara BKR 4013,  
Malta

(hereinafter together with its lawful successors and assigns referred to as the "Security Trustee")

[insert date]

Dear Sirs,

### **RE: GUARANTEE AND INDEMNITY**

We, **TIMBERLAND SECURITIES INVESTMENT PLC.**, a company registered in Malta and bearing company registration number C 68856 (hereinafter together with our lawful successors and assigns referred to as the "Guarantor"), having noted that:

### **INTRODUCTION**

- i. by virtue of a base prospectus dated [●] issued by E-Stream Energy GmbH & Co KG (the "**Issuer**") in connection with the issue of Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes II under German law, Fixed Rate Bearer Notes, Fixed Rate Registered Notes, guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Bearer Notes II, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes II, Contingent Capital Fixed Rate Bearer Notes, Contingent Capital Fixed Rate Registered Notes, Fixed Rate Registered Notes in Dematerialised Form, guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form (as the same may be amended, varied or supplemented hereinafter referred to as the "**Prospectus**"), the Issuer may issue, from time to time, notes in the aggregate amount of up to [[€][●]] [●], which shall be subject to the terms and conditions of the relevant Final Terms (as the same may be amended, varied or supplemented hereinafter referred to as the "**Final Terms**" or "**Conditions**") and the Prospectus (the "**Notes**");

(The "**Final Terms**" or "**Conditions**" and the "**Prospectus**" shall collectively be referred to as the "**Documentation**")

- ii. in connection with the Documentation, the Guarantor has agreed to execute and grant this Guarantee (hereinafter referred to as the "**Guarantee III**") in favour of the Security Trustee and in respect of the notes that are subject to the Conditions entitled "Option XV –Terms and Conditions of the guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form" (the "**Secured Notes**"); and
- iii. the Guarantor has agreed to the conclusion and execution of this Guarantee III in favour of the Security Trustee for the benefit of the Noteholders of the Secured Notes.

**NOW, THEREFORE, THE GUARANTOR IS HEREBY COVENANTING IN FAVOUR OF THE SECURITY TRUSTEE AS FOLLOWS:**

### **1. INTEPRETATION**

In this Guarantee III, unless the context otherwise requires:

- a. terms and expressions defined in or construed for the purposes of the Prospectus and/or the relevant Final Terms shall have the same meanings or be construed in the same manner when used in this Guarantee III, unless defined otherwise in this Guarantee III;
- b. "**Indebtedness**" means any and all moneys, obligations and liabilities now or hereafter due, owing or incurred by the Issuer under the Secured Notes to the Noteholders (whether alone and/or with others); and
- c. "**writing**" or "**in writing**" shall mean any method of visual representation and shall include facsimile transmissions, telexes and other such electronic methods.

## **2. COVENANT TO PAY**

In satisfaction of the conditions precedent for the issuance of the Secured Notes, and in consideration of the Noteholders acquiring the Secured Notes, the Guarantor, as duly authorised, without proof of liability or evidence and as primary obligor, hereby jointly and severally with the Issuer, unconditionally and irrevocably guarantees to the Security Trustee, for the benefit of Noteholders, the payment of, and undertakes on first duly demand in writing made by the Security Trustee on the Guarantor, to pay the Indebtedness to the Security Trustee or any balance thereof at any time due or owing under the Secured Notes in the event that the Issuer fails to pay any sum payable by it to the Noteholders pursuant to the terms of the Secured Notes as and when same shall become due.

## **3. CONTINUING AND UNCONDITIONAL LIABILITY**

The liability of the Guarantor under this Guarantee III shall be continuing until such time as the Indebtedness is fully repaid or in the event of substitution of the Guarantor as set out in the Documentation (a "**Substitution Event**") and shall in no way be prejudiced or effected, nor shall it in any way be discharged or reduced by reason of:

- a. the bankruptcy, insolvency or winding up of the Issuer; or
- b. the incapacity or disability of the Issuer or any other person liable for any reason whatsoever; or
- c. any change in the name, style, constitution, any amalgamation or reconstruction of either the Issuer, or any Guarantor.

## **4. REDUCTION OF LIABILITY**

The liability of the Guarantor under this Guarantee III shall be decreased from time to time to the extent, if any, that the Issuer or the Guarantor shall have made any irrevocable payment of the Indebtedness.

## **5. ADDITIONAL GUARANTEE**

This Guarantee III is to be construed as being in addition to and in no way prejudicing any other securities or guarantees which the Security Trustee may now or hereafter hold from or on account of the Issuer and is to be binding on the Guarantor as a continuing Guarantee III until full and final settlement of all the Issuer's Indebtedness towards the Security Trustee. Moreover, the remedies provided in this Guarantee III are cumulative and are not exclusive of any remedies provided by law.

## **6. REPRESENTATIONS AND WARRANTIES**

The Guarantor represents and warrants as at the date hereof:

- i. that it is duly incorporated and validly existing under the laws of Malta and has the power to carry on its business;
- ii. that it has power to grant this Guarantee III and that this Guarantee III is duly authorised and all corporate action has been taken by the Guarantor in accordance with its deeds of constitution and the laws of its incorporation and regulation;

- iii. that this Guarantee III constitutes and contains valid and legally binding obligations of the Guarantor enforceable in accordance with its terms;
- iv. that this Guarantee III does not and will not constitute default with respect to or run counter to any law, by-law, articles of incorporation, statute, rule, regulation, judgment, decree or permit to which the Guarantor is or may be subject; or any agreement or other instrument to which the Guarantor is a party or is subject or by which it or any of its property is bound;
- v. that this Guarantee III shall not result in or cause the creation or imposition of or oblige the Guarantor to create any encumbrance on any of that Guarantor's undertakings, assets, rights or revenues;
- vi. that it is in no way engaged in any litigation, arbitration or administrative proceeding of a material nature and nor is it threatened with any such procedures;
- vii. that the obligations binding it under this Guarantee III rank at least pari passu with all other present and future unsecured indebtedness of the Guarantor with the exception of any obligations which are mandatorily preferred by law;
- viii. that it is not in breach of or in default under any agreement relating to indebtedness to which it is a party or by which it may be bound nor has any default occurred in its regard; and
- ix. that the granting of this Guarantee III is in the commercial interest of the Guarantor and that the Guarantor acknowledges that it is deriving commercial benefit therefrom.

## 7. DEMANDS AND PAYMENTS

7.1 Any amounts due pursuant to this Guarantee III shall be due by the Guarantor under this Guarantee III as a debt, certain, liquidated and due on the fourteenth [14<sup>th</sup>] day following the duly Security Trustee's first written demand to the Guarantor to pay. All demands shall be sent to the address or facsimile or other numbers as are stated below in Article 8 as the same may be changed by notice in writing by one party to the other.

The demand shall be accompanied by a statement by the Security Trustee confirming that to the best of its knowledge, at the time of the demand, the Issuer is unable to pay any sum payable to the Noteholders pursuant to the terms of the Secured Notes as and when same shall become due.

7.2 All payments shall be made to the Security Trustee without any withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Guarantor will pay such additional amounts (and in so far as this obligation exists under any law the payment shall be grossed up by the amount of withholding or deduction), hereinafter referred to as the "**Additional Amounts**", as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank, broker or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
- (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or

- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent, Broker or Trustee from a payment if the payment could have been made by another Paying Agent, Broker or Trustee without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution, broker or the CSD; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with applicable provisions of the Conditions, whichever occurs later.

The Guarantor authorises the Security Trustee to apply any credit balance the Guarantor may have with the Security Trustee towards the satisfaction of the Indebtedness. The Security Trustee shall notify the Guarantor forthwith of the exercise of this right giving full details relating thereto.

7.3 The obligations of the Guarantor under this Guarantee III shall, without any further act or thing being required to be done or to occur, extend to the obligations of any substitute issuer which is appointed in accordance with the Documentation.

## 8. NOTICES

Any notice required to be given by any party hereto to the other party shall be deemed to have been validly served if delivered by hand or sent by pre-paid registered letter through the post or by facsimile to such other party at his address given herein or such other address as may from time to time be notified to the other party for this purpose and any notice so served shall be deemed to have been served, if delivered by hand, at the time of delivery, or if by post, seven days after posting and if by facsimile, at the time of transmission of the facsimile.

For the purposes of this Guarantee III, the proper addresses and facsimile numbers of the Parties are:

### **E-Stream Energy GmbH & Co KG**

Address: Wilhelmshofallee 83, 47800 Krefeld, Germany  
 Tel. No.: [●]  
 Fax No.: [●]  
 Contact Persons: [●]

### **Timberland Securities Investmet plc**

Address: Aragon House Business Centre, Dragonara Road, St Julian's STJ 3140, Malta  
 Tel. No.: [+356 209081-00] [●]  
 Fax No.: [+356-209081-50] [●]  
 Contact Persons: [Colin Micallef] [,] [Thomas Kraemer] [●]

### **CSB Trustees and Fiduciaries Limited**

Address: Level 3, Tower Business Centre, Tower Street, Swatar, Birkirkara BKR4013, Malta  
 Tel. No.: [●]  
 Fax No.: [●]  
 Contact Person[s]: [●][●]

'Provided that each party may at any time change such address or telefax number by giving seven (7) days' prior written notice to the other party. Every notice, request, demand, letter or other communication hereunder shall be in writing and shall be delivered by hand or by post or through any other communication methods including telex, telefax or otherwise and shall be deemed to be received in case of post within seven days of dispatch or in case of other methods immediately upon confirmed transmission.



## 9. APPLICABLE LAW AND JURISDICTION

This Guarantee III shall be governed by and construed in accordance with Maltese law and shall be subject to the jurisdiction of the Maltese Courts.

## 10. MISCELLANEOUS

The terms of this Guarantee III shall be without prejudice to the right of the Guarantor to substitute itself in accordance with the terms of the Documentation.

[[*In case of an translation insert:* In case of differences between the English version and the translation into [●] language the english version prevails.] [●]]

Yours faithfully,

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Name[s]: [●][●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
duly authorised, for and on behalf of  
TIMBERLAND SECURITIES INVESTMENT PLC.  
(C 68856)

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Name[s]: [●] [●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
Duly authorised, for and on behalf of  
E-Stream Energy GmbH & Co KG

**WE ACCEPT.**

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Name[s]: [●] [●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
duly authorised, for and on behalf of  
CSB Trustees & Fiduciaries Limited  
(C 40390)

[INSERT: [GERMAN] [AND] [MALTESE] [AND] [●] TRANSLATION[S] OPTIONALLY]

## GUARANTEE IV

To: CSB Trustees & Fiduciaries Limited (C 40390)  
Level 3, Tower Business Centre,  
Tower Street,  
Swatar, Birkirkara BKR 4013,  
Malta

(hereinafter together with its lawful successors and assigns referred to as the "Security Trustee")

[insert date]

Dear Sirs,

**RE: GUARANTEE AND INDEMNITY**

**We, TIMBERLAND SECURITIES INVESTMENT PLC., a company registered in Malta and bearing company registration number C 68856 (hereinafter together with our lawful successors and assigns referred to as the "Guarantor"), having noted that:**

### INTRODUCTION

- i. by virtue of a base prospectus dated [●] issued by E-Stream Energy GmbH & Co KG (the "**Issuer**") in connection with the issue of Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes II under German law, Fixed Rate Bearer Notes, Fixed Rate Registered Notes, guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Bearer Notes II, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes II, Contingent Capital Fixed Rate Bearer Notes, Contingent Capital Fixed Rate Registered Notes, Fixed Rate Registered Notes in Dematerialised Form, guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form (as the same may be amended, varied or supplemented hereinafter referred to as the "**Prospectus**"), the Issuer may issue, from time to time, notes in the aggregate amount of up to [[€][●]] [●], which shall be subject to the terms and conditions of the relevant Final Terms (as the same may be amended, varied or supplemented hereinafter referred to as the "**Final Terms**" or "**Conditions**") and the Prospectus (the "**Notes**");

(The "**Final Terms**" or "**Conditions**" and the "**Prospectus**" shall collectively be referred to as the "**Documentation**")

- ii. in connection with the Documentation, the Guarantor has agreed to execute and grant this Guarantee (hereinafter referred to as the "**Guarantee IV**") in favour of the Security Trustee and in respect of the notes that are subject to the Conditions entitled "Option XVI –Terms and Conditions of the guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form" (the "**Secured Notes**"); and
- iii. the Guarantor has agreed to the conclusion and execution of this Guarantee IV in favour of the Security Trustee for the benefit of the Noteholders of the Secured Notes.

**NOW, THEREFORE, THE GUARANTOR IS HEREBY COVENANTING IN FAVOUR OF THE SECURITY TRUSTEE AS FOLLOWS:**

### 1. INTEPRETATION

In this Guarantee IV, unless the context otherwise requires:

- a. terms and expressions defined in or construed for the purposes of the Prospectus and/or the relevant Final Terms shall have the same meanings or be construed in the same manner when used in this Guarantee IV, unless defined otherwise in this Guarantee IV;
- b. "**Indebtedness**" means any and all moneys, obligations and liabilities now or hereafter due, owing or incurred by the Issuer under the Secured Notes to the Noteholders (whether alone and/or with others); and
- c. "**writing**" or "**in writing**" shall mean any method of visual representation and shall include facsimile transmissions, telexes and other such electronic methods.

## 2. COVENANT TO PAY

In satisfaction of the conditions precedent for the issuance of the Secured Notes, and in consideration of the Noteholders acquiring the Secured Notes, the Guarantor, as duly authorised, without proof of liability or evidence and as primary obligor, hereby jointly and severally with the Issuer, unconditionally and irrevocably guarantees to the Security Trustee, for the benefit of Noteholders, the payment of, and undertakes on first duly demand in writing made by the Security Trustee on the Guarantor, to pay the Indebtedness to the Security Trustee or any balance thereof at any time due or owing under the Secured Notes in the event that the Issuer fails to pay any sum payable by it to the Noteholders pursuant to the terms of the Secured Notes as and when same shall become due.

## 3. CONTINUING AND UNCONDITIONAL LIABILITY

The liability of the Guarantor under this Guarantee IV shall be continuing until such time as the Indebtedness is fully repaid or in the event of substitution of the Guarantor as set out in the Documentation (a "**Substitution Event**") and shall in no way be prejudiced or effected, nor shall it in any way be discharged or reduced by reason of:

- a. the bankruptcy, insolvency or winding up of the Issuer; or
- b. the incapacity or disability of the Issuer or any other person liable for any reason whatsoever; or
- c. any change in the name, style, constitution, any amalgamation or reconstruction of either the Issuer, or any Guarantor.

## 4. REDUCTION OF LIABILITY

The liability of the Guarantor under this Guarantee IV shall be decreased from time to time to the extent, if any, that the Issuer or the Guarantor shall have made any irrevocable payment of the Indebtedness.

## 5. ADDITIONAL GUARANTEE

This Guarantee IV is to be construed as being in addition to and in no way prejudicing any other securities or guarantees which the Security Trustee may now or hereafter hold from or on account of the Issuer and is to be binding on the Guarantor as a continuing Guarantee IV until full and final settlement of all the Issuer's Indebtedness towards the Security Trustee. Moreover, the remedies provided in this Guarantee IV are cumulative and are not exclusive of any remedies provided by law.

## 6. REPRESENTATIONS AND WARRANTIES

The Guarantor represents and warrants as at the date hereof:

- i. that it is duly incorporated and validly existing under the laws of Malta and has the power to carry on its business;
- ii. that it has power to grant this Guarantee IV and that this Guarantee IV is duly authorised and all corporate action has been taken by the Guarantor in accordance with its deeds of constitution and the laws of its incorporation and regulation;

- iii. that this Guarantee IV constitutes and contains valid and legally binding obligations of the Guarantor enforceable in accordance with its terms;
- iv. that this Guarantee IV does not and will not constitute default with respect to or run counter to any law, by-law, articles of incorporation, statute, rule, regulation, judgment, decree or permit to which the Guarantor is or may be subject; or any agreement or other instrument to which the Guarantor is a party or is subject or by which it or any of its property is bound;
- v. that this Guarantee IV shall not result in or cause the creation or imposition of or oblige the Guarantor to create any encumbrance on any of that Guarantor's undertakings, assets, rights or revenues;
- vi. that it is in no way engaged in any litigation, arbitration or administrative proceeding of a material nature and nor is it threatened with any such procedures;
- vii. that the obligations binding it under this Guarantee IV rank at least pari passu with all other present and future unsecured [qualified] subordinated indebtedness of the Guarantor with the exception of any obligations which are mandatorily preferred by law;
- viii. that it is not in breach of or in default under any agreement relating to indebtedness to which it is a party or by which it may be bound nor has any default occurred in its regard; and
- ix. that the granting of this Guarantee IV is in the commercial interest of the Guarantor and that the Guarantor acknowledges that it is deriving commercial benefit therefrom.

## 7. DEMANDS AND PAYMENTS

- 7.1 Any amounts due pursuant to this Guarantee IV shall be due by the Guarantor under this Guarantee IV as a debt, certain, liquidated and due on the fourteenth [14<sup>th</sup>] day following the duly Security Trustee's first written demand to the Guarantor to pay. All demands shall be sent to the address or facsimile or other numbers as are stated below in Article 8 as the same may be changed by notice in writing by one party to the other.

The demand shall be accompanied by a statement by the Security Trustee confirming that to the best of its knowledge, at the time of the demand, the Issuer is unable to pay any sum payable to the Noteholders pursuant to the terms of the Secured Notes as and when same shall become due.

- 7.2 All payments shall be made to the Security Trustee without any withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or on behalf of Malta or any political subdivision or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Guarantor will pay such additional amounts (and in so far as this obligation exists under any law the payment shall be grossed up by the amount of withholding or deduction), hereinafter referred to as the "**Additional Amounts**", as shall be necessary in order that the net amounts received by the Noteholders, after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:
- (a) are payable by any person acting as custodian bank, broker or collecting agent on behalf of a Noteholder, or otherwise in any manner which does not constitute a deduction or withholding by the Issuer from payments of principal or interest made by it; or
  - (b) are payable by reason of the Noteholder having, or having had, some personal or business connection with Malta and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Malta; or
  - (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Malta or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
  - (d) are presented for payment more than 30 calendar days after the Relevant Date except to the extent that a Noteholder would have been entitled to additional amounts on presenting the same for payment on the last calendar day of the period of 30 calendar days assuming that day to have been a Payment Business Day; or

- (e) are withheld or deducted in relation to a Note presented for payment by or on behalf of a Noteholder 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; or
- (f) are deducted or withheld by a Paying Agent, Broker or Trustee from a payment if the payment could have been made by another Paying Agent, Broker or Trustee without such deduction or withholding; or
- (g) would not be payable if the Notes had been kept in safe custody with, and the payments had been collected by, a banking institution, broker or the CSD; or
- (h) are payable by reason of a change in law or practice that becomes effective more than 30 calendar days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with applicable provisions of the Conditions, whichever occurs later.

The Guarantor authorises the Security Trustee to apply any credit balance the Guarantor may have with the Security Trustee towards the satisfaction of the Indebtedness. The Security Trustee shall notify the Guarantor forthwith of the exercise of this right giving full details relating thereto.

7.3 The obligations of the Guarantor under this Guarantee IV shall, without any further act or thing being required to be done or to occur, extend to the obligations of any substitute issuer which is appointed in accordance with the Documentation.

## 8. NOTICES

Any notice required to be given by any party hereto to the other party shall be deemed to have been validly served if delivered by hand or sent by pre-paid registered letter through the post or by facsimile to such other party at his address given herein or such other address as may from time to time be notified to the other party for this purpose and any notice so served shall be deemed to have been served, if delivered by hand, at the time of delivery, or if by post, seven days after posting and if by facsimile, at the time of transmission of the facsimile.

For the purposes of this Guarantee IV, the proper addresses and facsimile numbers of the Parties are:

### **E-Stream Energy GmbH & Co KG**

Address: Wilhelmshofallee 83, 47800 Krefeld, Germany  
 Tel. No.: [●]  
 Fax No.: [●]  
 Contact Persons: [●]

### **Timberland Securities Investment plc**

Address: Aragon House Business Centre, Dragonara Road, St Julian's STJ 3140, Malta  
 Tel. No.: [+356 209081-00] [●]  
 Fax No.: [+356-209081-50] [●]  
 Contact Persons: [Colin Micallef] [,] [Thomas Kraemer] [●]

### **CSB Trustees and Fiduciaries Limited**

Address: Level 3, Tower Business Centre, Tower Street, Swatar, Birkirkara BKR4013, Malta  
 Tel. No.: [●]  
 Fax No.: [●]  
 Contact Person[s]: [●][●]

Provided that each party may at any time change such address or telefax number by giving seven (7) days' prior written notice to the other party. Every notice, request, demand, letter or other communication hereunder shall be in writing and shall be delivered by hand or by post or through any other communication methods including telex, telefax or otherwise and shall be deemed to be received in case of post within seven days of dispatch or in case of other methods immediately upon confirmed transmission.

## 9. APPLICABLE LAW AND JURISDICTION

This Guarantee IV shall be governed by and construed in accordance with Maltese law and shall be subject to the jurisdiction of the Maltese Courts.

## 10. MISCELLANEOUS

The terms of this Guarantee IV shall be without prejudice to the right of the Guarantor to substitute itself in accordance with the terms of the Documentation.

[[*In case of an translation insert: In case of differences between the English version and the translation into [●] language the english version prevails.*] [●]]

Yours faithfully,

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Name[s]: [●][●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
duly authorised, for and on behalf of  
TIMBERLAND SECURITIES INVESTMENT PLC.  
(C 68856)

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Name[s]: [●] [●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
Duly authorised, for and on behalf of  
E-Stream Energy GmbH & Co KG

**WE ACCEPT.**

---

Name[s]: [●] [●]  
[Holder of [●] passport (bearing number [●])] [Holder of [●] passport (bearing number [●])]  
duly authorised, for and on behalf of  
CSB Trustees & Fiduciaries Limited  
(C 40390)

[INSERT: [GERMAN] [AND] [MALTESE] [AND] [●] TRANSLATION[S] OPTIONALLY]

## FORM OF FINAL TERMS

### [PROHIBITION OF SALES TO RETAIL INVESTORS IN THE EUROPEAN ECONOMIC AREA

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (EEA). Consequently, no key information document required by Regulation (EU) No. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (**PRIIPs Regulation**) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast), as amended, Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended (**MiFID II**); (ii) a customer within the meaning of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Regulation (EU) 2017/1129 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended.] [●]

### [MIFID II PRODUCT GOVERNANCE / ELIGIBLE COUNTERPARTIES, PROFESSIONAL CLIENTS AND RETAIL CLIENTS TARGET MARKET

Solely for the purposes of [the][each] manufacturer['s][s'] product approval process, the target market assessment in respect of the Notes has led to the conclusion that (i) the target market for the Notes is eligible counterparties, professional clients and retail clients, each as defined in [Directive 2014/65/EU (as amended or superseded, **MiFID II**)] [MiFID II] [*specify further target market criteria*], and [(ii) all channels for distribution of the Notes are appropriate[, including investment advice, portfolio management, non-advised sales and [pure execution services]]] [(ii) all channels for distribution to eligible counterparties and professional clients are appropriate; and (iii) the following channels for distribution of the Notes to retail clients are appropriate: investment advice [,] [and] portfolio management [,] [and] [non-advised sales] [and pure execution services] [*specify negative target market, if applicable*]. Any person subsequently offering, selling or recommending the Notes (a **Distributor**) should take into consideration the manufacturer['s][s'] target market assessment; however, a Distributor subject to MiFID II is responsible for undertaking its own target market assessment in respect of the Notes (by either adopting or refining the manufacturer['s][s'] target market assessment) and determining appropriate distribution channels.] [●]

### Final Terms

dated [*insert date*]

to the Base Prospectus dated [*insert date*]  
[supplemented by [*insert all relevant supplements including its date and number*]]  
(the **Base Prospectus**)

of

### E-STREAM ENERGY GMBH & CO KG

[Legal Entity Identifier (LEI): 894500QZ9C32VV1MYA16 [●]]

**(incorporated as a limited liability company under the laws of Germany)**

Issue of [*insert name of the Securities*]

(the Notes)

Issue Date: [●]

[Series Number: [●]]

[ISSUE PRICE: [100%] [●]]

[GUARANTOR:]

[TIMBERLAND SECURITIES INVESTMENT PLC] [●]

[Legal Entity Identifier (LEI): 894500CA1XTDSTWJ1T79 [●]]

[GLOBAL COORDINATOR AND BOOKRUNNER]

[●][●]

[SELLING AGENT[S]]

[●][●]

[*Insert further Name(s), Logos as applicable and function(s) as applicable*]

[●][●]



## Important Notice

*These Final Terms contain the final terms of an issue of Notes under the base prospectus of E-Stream Energy GmbH & Co KG for the issuance of contingent capital fixed rate bearer notes, contingent capital fixed rate registered notes, fixed rate bearer notes, fixed rate registered notes, fixed rate registered notes issued in dematerialised form and guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes issued in dematerialised form and guaranteed Fixed Rate Registered Notes II issued in dematerialised form.*

*These final terms (the **Final Terms**) have been prepared for the purposes of Article 8 para. 5 of the Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (as amended). In order to get the full information the Final Terms are to be read together with the information contained in (a) the base prospectus of E-Stream Energy GmbH & Co KG (the **Issuer**) dated [●] for the issuance of Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes II under German law, Fixed Rate Bearer Notes, Fixed Rate Registered Notes, guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Bearer Notes II, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes II, Contingent Capital Fixed Rate Bearer Notes, Contingent Capital Fixed Rate Registered Notes, Fixed Rate Registered Notes in Dematerialised Form, guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form (the **Base Prospectus**), (b) any supplements to this Base Prospectus (the **Supplements**), and (c) all other documents whose information is incorporated herein by reference [and with regard to the continuation of a public offer under a Successor Base Prospectus, as defined below, also the Original Base Prospectus, as defined below, for this issue of Notes].*

*These Final Terms consist of three parts: Part I – General Information; Part II – Terms and Conditions of the Notes; Part III – Noteholder Meeting Provisions; and (if applicable) Part IV – Guarantee. [A summary of the individual issue of the Notes is annexed to these Final Terms.<sup>7</sup>]*

*The Base Prospectus will no longer be valid on [●]. From that date onwards, the Final Terms are to be read together with the latest valid version of the Base Prospectus for the issuance Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes under German law, guaranteed Fixed Rate Bearer Notes II under German law, Fixed Rate Bearer Notes, Fixed Rate Registered Notes, guaranteed Fixed Rate Bearer Notes, guaranteed Fixed Rate Bearer Notes II, guaranteed Fixed Rate Registered Notes, guaranteed Fixed Rate Registered Notes II, Contingent Capital Fixed Rate Bearer Notes, Contingent Capital Fixed Rate Registered Notes, Fixed Rate Registered Notes in Dematerialised Form, guaranteed Fixed Rate Registered Notes issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form, guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form and guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form, succeeding the Base Prospectus. [This particularly applies to section "Description of the Parties" [but with the exception of the security-specific terms and conditions of the relevant issue].] The latest valid version of the Base Prospectus is available [[●] and in addition] [in printed version free of charge at [●] and in addition] on the website [insert website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer. No non-exempt offer of the Notes under these Final Terms will be made unless there is a valid version of the Base Prospectus.*

**[Alternative: In the case of a planned continuation of the public offering of the Notes after expiry of the period of validity of the Base Prospectus, insert:** The validity of this Base Prospectus (also **Original Base Prospectus**) ends on [insert date]. After the expiration of the period of validity the offer may be continued on the basis of a successor base prospectus, provided that the Notes are specified therein. Any such successor base prospectus will be published on the website [insert website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer.

<sup>7</sup>

Not applicable in the case of an issue of Notes with a minimum denomination of at least EUR 100,000.

Nicht anwendbar im Fall einer Emission von Wertpapieren mit einer Mindeststückelung in Höhe von mindestens EUR 100.000.

In the event of a public offering being continued under a Successor Base Prospectus, the relevant Final Terms, including the relevant summary, if any, shall be read in conjunction with the Successor Base Prospectus, which means that, in such case, each reference to the Base Prospectus made in the relevant Final Terms shall be deemed to constitute a reference to the relevant Successor Base Prospectus, with the exception of the security-specific terms and conditions of the relevant issue which will continue to be governed by the Original Base Prospectus. Security-specific terms and conditions for these purposes shall include, without limitation, the relevant Terms and Conditions and the information on the relevant Terms and Conditions and Notes referred to in the Successor Base Prospectus. **Successor Base Prospectus** means the most current applicable base prospectus, specifying the Notes to be included in the continued public offering and incorporating by reference those parts of the Original Base Prospectus which are required for the relevant issue of Notes.]

*[Alternative: In the case of a planned continuation of the public offering of the Notes after expiry of the period of validity of the Base Prospectus, insert:* The above-mentioned Base Prospectus dated [insert date], under which the securities described in these Final Terms [are issued][are continued to be offered], will cease to be valid on [insert date]. From and including this date, these Final Terms must be read in conjunction with the latest valid version of the Base Prospectus for the issuance of [insert exact name] which succeeds the Base Prospectus dated [insert date]. The latest valid version of the Base Prospectus for the issuance of [insert exact title] of [insert exact name of the issuer] is published on the website of [insert exact name of the issuer] ([insert exact link]). Investors can access the latest valid version of the Base Prospectus by selecting "[insert exact title]".]

*[In the case of a new documentation of the Notes after expiry of the period of validity of the Base Prospectus, insert:* These Final Terms serve to continue the public offering of the Notes which were documented by the Final Terms [[insert Security Identification Number]] dated [●] to the base prospectus for [insert exact title] of [insert exact name of the issuer] dated [insert date] [and, previously, by the Final Terms dated [●] to the base prospectus for the issuance of [insert exact title] of [insert exact name of the issuer] dated [insert date]], the period of validity of which has expired.]

[Investors who have already agreed to purchase or subscribe for securities during the validity period of the afore-mentioned Base Prospectus have the right, exercisable within a time limit of two working days after the publication of a succeeding base prospectus, to withdraw their acceptances, provided that the notes have not already been delivered to them.]

*The Base Prospectus, any Supplements and these Final Terms are available [[●] and in addition] [in printed version free of charge at [●] and in addition] on the website [insert website] or any successor website thereof, in which case an automatic redirection will be ensured by the Issuer.*

## Part I – General Information

[This Part I. of these Final Terms is to be read in conjunction with the terms and conditions set forth in the part of the base prospectus[, as amended,] dated [●], as incorporated by reference. Besides these Final Terms are to be read in conjunction with the Base Prospectus dated [*insert date*].] The conditions applicable to the Notes are the result of following selection, completion, reproduction or deletion of the options contained in the relevant terms and conditions as set out in the relevant terms and conditions.]

ISIN:	[●][Not applicable.]
Other security identification code[s]:	[●][Not applicable.]
Aggregate principal amount:	[●]
Principal amount/specified denomination:	[●]
Issue price:	[The issue price means the price of the Notes subscribed for during the subscription period. The issue price corresponds [●][to the nominal amount of a Note] [plus the front-up commission] [plus][minus] [accrued interest][●].] [The issue price means [for the period between [ <i>insert date</i> ] until and including [ <i>insert date</i> ] [●]] [and for the period between [ <i>insert date</i> ] until and including [ <i>insert date</i> ] [●]] [and for the period between [ <i>insert date</i> ] until and including [ <i>insert date</i> ] [●]] [and for the period between [ <i>insert date</i> ] until and including [ <i>insert date</i> ] [●]] [and for the period between [ <i>insert date</i> ] until and including [ <i>insert date</i> ] [●]][●].] [In case the Notes are offered without engagement after expiry of the subscription period, the issue price of the Notes will be determined by the Issuer in its own free discretion taking into account actual market conditions.]
Selling commission:	[●][None.]
Other commissions:	[Front-up commission of up to [5][●] per cent. of [the nominal amount][●] per Note.][●][None.] [●]
Expenses and taxes specifically charged to the subscriber or purchaser:	[●][None.]
Reasons for the Offer and use of proceeds:	[Specify details with regard to reasons for the offer and use of proceeds.]
[Expenses and proceeds to be broken into each principal intended use and presented in order of priority of such uses:]	[●]
[In case the anticipated proceeds will not be sufficient to fund all the proposed uses, a statement regarding the amount and sources of other funds needed:]	[●][Not applicable.]
Net proceeds:	[●][Not applicable.]

Estimated total expenses:	[●][Not applicable.]
Indication of yield:	[●]
Material interests, including conflicting ones, of natural and legal persons involved in the issue/offer:	[Insert description of any interest, including conflicting ones, that is material to the issue/offer, detailing the persons involved and the nature of the interest.][Not applicable.]
Jurisdiction[s], in which non-exempt offer may take place:	Non-exempt offers may be made in [the Republic of Austria][,] [and] [the Republic of Croatia][,] [and] [the Republic of Cyprus][,] [and] [the Czech Republic][,] [and] [the Federal Republic of Germany][,] [and] [the French Republic][,] [and] [Hungary][,] [and] [the Republic of Ireland][,] [and] [the Italian Republic][,] [and] [the Principality of Liechtenstein][,] [and] [the Grand Duchy of Luxembourg][,] [and] [the Republic of Malta][,] [and] [the Republic of Poland][,] [and] [Romania][,] [and] [the Slovak Republic][,] [and] [the Republic of Slovenia][,] [and] [the Kingdom of Spain][,] [and] [the United Kingdom of Great Britain and Northern Ireland] [●].
Conditions, to which the offer is subject:	[●][Not applicable.]
Underwriting:	[The Notes will be underwritten [with a firm commitment basis][without a firm commitment basis][under best efforts arrangements] by the following distributor[s]: [insert distributor(s) its/their respective address(es).] [[insert percentage] per cent. of the issue is not underwritten.] [The [underwriting][subscription] agreement [is][will be] dated as of [insert date].][Not applicable.] [●]
Name and address of the coordinator(s) of the global offer and of single parts of the offer and, to the extent known to the Issuer, of the placers in the various countries where the offer takes place:	[●][Not applicable.]
Minimum amount of application:	[●][Not applicable.]
Maximum amount of application:	[●][Not applicable.]
Manner and date in which results of the offer are to be made public:	[The Issuer will inform the Noteholders during the offer period about the number of Notes sold during such offer period to investors by publishing the relevant information on the website of the Issuer (www.estream-energy.com) or any successor website.][●]
Method and time limits for paying up the Notes and for delivery of the Notes:	[The delivery of the Notes shall be [free of payment][against payment] [on [insert date]]. Each investor will be notified of the settlement

arrangements in respect of the Notes at the time of such investor's application.][●]

[The appropriate number of Notes shall be credited to the holder's account in accordance with the rules of the corresponding Clearing System.] [●]

Description of the possibility to reduce subscriptions and the manner for refunding excess amount paid by applicants: [●][Not applicable.]

Process for notifying applicants of the amount allotted and an indication whether dealing may begin before notification is made: [●]

[Trading on terms of issue is reserved.]

Clearing System, Custody:

[Euroclear] [/] [Clearstream Luxembourg] [/] [Clearstream Frankfurt] [/] [OeKB CDS] [/] [Central Securities Depository of the Malta Stock Exchange] [/] [●] [Not applicable.]

Admission to trading:

[Not applicable.] [However, application][Application] [has been][will be][may be] made to [list the Notes][include the Notes to trading] on [the Open Market (*Freiverkehr*) of the Frankfurt Stock Exchange] [and the] [the Open Market (*Freiverkehr*) of the Munich Stock Exchange] [and the] [the Open Market (*Freiverkehr*) of the Stuttgart Stock Exchange] [and the] [the MTF market (*Dritter Markt*) of the Vienna Stock Exchange] [and the] [the Malta Stock Exchange] [and the] [the European Wholesale Securities Market] [and the] [the Euro MTF market of the Luxembourg Stock Exchange] [and the] [the Unregulated Market (*Prospects*) of the Maltese Stock Exchange] [and the] [*insert other unregulated market*], which [is][are] not [a] regulated market[s] [and] [on one or more organised trading facilities (OTF)] [each] within the meaning of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.] [●]

[Application [has been][will be][may be] made for the admission to trading of the Notes on the regulated market[s] of the [Frankfurt Stock Exchange] [and the] [Munich Stock Exchange] [and the] [Stuttgart Stock Exchange] [and the] [Vienna Stock Exchange] [and the] [the Malta Stock Exchange] [and the] [the European Wholesale Securities Market] [and the] [Luxembourg Stock Exchange] [and the] [*insert other regulated market*], which [is][are] [a] regulated market[s] [and] [on an organised trading facility (OTF)] [each] within the meaning of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on

markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU. For the avoidance of doubt "and" means in regard to admission to trading of Notes one or more regulated market(s).] [●]

Expected date of admission:

[●][Not applicable.]

Regulated markets (or third country markets, SME Growth Market or MTFs) on which, to the knowledge of the Issuer, securities of the same class of the Notes to be offered to the public or admitted to trading are already admitted to trading:

[●][Not applicable.]

Offer period:

The offer period started on [●] and will finish on [●]; the Issuer intends to continue the offer period for the Notes after expiry of the period of validity of the Base Prospectus under a succeeding Base Prospectus]. [The Issuer reserves the right for any reason to close the offer period at any time.]

Time period, including any possible amendments, during which the offer of the Notes will be open and description of the application process:

The Notes will [initially] be offered during a subscription period[.]; the Issuer intends to continue the subscription period for the Notes after expiry of the period of validity of the Base Prospectus under a succeeding Base Prospectus.] [●]

Subscription period: [[*insert first day of subscription period*] – [*insert last day of subscription period*]] [[*insert time*] [p.m.][a.m.] local time)] [●]

[The Issuer reserves the right to continue the public offer subject to the filing of new Final Terms for the Notes under another base prospectus.] [●]

[[After expiration of the subscription period, the offer period [continues][may be continued].] [[The][A possible] offer will be made without engagement.]] [●]

Consent to the use of the Base Prospectus:

*[In the case of a general consent, the following applies:*

The Issuer consents to the use of the Base Prospectus (under which the offer of the Notes takes place) and the applicable Final Terms in connection with a subsequent resale or final placement of the Notes by all financial intermediaries during the period of validity of the Base Prospectus by all financial intermediaries (so-called general consent).

General consent for the subsequent resale or final placement of Notes by the financial [intermediary][intermediaries] is given in relation to [the Republic of Austria][,] [and] [the Republic of Croatia][,] [and] [the Republic of Cyprus][,] [and]

[the Czech Republic][,] [and] [the Federal Republic of Germany][,] [and] [the French Republic][,] [and] [Hungary][,] [and] [the Republic of Ireland][,] [and] [the Italian Republic][,] [and] [the Principality of Liechtenstein][,] [and] [the Grand Duchy of Luxembourg][,] [and] [the Republic of Malta][,] [and] [the Republic of Poland][,] [and] [Romania][,] [and] [the Slovak Republic][,] [and] [the Republic of Slovenia][,] [and] [the Kingdom of Spain][,] [and] [the United Kingdom of Great Britain and Northern Ireland] [●].] [●]

*[In the case of an individual consent, the following applies:*

The Issuer consents to the use of the Base Prospectus (under which the offer of the Notes takes place) and the applicable Final Terms in connection with a subsequent resale or final placement of the Notes by the following financial intermediaries during the period of validity of the Base Prospectus by the following financial intermediaries (so-called individual consent):

*[Insert name(s) and address(es)].*

Individual consent for the subsequent resale or final placement of the Notes by the financial [intermediary][intermediaries] is given in relation to [the Republic of Austria][,] [and] [the Republic of Croatia][,] [and] [the Republic of Cyprus][,] [and] [the Czech Republic][,] [and] [the Federal Republic of Germany][,] [and] [the French Republic][,] [and] [Hungary][,] [and] [the Republic of Ireland][,] [and] [the Italian Republic][,] [and] [the Principality of Liechtenstein][,] [and] [the Grand Duchy of Luxembourg][,] [and] [the Republic of Malta][,] [and] [the Republic of Poland][,] [and] [Romania][,] [and] [the Slovak Republic][,] [and] [the Republic of Slovenia][,] [and] [the Kingdom of Spain][,] [and] [the United Kingdom of Great Britain and Northern Ireland] [●] to *[insert name(s) and address(es)].*

[The Issuer's consent to the use of the Base Prospectus is subject to the condition that each financial intermediary complies with the applicable selling restrictions as well as the Terms and Conditions of the offer.] [●]

[Moreover, the Issuer's consent to the use of the Base Prospectus is subject to the condition that the financial intermediary using the Base Prospectus commits itself towards its customers to a responsible distribution of the Notes. This commitment is made by the publication of the financial intermediary on its website stating that the Base Prospectus is used

with the consent of the Issuer and subject to the conditions set forth with the consent.]

[Besides, the consent is not subject to any other conditions.] [●]

[Not applicable. No consent is given.]

[Selling Restrictions:

The offer is [not] a non-exempt offer.

[Prohibition of sales to retail investors in the European Economic Area does [not] apply.]

[*Insert any other selling restriction.*]]

[Website, on which any new information unknown at the time the Base Prospectus was approved or these Final Terms were filed with the relevant competent authority/authorities will be published:

[*Insert website*] [(or any successor or replacement address thereto, in which case an automatic redirection will be ensured by the Issuer).]]



## Part II – Terms and Conditions of the Notes

*[In the case of Fixed Rate Bearer Notes under German law replicate the relevant provisions of Option I (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.]*

*[In the case of guaranteed Fixed Rate Bearer Notes under German law replicate the relevant provisions of Option II (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.]*

*[In the case of guaranteed Fixed Rate Bearer Notes II under German law replicate the relevant provisions of Option III (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.]*

*[In the case of Fixed Rate Bearer Notes replicate the relevant provisions of Option IV (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.]*

*[In the case of Fixed Rate Registered Notes replicate the relevant provisions of Option V (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Bearer Notes replicate the relevant provisions of Option VI (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Bearer Notes II replicate the relevant provisions of Option VII (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Registered Notes replicate the relevant provisions of Option VIII (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Registered Notes II replicate the relevant provisions of Option IX (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of Contingent Capital Fixed Rate Bearer Notes replicate the relevant provisions of Option X (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of Contingent Capital Fixed Rate Registered Notes replicate the relevant provisions of Option XI (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of Fixed Rate Registered Notes issued in Dematerialised Form replicate the relevant provisions of Option XII (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Registered Notes issued in Dematerialised Form replicate the relevant provisions of Option XIII (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form replicate the relevant provisions of Option XIV (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders.)]*

*[In the case of guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form replicate the relevant provisions of Option XV (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders].*

*[In the case of guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form replicate the relevant provisions of Option XVI (including relevant further options contained therein) set out in this Base Prospectus and complete relevant placeholders].*

### **Part III – Noteholder Meeting Provisions**

*[Replicate the relevant provisions of Noteholder Meeting Provisions (including relevant further options contained therein) set out in this Base Prospectus.]*

*[In the case of Option I – Fixed Rate Bearer Notes under German law, Option II – guaranteed Fixed Rate Bearer Notes under German law and Option III – guaranteed Fixed Rate Bearer Notes II under German law the relevant provisions of Noteholders Meeting Provisions are already part of the relevant Terms and Conditions of the Notes. Therefore, in this case this Part III just refers to the Terms and Conditions of the Notes:]*

[This Part refers to the Terms and Conditions of the Notes and there to the Condition that covers the Amendments to the Terms and Conditions by resolution of the Noteholders; Joint Representative]

[•]

#### **[Part IV – Guarantee**

*[In the case of guarantee Fixed Rate Bearer Notes under German law according to Option II, insert Guarantee.]*

*[In the case of guarantee Fixed Rate Bearer Notes II under German law according to Option III, insert Guarantee II.]*

*[In the case of guarantee Fixed Rate Bearer Notes according to Option VI, insert Guarantee.]*

*[In the case of guarantee Fixed Rate Bearer Notes II according to Option VII, insert Guarantee II.]*

*[In the case of guaranteed Fixed Rate Registered Notes according to Option VIII, insert Guarantee.]*

*[In the case of guaranteed Fixed Rate Registered Notes II according to Option IX, insert Guarantee II.]*

*[In the case of guaranteed Fixed Rate Registered Notes issued in dematerialised form according to Option XIII, insert Guarantee.]*

*[In the case of guaranteed Fixed Rate Registered Notes II issued in dematerialised form according to Option XIV, insert Guarantee II.]*

*[In the case of guaranteed Fixed Rate Registered Notes III issued in dematerialised form according to Option XV, insert Guarantee III.]*

*[In the case of guaranteed Fixed Rate Registered Notes IV issued in dematerialised form according to Option XVI, insert Guarantee IV.]] [●]*

*[Insert issue specific summary here. It shall be noted that the issue specific summary needs to be drafted on the basis of the summary relating to the Base Prospectus. No further information may be added, but the information will be made specific for the relevant issue of Notes only, i.e. parts of the summary relating to the Base Prospectus which are of no relevance for a specific issue must be deleted and information which is drafted in a general manner must be replaced by issue specific information.<sup>8</sup>]*

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<sup>8</sup>

Not required for Notes with a Specified Denomination of at least EUR 100,000.

*Nicht erforderlich bei Wertpapieren mit einer Festgelegten Stückelung von mindestens EUR 100.000.*

## DESCRIPTION OF THE PARTIES

### 1. DESCRIPTION OF E-STREAM ENERGY GMBH & CO KG (THE ISSUER) AND ITS BUSINESS ACTIVITIES

#### 1.1. History and Development of the Issuer

The Issuer, E-Stream Energy GmbH & Co KG, was registered in Germany for an indefinite duration on 2 December 2004 (under its previous name AHW Management International GmbH & Co. KG), a private limited liability partnership, incorporated in terms of the German Trade Law (*Handelsgesetzbuch*). The Issuer is represented by its General Partner E-Stream Energy Management GmbH (*Komplementär*). The General Partner E-Stream Energy Management GmbH was registered in Germany for an indefinite duration on 1 December 2004 (under its previous name AHW Management und Verwaltungs GmbH), a limited liable private company (*GmbH*), incorporated in terms of the German Trade Law.

#### 1.2. Additional Information about the Issuer

Full legal and commercial name:	E-Stream Energy GmbH & Co KG
Company registration number:	HRA 9357
Trade register	Trade Register ( <i>Handelsregister</i> ) Duisburg, Germany
Legal Identifier (LEI):	894500QZ9C32VV1MYA16
Office:	Wilhelmshofallee 83, D-47800 Krefeld
Place of registration and domicile:	Duisburg, Germany
Telephone number:	+49-2151-74771-0
Fax number:	+49-2151-74771-50
Email:	info@estream-energy.com
Website:	www.estream-energy.com

As at the date of this Base Prospectus, the Issuer has an authorised capital of the limited partners (*Kommanditkapital*) of EUR 800,000.

The Issuer maintains two uninterdependent branches, which are located in Mönchengladbach and in Staufenberg.

#### 1.3. Additional Information about the General Partner

Full legal and commercial name of the General Partner:	E-Stream Energy Management GmbH
Company registration number:	HRB 17330
Office:	Wilhelmshofallee 83, 47800 Krefeld
Place of registration and domicile:	Duisburg, Germany
Telephone number:	+49-1805-238282

Fax number: +49-1805-348282

Email: info@estream-energy.com

As at the date of this Base Prospectus, the General Partner has an authorised capital (*Stammkapital*) of EUR 25,000 divided into 25,000 GmbH-shares of one (1) Euro each. The issued GmbH-share capital of the General Partner is of EUR 25,000 divided into 25,000 GmbH-shares of one (1) Euro each.

The business address of the personally liable partner is the same as that of the Issuer.

There are no actual conflicts of interests between the interests of the General Partner E-Stream Energy Management GmbH and its duties vis-à-vis the Issuer E-Stream Energy GmbH & Co KG.

An entrepreneurial conflict of interest could theoretically arise in the General Partner (E-Stream Energy Management GmbH) own current or future entrepreneurial activities outside its activity as General Partner or due to other business activities or other entrepreneurial participations. There are actually no such conflicts of interests.

The measures in place that a control of the Issuer by its General Partner is not abused is governed by and in accordance with the provisions of the applicable laws and regulations under German law. There is no knowledge of the existence of any abuse of control is exercised by the General Partner and the Issuer.

In its respective role as general partner, E-Stream Energy Management GmbH has not made any contributions to the Issuer's capital. It is not entitled to receive dividends on account of its membership as general partner and has no rights to compensation in the event its membership in the Issuer is terminated.

#### 1.4. Selected Financial Information

The Report and Financial Statements of the Issuer for the financial period from 1 January 2017 to 31 December 2017 and the audited Report and Financial Statements of the Issuer for the financial period from 1 January 2018 to 31 December 2018 have been prepared in accordance with the General Accepted Accounting Principals in Germany (*HGB/Handelsgesetzbuch*) in force at this time:

	<b>2018 (€)</b>
Non-Current assets	5,973,459
Current assets	2,538,114
Total Assets	8,511,573
Shareholder's Equity	1,225,638
Total Liabilities	7,285,935
Total Equity and Liabilities	8,511,573

The annual accounts for the financial period from 1 January 2017 to 31 December 2017:

	<b>2017 (€)</b>
Non-Current assets	5,636,347
Current assets	345,883
Total Assets	5,982,230
Shareholder's Equity	607,504
Total Liabilities	5,374,726
Total Equity and Liabilities	5,982,230

The Financial Statements of the Issuer for the financial period from 1 January 2018 to 31 December 2018 have been independently audited and have been drawn up in accordance with Directive 2014/56/EU and Regulation (EU) 537/2014.

#### **1.4.1. Significant or material change**

There has been no significant change in the financial or trading position of the Issuer and no material adverse change in the financial position or prospects of the Issuer since 31 December 2018 the date of its last published audited financial statements.

#### **1.4.2. Material changes in the Issuer's borrowing and funding structure since the last financial year and the expected financing of the Issuer's activities**

There are no material changes in the issuer's borrowing and funding structure since the last financial year.

Financing is still based on (i) own funds, (ii) operating income, (iii) loans granted by Timberland Securities Investment plc and (iv) future refinancing by issuing bonds.

#### **1.5. Litigation and Arbitration**

The Issuer was not engaged in any governmental, legal, arbitration, administrative or other proceedings (including any such proceedings which are pending or threatened of which the Issuer is aware) in the 12 months preceding the date of this document which are likely to have a material adverse effect upon the Issuer's financial position or profitability.

#### **1.6. Statutory Auditor**

The audit firm of the Company is Baker Tilly GmbH & Co KG, Wirtschaftsprüfungsgesellschaft, having its registered office at Cecilienallee 6-7, 40474 Düsseldorf, Germany and is registered with the Duesseldorf registry of companies (*Handelsregister Amtsgericht Düsseldorf*) under number HRA 24600. The audit firm is a member of the German Institute of Auditors (*Wirtschaftsprüferkammer*).

#### **1.7. Accounting and Tax Advisory**

The accounting and tax advisory firm of the Company is PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, Moskauer Str 19, 40227 Düsseldorf, Germany, having its registered office at Friedrich-Ebert-Anlage 35-37, 60327 Frankfurt am Main, Germany and is registered with the Frankfurt/Main registry of companies (*Handelsregister Amtsgericht Frankfurt/Main*) under number HRB 107858. The accounting and tax advisory firm is a member of the German Institute of Auditors (*Wirtschaftsprüferkammer*).

#### **1.8. Administration**

In terms of the Issuer's Articles of Association (*Gesellschaftsvertrag*), the Issuer's representation must be by minimum one General Partner. The board of directors of the General Partner must consist, at all times, of a minimum of one director. As at the date of the publication of this Base Prospectus, the directors of the Issuer are as follows:

##### ***Dirk Koester***

Since 22 June 2015, Mr Koester has been Managing Director of E-Stream Energy Management GmbH, the managing general partner of the Issuer. Mr Koester is authorized to represent the Company on his own behalf and to enter into legal transactions with himself in his own name or as a



representative of a third party (exemption from the restrictions of section 181 German Civil Code (*Bürgerliches Gesetzbuch*)).

He has worked for the Issuers's General Partner since 2004, is since June 2015 member of its Board of Directors and has around 15 years experience in its energy business and energy storage and technology business.

Furthermore, Mr Koester has been working in the financial sector since 1987. From 1987 to 1992 he worked in foreign exchange trading and futures trading, first with Dean Witter Reynolds in Frankfurt am Main, later with Prudential Bache in Munich and with Merrill Lynch in Munich.

In 1992, Mr Koester became self-employed in the investment sector and has been working with Timberland Capital Management GmbH since 1996, where he has been responsible for asset management since 1999. Since 1999 Mr Koester has been working for Timberland Service GmbH in the field of sales control.

Since 2003, Mr Koester has been responsible together with Mr Kraemer for the portfolio management of the mutual fund "Timberland Top-Dividende International". He is a member of the Board of Directors of Timberland SICAV. He is also a member of the Board of Directors of the financial services institution Timberland Fund Management Ltd. (Malta) and Timberland Invest Ltd. (Malta). Mr Koester has, since 2003, performed individual portfolio management, fund management and investment advisory services for Timberland Capital Management GmbH.

In particular, he performs the day-to-day portfolio management of the retail sub-fund Timberland Top-Dividende International together with Mr Kraemer. Since 1999, Mr Koester has also worked for Timberland Service GmbH, Germany, which is a licensed financial service provider in Germany (section 34 lit. f German Trade, Commerce and Industry Regulation Act (*Gewerbeordnung*) whose services include the distribution of financial products, including the fund Timberland Top-Dividende International, to retail, professional and institutional investors as well as other financial service providers. In this regard, Mr Koester works on a day-to-day basis with the register and transfer agents of the said products.

In addition to the above, Mr Koester has also, since 1999, setup (together with Mr Kraemer) several investment structures and AIFs in Germany, which are authorized for public offering by the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, BaFin). His work included several functions ranging from assistance in setting up of the said structures to the day-to-day running thereof including inter alia being a member of a supervisory board (*Aufsichtsrat*).

Mr Koester is a board member of Timberland Investment GmbH and is also the head of portfolio management at the said company. In 2014, Timberland Investment GmbH was granted authorization by the BaFin as full-scope alternative investment fund manager for closed ended AIFs including individual portfolio management, investment advice, reception and transmission of orders and the safekeeping and management of shares or units in domestic investment funds, EU investment funds and/or foreign AIF for others and the marketing of units or shares in investment funds to third parties.

Mr. Koester serves since 2015 as member of the board of directors of E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

Mr Koester is a member of the board of directors and member of the investment committee of Timberland Fund Management Ltd. and member of the board of directors and member of investment advisory committee of Timberland Invest Ltd. Timberland Fund Management Ltd. is a Maltese MFSA-licensed full-scope AIFM, which is authorised to manage open-ended and close-ended AIFs and is also authorised to perform discretionary portfolio management services, to receive and transmit orders and to provide investment advice. Timberland Fund Management Ltd. passports its services to nearly all Member States of the European Union. Timberland Invest Ltd. is licensed as MiFID-

company to provide a number of services including the reception and transmission of orders, investment advice and placement of financial instruments without a firm commitment in respect of all financial instruments falling within the remit of Annex 1 to MiFID II. Timberland Invest Ltd. passports its service to all Member States of the European Union and to Norway, Island and Liechtenstein, all of which are countries of the European Economic Area.

Currently, Mr Koester is also inter alia a member of the management boards of the securitisation companies Timberland Securities P.L.C. (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands) as well as Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg). He is also a member of the management bodies of other companies in the financial sector and other areas. As of today, Mr Koester also serves as member of the board of directors of Timberland Securities plc (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands), and Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg), all of which are securitisation companies. He also serves as member of the board of directors of additional financial and non-financial entities. Furthermore, he serves inter alia as a member of the board of directors of (i) Timberland Management GmbH, which is a General Partner to inter alia Timberland Finance GmbH & Co KG and its branch in Hungary as well Timberland Finance International GmbH & Co KG and its branch in Hungary and (ii) E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

### ***Thomas Kraemer***

Since AHW Management und Verwaltung GmbH was founded on 19 November 2004 (entered in the commercial register on 1 December 2004), Mr Kraemer has been Managing Director of AHW Management und Verwaltungs GmbH. Mr Kraemer is authorized to represent the Company on his own behalf and to enter into legal transactions with himself in his own name or as a representative of a third party (exemption from the restrictions of section 181 German Civil Code (*Bürgerliches Gesetzbuch*)).

Mr Kraemer has in deep technology knowledge and experience in IT and the Issuers energy business and energy storage and technology business.

Furthermore, Mr Kraemer has been working in the financial sector since 1993. Since 1996 he has been a managing partner of Timberland Capital Management GmbH, which manages financial portfolios throughout Europe, and since 1999 a managing partner of Timberland Service GmbH, a financial service provider for investment brokerage and investment consulting. Mr Kraemer is also a member of the Board of Directors of Timberland SICAV and in this capacity is responsible for the portfolio management of the "Timberland Top-Dividend International" mutual fund launched jointly with DG Bank Luxembourg in 1999. Since 2003 he has been carrying out this task together with Mr Koester. Mr Kraemer is also managing partner of Timberland Investment GmbH, a financial services provider for investment advice, investment brokerage and financial portfolio management. He is also a member of the Board of Directors of the financial services companies Timberland Fund Management Ltd. (Malta) and Timberland Invest Ltd. (Malta).

Currently, Mr Kraemer is also a member of the executive boards of the securitisation companies Timberland Securities plc, Timberland Securities Investment plc (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands) as well as Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg). He is also a member of the management bodies of other companies in the financial sector and other areas.

Mr Kraemer has, since 1996, performed individual portfolio management and investment advisory services. Mr Kraemer has been a shareholder and board member of Timberland Capital Management GmbH since 1996. The said company is since 1998 under authorization of the predecessor of the BaFin, *Bundesaufsichtsamt für das Kreditwesen* (BaKred), and the services thereof are passported to several European countries.

In 1999, together with DG Bank Luxembourg, Mr Kraemer set up a retail sub-fund, Timberland Top-Dividende International, which was a sub-fund of DG LUX Multimanager I SICAV (the latter being authorized for retail public offering in Luxembourg, Germany, and, as of 2002, also in Austria). Mr Kraemer is responsible for the day-by-day portfolio management of this fund and since 2003, he has performed this role together with Mr Dirk Koester.

Mr Kraemer has also, since 1999, been a member of the board of directors of Timberland Service GmbH, Germany, which is licensed as a financial service provider in Germany (section 34 lit. f German Trade, Commerce and Industry Regulation Act (*Gewerbeordnung*)) and acts as distribution agent of the fund Timberland Top-Dividende International.

Mr. Kraemer serves since 2004 as member of the board of directors of E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

In 2006, Mr Kraemer assisted in the migration of the fund Timberland Top-Dividende International to AHW SICAV (a new setup SICAV) with LRI Invest as UCITS Management Company. Mr Kraemer was deputy chairman (*stellvertretender Verwaltungsrat*) of the board of directors (*Verwaltungsrat*) of the SICAV between 2006 and August of 2010. Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Kraemer was involved in, in the capacities referenced above) were respectively appointed as portfolio manager and distribution agent/information agent to the said SICAV.

In 2010, Mr Kraemer assisted in the migration of the fund Timberland Top-Dividende International to Timberland SICAV. Mr Kraemer has, since August 2010, been appointed as deputy chairman (*stellvertretender Verwaltungsrat*) of Timberland SICAV. In this instance, Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Kraemer was involved in, in the capacities referenced above) were also appointed to perform the functions of portfolio manager and distribution agent/information agent to the said SICAV.

In addition to the above, Mr Kraemer has also, since 1999, setup several investment structures (*Vermögensanlagen*) and AIFs in Germany, which have been (as of 2009) authorized for public offering by BaFin. His work included several functions ranging from assistance in drafting the prospectus of the said AIF/investment structures (together with the advising law firm) to the day-to-day running thereof, including setting up the relationship with Commerzbank AG (as account bank for the said AIFs/investment structures).

Mr Kraemer is a shareholder and board member of Timberland Investment GmbH. In 2014, Timberland Investment GmbH was granted authorization by the BaFin as full scope AIFM for closed ended AIFs including individual portfolio management, investment advice, reception and transmission of orders and the safekeeping and management of shares or units in domestic investment funds, EU investment funds and/or foreign AIF for others and the marketing of units or shares in investment funds to third parties.

Mr Kraemer is also a board member and investment committee member of Timberland Fund Management Ltd. and a board member and member of investment advisory committee of Timberland Invest Ltd. Timberland Fund Management Ltd. is a Maltese MFSA-licensed full-scope AIFM, which is authorised to manage open-ended and close-ended AIFs and is also authorised to perform discretionary portfolio management services, to receive and transmit orders and to provide investment advice. Timberland Fund Management Ltd. passports its services to nearly all Member States. Timberland Invest Ltd. is licensed as MiFID-company to provide a number of services including the reception and transmission of orders, investment advice and placement of financial instruments without a firm commitment in respect of all financial instruments falling within the remit of Annex 1 to MiFID. Timberland Invest Ltd. passports its service to all Member States and to Norway, Island and Liechtenstein, all of which are countries of the European Economic Area.

E-Stream Energy GmbH & Co KG has access to Timberland companies that perform and have access to large parts of the investment chain for setup, administration, portfolio management and distribution to and of different legal structures like bond and share issuing, securitization, AIFs under AIFMD, investment structures (*Vermögensanlagen*) which are not subject to AIFMD and UCITS.

As of today, Mr Kraemer serves as member of the board of directors of Timberland Securities plc (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands), and Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg), all of which are securitisation companies.

Mr Kraemer also serves as member of the board of directors of additional financial and non-financial entities. Furthermore, he serves inter alia as a member of the board of directors of (i) Timberland Management GmbH, which is a General Partner to inter alia Timberland Finance GmbH & Co KG and its branch in Hungary as well Timberland Finance International GmbH & Co KG and its branch in Hungary and (ii) E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

## 1.9. Organisational Structure

As of the date of this Base Prospectus, the shareholder (Limited Partner/ *Kommanditist*) of the Issuer is Mr Thomas Kraemer, having its business address at the Issuer at Huettenallee 83, D-47800 Krefeld. The General Partner is E-Stream Energy Management GmbH, having its business address at the Issuer at Huettenallee 83, D-47800 Krefeld.

## 1.10. Principal Activities and Markets

### 1.9.1 Description of the main categories of products sold and/or services performed and Indication of any significant new products or activities

We believe we have established ourselves as an innovator and producer of high-quality, reliable and technologically-advanced battery systems based on lithium-ion technology (“Li-Ion”) for certain sub-markets, including electromobility (“E-Mobility”). We are focused on Li-Ion battery technology, we provide battery systems for a wide range of applications. We are focused on Li-Ion technologies, which actively disrupt the battery market. Our core business is the development, manufacturing and distribution of high-performance rechargeable battery systems.

The main categories of products sold are battery packs and battery storage systems for applications on these, which include E-Mobility, home- and industrial energy storage systems. Main categories of services are consulting in regard to battery energy storage systems.

Significant new products and activities are in the field of Li-Ion battery cell production and distribution and extending our portfolio of battery storage systems including but not limited to E-Mobility applications.

### 1.9.2. Most important markets and market factors

The Company is active in the field of battery cells, battery packages and battery systems and develops technologies for a variety of storage solutions. The main area of activity of the Company is research and development (and as applicable well as the intended licensing of its technologies, processes and systems) as well and also the production of storage solutions for batteries, production and distribution on the basis of lithium-ion round cells (**'battery packaging'**). On the basis of this technologies, energy storage systems (battery systems) are designed and developed as modules and as finished applications both for the mobile sector and for the stationary sector (home and industrial storage).

The Company's core business is to become the production and distributiongranting of battery cells, battery packageslicences for the use of the technologies, processes, systems (**'battery packages'**) and

applications (**products**) developed, produced and/ by it or licensed by it, as well as their production and distribution. The Company plans to grant non-exclusive, long-term licenses to interested manufacturers of battery storage systems to use the technologies, processes and systems and to use battery packages in own products, including in the field of E-Mobility.

### ***E-Mobility***

E-mobility includes all vehicles that obtain most of their energy from the power grid, i.e. are externally rechargeable. This includes exclusively battery-electric vehicles (BEV), electric vehicles with a small combustion engine to extend the range (Range Extender, REEV) and hybrid vehicles (PHEV) that can be recharged on the power grid and in which both an electric motor and a combustion engine provide the drive (source: definition by the Federal Government. <https://www.bmu.de/themen/luft-laerm-verkehr/verkehr/elektromobilitaet/>). In addition to private motor vehicles and commercial vehicles (e.g. electric railways, city buses, delivery vehicles, etc.), this term also includes industrial trucks (e.g. forklifts, lift trucks or cleaning machines), Segways, e-bikes, electric motorcycles and other electrically powered vehicles.

The Company believes that both hybrid and purely electric drives will increasingly be used in the mobile sector in the future. The pressure on vehicle manufacturers to develop solutions in this area is constantly increasing, both from the government and from consumers. In society's opinion, the reasons for this are the increasing scarcity of fossil fuels and the associated price increases, worldwide efforts to reduce CO<sub>2</sub> emissions from vehicles and the specifications for reducing nitrogen oxides and particulate matter, which are increasingly leading to driving bans in urban areas.

This development is primarily driven by government measures. In the EU countries, these are mainly legal requirements for the CO<sub>2</sub> emissions of vehicles. In 2009, an EU Regulation to reduce CO<sub>2</sub> emissions from new passenger cars entered into force, providing for a phased reduction of CO<sub>2</sub> emissions up to 95 g/km from 2020 (Article 1 of Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from passenger cars and light commercial vehicles). In March 2019, the EU Parliament approved new targets for average CO<sub>2</sub> emissions from new cars and trucks in the EU to accelerate the transition to low-emission and zero-emission vehicles. The aim is to reduce average CO<sub>2</sub> emissions by 37.5% for new passenger cars and 31% for light commercial vehicles by 2030 compared with the figures for 2021 (see European Parliament Legislative Resolution of 27 June 2002 on the reduction of CO<sub>2</sub> emissions from road vehicles). European Parliament legislative resolution of 16 March 2019 on the proposal for a regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars and light commercial vehicles as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from passenger cars and light commercial vehicles amending Regulation (EC) 715/2007 (recast) (COM(2017)0676 - C8-0395/2017 - 2017/0293(COD)) (COM(2017)0676 - C8-0395/2017 - 2017/0293(COD)).

Other countries regulate CO<sub>2</sub> emissions, among other things, by means of registration quotas for vehicles with internal combustion engines, such as those that apply in some conurbations in China (source: example Shanghai - high registration costs and allocation of registrations for vehicles with internal combustion engines via a lottery system, whereas free and immediate registration of "New Energy Vehicles": <http://www.chinadaily.com.cn/a/201904/03/WS5ca40d7da3104842260b41df.html>), or on tax concessions and privileges in road transport for electric vehicles such as in Norway (including concessions on road and parking charges, use of lanes reserved for buses and taxis (source: <https://elbil.no/english/norwegian-ev-policy/>)).

Events such as the so-called exhaust gas scandal, which became known in September 2015 and caused a number of manipulations by various car manufacturers to circumvent statutory limits for car exhaust gases, are also driving the growing market interest in e-mobility.

The manufacturers of automobiles and motorcycles are therefore increasingly investing in research into the further development of electric mobility (source: <https://graphics.reuters.com/AUTOS-INVESTMENT-ELECTRIC/010081ZB3HD/index.html>). This research is extensively funded by the Federal Government (source: <https://www.foerderinfo.bund.de/de/elektromobilitaet-190.php>). According to the Company's assessment, the most important goals of the industry are currently the reduction of manufacturing costs for traction batteries on the one hand and the increase of ranges and charging speeds on the other. A traction battery is the battery of an electric vehicle that serves as an energy source for the drive. A traction battery is composed of interconnected battery modules, which in turn consist of cells. Since these traction batteries are exposed to cyclic charging and discharging processes during their use, they use only rechargeable batteries (source: <https://www.elektromobilitaet.nrw/infos/e-auto/funktion-batterie/>).

Traction batteries lose capacity in the course of their use and can therefore not permanently meet the high requirements for power and energy density in battery-operated vehicles. However, they can still be used (so-called "**Second Life**"), e.g. in stationary storage applications. In society's estimation, volume and weight play a much smaller role here than in the vehicle, so that a larger number of battery cells can be used to achieve the same capacity. This allows the service life of used lithium-ion traction batteries to be extended and additional revenue to be generated. It also improves the ecobalance of electric mobility (source: <https://www.ffe.de/publikationen/projektberichte/620-second-life-konzept-fuer-lithium-ionen-batterien-aus-elektrofahrzeugen>).

However, the Company believes that high acquisition costs, a lack of range and long charging times mean that the demand for vehicles with purely electric propulsion is still manageable at present. Above all, the range is an essential aspect for achieving the greatest possible user acceptance (source: ADAC brochure: "Elektromobilität - Informationen der ADAC Fahrzeugtechnik", [https://www.adac.de/\\_mmm/pdf/Broschüre%20Elektromobilität\\_308873.pdf](https://www.adac.de/_mmm/pdf/Broschüre%20Elektromobilität_308873.pdf)). One key to the acceptance of electromobility, in society's view, therefore, lies in high-performance, low-cost and safe batteries, since only with them can the necessary range of purely electric vehicles be achieved.

Electric mobility also includes the shipping sector. This sector is also increasingly subject to market restrictions aimed at reducing noise and exhaust emissions (source: <https://www.bmu.de/themen/luft-laerm-verkehr/verkehr/seeverkehr/>). For this reason, the Company believes that the market for maritime electromobility is also growing.

### ***Portable Applications***

Under the term portable applications, the Company has summarized the use of battery packs in wireless power tools as well as in wireless household and garden appliances. Batteries for electric wheelchairs or other mobility solutions for people with reduced mobility also fall into this category.

### ***Portable battery storage***

The Company refers to portable battery storage systems as storage systems that are designed for a regular change of installation location. These include, for example, mobile battery storage units for use on construction sites, at outdoor events, at camping sites or anywhere else where electricity is needed and no mains connection is available. Another conceivable area of application is the use as a mobile emergency power storage unit, which ensures the energy supply in the event of a power failure instead of conventional emergency power generators. In society's opinion, transportable applications therefore represent low-emission and energy-saving alternatives to the gasoline or diesel generators mainly used for these applications up to now.

In addition, there are a large number of potential mobile compact storage solutions (portable energy storage systems) that the Company believes can be used in the construction, caravanning and other sectors. According to the Company, this is an undeveloped market with only a few products based on lithium-ion battery storage and high energy content.

In the Company's opinion, the Company's technologies are also ideally suited for use in such and other portable applications. This market, along with other markets, is the focus of development work.

### ***Stationary storage systems (e.g. for regenerative energies)***

In the stationary sector, energy storage systems based on battery systems will also become increasingly important according to the Company's assessment, above all due to the continued government promotion of renewable energies. The market for stationary storage (ESS) is expected to grow by 18% to 36% in the coming years (depending on market forecast) (source: <https://www.isi.fraunhofer.de/content/dam/isi/dokumente/cct/lib/Energiespeicher-Roadmap-Dezember-2017.pdf>). The Company believes that lithium-ion batteries will increasingly prevail over other electrochemical storage solutions, so that the Company expects the rapid further development of such systems. In the opinion of society as a whole, decentralised storage technologies are gaining in importance compared to large-scale centralised storage facilities such as pumped storage facilities.

The Renewable Energy Sources Act (*Gesetz über den Ausbau erneuerbarer Energien* (EEG)), which came into force in 2000, provides for state-guaranteed feed-in tariffs for decentralised energy generation plants when electricity from renewable energy sources is fed into the grid of energy suppliers. However, these guaranteed remunerations will cease to apply after the respective plant has been in operation for 20 years, which will be the case for the first plants installed under the EEG from 1 January 2021. Accordingly, the grid operator is not obliged to purchase the electricity generated, nor is the system operator entitled to remuneration. In addition, the feed-in tariff per kilowatt hour (kWh) is significantly lower than the consumption price for electricity purchased from the electricity supplier. The Company therefore believes that it makes sense for the operators of decentralised plants to use the electricity generated as far as possible to cover their own needs. The Company believes that stationary storage systems will play an important role in this context in the future. They are also necessary to ensure a continuous energy supply in line with demand, as energy production from renewable sources is often subject to fluctuations.

With the help of stationary battery storage systems, the unavoidable daytime and seasonal fluctuations in power generation that occur when generating energy from fluctuating energy sources (e.g. wind, sun) can be compensated for just as much as load fluctuations due to variable use of the supraregional power supply (source: <https://www.bmbf.de/foerderungen/bekanntmachung-639.html>). Stationary battery storage systems thus also serve to stabilise the grid and provide uninterruptible power supply (UPS), e.g. for data centres (source: EnergyAgency NRW, "Energiespeicher - Innovative Technologien aus Nordrhein-Westfalen", p. 12, <https://broschueren.nordrheinwestfalendirekt.de/herunterladen/der/datei/cef-broschuere-energiespeicher-pdf/von/energiespeicher-innovative-technologien-aus-nrw/vom/energieagentur/1603+&cd=4&hl=de&ct=clnk&gl=de>). The Company also believes that stationary battery storage systems will enable the intermediate storage of electrical energy to enable electricity trading on exchanges.

In the Company's view, another important area of application for stationary battery storage could be the power supply of charging stations for electric vehicles in the future. The inadequately developed infrastructure to date, in particular the still incomplete network of charging stations, has a negative effect on demand. The charging infrastructure is a key factor for the rapid spread of electric mobility (source: <http://www.eu-info.de/dpa-europaticker/286868.html>). In society's view, the use of decentralised energy storage systems (stationary or transportable) can significantly increase the efficiency and availability of the charging infrastructure without overloading the power grids, e.g. during peak periods. The Company also believes that the use of decentralized energy storage systems at charging stations can significantly reduce investment costs compared with the expansion of grid-side supply.

The Company also believes that telephone masts in remote areas could in future be supplied with electricity via stationary battery storage systems.

### ***Development and drivers of the battery market***

The battery market, in particular the submarket for rechargeable batteries (also called secondary cells - in contrast to primary cells that cannot be recharged or can only be recharged to a very limited extent (source: <https://de.wikipedia.org/wiki/Akkumulator>)), is currently experiencing strong global growth (source: <https://www.pv-magazine.de/2018/05/24/studie-batteriemarkt-waechst-bis-2025-auf-90-milliarden-us-dollar/>). Because fossil/primary energy reserves will not be sufficient in the long term and because aspects of environmental protection are also playing an increasingly important role, new concepts are currently being developed worldwide for the intermediate storage of energy in the mobile and stationary sectors.

According to the Company, a key driver for the growth of the battery market is increasing electrification: more and more devices that were not previously powered by electricity or not at all are being equipped with electric drives. According to society's assessment, the development towards so-called "Industry 4.0", i.e. the intelligent networking of machines and processes in industry with the aid of information and communication technology, also plays a significant role.

Another important driver for the development of the battery market, in the Company's view, is increased environmental awareness and the resulting government measures to reduce CO<sub>2</sub> emissions. In October 2014, the European Council adopted a framework for climate and energy policy by 2030 to meet the long-term objective of reducing EU greenhouse gas emissions by 80% to 95% by 2050 in the most cost-effective way possible. Within this framework, the following objectives are anchored: a binding reduction of greenhouse gas emissions within the EU by at least 40% by 2030 compared with 1990 emissions, a binding increase in the share of renewable energies in total final energy consumption to at least 27% and an increase in energy efficiency by at least 27% compared with a development without further efficiency efforts (source: [https://ec.europa.eu/clima/policies/strategies/2030\\_en](https://ec.europa.eu/clima/policies/strategies/2030_en)).

In the passenger car sector, an EU Regulation to reduce CO<sub>2</sub> emissions from new passenger cars entered into force in 2009, providing for a phased reduction of CO<sub>2</sub> emissions up to 95 g/km from 2020 (source: Article 1 of Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from passenger cars and light commercial vehicles). In March 2019, the EU Parliament approved new targets for average CO<sub>2</sub> emissions from new cars and trucks in the EU to accelerate the transition to low-emission and zero-emission vehicles. The aim is to reduce average CO<sub>2</sub> emissions by 37.5% for new passenger cars and 31% for light commercial vehicles by 2030 compared with the figures for 2021 (source: Legislative Resolution of the European Parliament of 27 June 2002). European Parliament legislative resolution of 16 March 2019 on the proposal for a regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars and light commercial vehicles as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from passenger cars and light commercial vehicles amending Regulation (EC) 715/2007 (recast) (COM(2017)0676 - C8-0395/2017 - 2017/0293(COD)) (COM(2017)0676 - C8-0395/2017 - 2017/0293(COD)).

### ***Breakthrough of renewable energies in the German energy mix***

According to the results of the Energy Balances Working Group, renewable energies accounted for 25.9% of total German energy production in 2014, of which 5.8% was attributable to photovoltaics. Renewable energies have meanwhile replaced lignite as the main source of energy in the energy mix. (Source: [https://ag-energiebilanzen.de/#20181214\\_brd\\_stromerzeugung1990-2018](https://ag-energiebilanzen.de/#20181214_brd_stromerzeugung1990-2018), Stromerzeugung nach Energieträgern 1990 - 2018 (Status March 2019) as well as "Share of renewable energy in gross final energy consumption is rising strongly: [https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/uba\\_hgp\\_einzahlen\\_2019\\_bf.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/uba_hgp_einzahlen_2019_bf.pdf)).



In the last five years, the share of renewable energies in photovoltaics in Germany has been as follows according to the Energy Balances Working Group:

year	Billion kWh	Share of gross electricity generation production in Germany (in %)
2014:	36,1	5,8
2015:	38,7	6,0
2016:	38,1	5,9
2017:	39,4	6,0
2018:	46,2	7,1

(Source: [https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/uba\\_hgp\\_einzahlen\\_2019\\_bf.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/1410/publikationen/uba_hgp_einzahlen_2019_bf.pdf))

As a result of the successive reduction or elimination of feed-in tariffs for self-produced electricity from renewable energies, the Company believes that lithium-ion-based battery storage is a technical solution that will lead to a further sharp increase in the number of new systems in a large number of countries (although these are at different stages of promoting energy system transformation).

### 1.9.3 Main areas of activity

The Company is active in the field of research and development and – planned – the production of battery cells, battery systems and products/applications based on battery systems and the distribution of such systems, products and applications. Its focus is on the research and development of solutions for batteries and battery systems/applications based on lithium-ion cells and their integration into systems, applications and products. On the basis of these technologies, energy storage systems (battery systems), applications, products and product solutions are designed and developed with or without in cooperation with third parties are designed and developed both for the mobile sector including E-mobility and for the stationary sector (home and industrial storage) and are intended to be produced and distributed by the Issuer and/or in cooperation with third parties. For this purpose, the Company maintains its own research and development department. There are nine employees working in the Company. The research and development department is divided into (i) research and pre-series development and (ii) series development. The tasks of the research and pre-series development department are to research advanced battery package technologies using state-of-the-art technologies (e.g. climate chamber, highly sensitive thermal imaging camera, measurement and test methods, materials technologies, connection technologies, etc.) and to manufacture pre-series products (battery systems and battery system applications). Series development is responsible for series development from pre-series products, certification, planning of the production process and selection of suitable contractors (and sub-contractors) in connection with production.

In addition, the Company holds participations in public limited partnerships ("KG funds") in its own name and for its own account as part of the management of its own assets as long term investments.

In addition to the ongoing further development of the technologies, the Company plans to produce systems, products and applications at its existing site in Mönchengladbach and through contractors and to sell these products in various national and international markets.

The Company's activities may also include the licensing of its systems, products, applications and technologies. Licensees and thus customers of the Company are expected to be manufacturers of battery systems for stationary and mobile applications and suppliers of manufacturers of e-mobility applications (vehicle manufacturers, etc.). The licensing of the various systems, products, applications and technologies, will be part of this.

The Company is currently establishing technical sales activities with a view to series maturity and series production. In addition to sales via distributors (electrical, wholesale and specialist dealers, DIY chains, application manufacturers and distributors, e.g. in the caravaning sector, other wholesalers and retailers as well as in direct sales), the Company intends to build up sales activities.

## ***Technical overview***

A battery consists of several interconnected battery modules. Depending on the requirements of the specific application, in particular with regard to voltage level and necessary storage capacity, a corresponding number of battery modules are electrically connected in parallel and in series. The modules in turn consist of an interconnection of several cells. This structure of a battery consisting of individual cells is called "packaging". Packaging is regarded as one of the most important key technologies for the everyday implementation of the storage of electrical energy. The most important objectives of research in this area are therefore to increase storage capacity, performance, safety and service life.

Lithium ion cells are usually used as the basic component of most commercially available batteries. These cells are the most powerful currently available on the market; they are characterized by high energy density, long service life and guarantee a wide range of charging cycles<sup>9</sup>. The Fraunhofer Institute for Systems and Innovation Research (ISI) estimates that lithium-ion batteries will dominate demand within battery technologies by 2025 at the latest.<sup>10</sup>

There are three main types of lithium ion cells: cylindrical cells, prismatic cells and pouch cells - the latter are also known as coffee bag cells. The cylindrical cell, also known as the round cell, is currently the most widely used cell format because it is relatively inexpensive, easy to manufacture and mechanically very stable. In addition, the cylindrical design achieves one of the highest energy densities compared to other forms. According to a publicly accessible study by the Fraunhofer Institute, the particularly high potential of cylindrical formats (18650 and 21700) is pointed out. Disadvantages are a lower heat dissipation and, compared to other designs, the more difficult packaging and handling of a larger number of individual cells. The technologies intend to eliminate these disadvantages as far as possible.

The manufacturers' agreement on uniform geometric dimensions of the round cells enables the Company to choose from different suppliers and thus, in the opinion of the Company, creates security of supply. The increased supply and the resulting competition among manufacturers have led to a significant reduction in costs. The use of these battery cells is thus becoming increasingly economical overall.

## ***The technologies***

The Know-How and technologies of the Company are specially in battery cells, battery systems, applications, products and product solutions using especially round cells. The Company's battery systems, applications, products and product solutions are based merely on a modular design. It allows free scalability of the battery systems with regard to electrical and geometric parameters and has the option of variable shaping. The resulting flexibility at the system levels enables the Company to create optimized battery solutions tailored to the product specifications of each application, product and product solution. The systems, applications, products and product solutions developed on the basis of the Company's technologies and Know-How can thus be used in a wide range of applications, from small batteries for portable applications to a wide variety of battery systems for mobile use and stationary large storage systems.

Another advantage of the Know-How and technologies developed by the Company, according to the Company, is that the batteries are relatively easy to assemble and that inter alia manual connection techniques are used. In addition, the Company believes that the development-related risk of industrial systems, applications, products and product solutions is significantly reduced by the use of round cells and the associated flexibility in the selection of cell types, cell formats and cell manufacturers.

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<sup>9</sup> (Source: Development perspectives for cell formats of lithium-ion batteries in electric mobility, Study 12/2017:

[https://www.batterien.fraunhofer.de/content/dam/batterien/de/documents/Allianz\\_Battery\\_Cell\\_Formats\\_Study.pdf](https://www.batterien.fraunhofer.de/content/dam/batterien/de/documents/Allianz_Battery_Cell_Formats_Study.pdf))

<sup>10</sup> Source: <https://www.isi.fraunhofer.de/content/dam/isi/dokumente/ctt/lib/Energiespeicher-Roadmap-Dezember-2017.pdf>

For the Company, the investment costs associated with the industrial production of systems, applications, products and/or product solutions are, in the opinion of the Company, significantly lower than those of other systems.

The Company's battery storage systems, applications, products and/or product solutions have typically comprehensive security systems adapted to the respective application. Among other things, they are based on a combination of sensor technologies and intelligent measurement, analysis and control algorithms as well as switch-off mechanisms. These ensure the determination of system states, the monitoring and control of safety-relevant parameters and system protection in the event of a fault. The features of the safety concept include the electrical protection as an integral component of the battery modules technologies, algorithms for early detection of faults and monitoring of safety-critical parameters. Due to the implemented security mechanisms, the system failure rate is reduced and thus, according to the Company's assessment, a high level of reliability and resulting cost-effectiveness is achieved, making the Company's systems, applications, products and/or product solutions particularly suitable for the sector of mobile and stationary industrial storage systems.

The Company's systems, applications, products and/or product solutions allows fast and cost-effective production for a wide variety of usage. The production of the Company's battery accumulators is characterized by simple scalability, which enables the continuous adjustment of the production quantities from individual prototypes to small (approx. 1,000 battery packs), medium (approx. 10,000 battery packs) or large series quantities (larger than 100,000 systems, applications, products and/or product solutions). This is an important factor, especially for the start-up phase of industrial production.

Due to non-destructive processes, the technologies also offers the possibility of time- and cost-efficient maintenance and, if necessary, repair of systems, applications, products and/or product solutions. In addition, this makes it possible to use the abtteries as "second life" applications in other applications. The Company's technologies thus offer the possibility of continuing to use batteries from high-performance products in applications with lower requirements, while at the same time achieving the maximum service life for the application in question. At the same time, the systems, applications, products and/or product solutions can be upgraded to the latest technological standard by using new cells and/or batteries. In summary, the Company believes that the Company's Know-How and technologies will increase system reliability, product service life and thus profitability. By reusing the installed components, the Company's technologies also promotes the ecological aspect of sustainability by saving energy and conserving natural resources.

In principle, the Company's technologies allow the use of round cells of any cell format, any application (high energy or high capacity) as well as different cell chemistry in the battery storage systems. In the opinion of the Company, this offers the User a high degree of future security. A large number of manufacturers are available for these round cells, so that the Company, and thus also its customers, are not dependent on one or a few cell manufacturers.

#### ***Applications of E-Stream Energy's Know-How and technologies***

As application areas for the Company's technologies and products, the Company has primarily identified the areas of e-mobility and portable and stationary battery storage (including charging infrastructure for electric vehicles) as business areas.

#### **1.9.4 E-Mobility in general**

E-mobility refers to the use of electric vehicles, i.e. vehicles of all types that use an electric drive and carry an energy storage device. In addition to private motor vehicles and commercial vehicles (e.g. electric railways, city buses, delivery vehicles, etc.), this term also includes industrial trucks (e.g. forklifts, lift trucks or cleaning machines), Segways, e-bikes, electric motorcycles and other electrically powered vehicles.

The degree of electrification can vary, so a distinction is made between hybrid drives, i.e. vehicles powered by at least two forms of energy, e.g. petrol and electricity, on the one hand and purely electric drives on the other. According to the Company, both hybrid and purely electric drives will increasingly be used in the mobile sector in the future in view of global efforts to reduce CO<sub>2</sub> emissions from vehicles and the requirements for reducing nitrogen oxides and particulate matter.

Electric mobility also includes the shipping sector. This sector is also increasingly subject to market restrictions aimed at reducing noise and exhaust emissions. For this reason, the market for maritime electromobility is also growing.

### **Portable Applications**

The Company's Know-How and technologies and products are also suitable for use in portable applications. Portable applications are primarily the use of batteries and battery cells in wireless power tools as well as in wireless household and garden appliances. Batteries for electric wheelchairs or other mobility solutions for people with reduced mobility also fall into this category. However, the market for portable applications is not currently the focus of the Company's development work.

### **Portable Battery Storage**

Transportable battery storage systems are storage systems that are designed for a regular change of location. These include, for example, mobile battery storage units for use on construction sites, at outdoor events, at camping sites or anywhere else where electricity is needed and no mains connection is available. Another conceivable area of application is the use as a mobile emergency power storage unit, which ensures the energy supply in the event of a power failure instead of conventional emergency power generators.

### **Stationary storage systems, e.g. for renewable energies**

With the help of stationary battery storage systems, the unavoidable daytime and seasonal fluctuations in power generation that occur when generating energy from fluctuating energy sources (e.g. wind, sun) can be compensated for just as much as load fluctuations due to variable use of the supraregional power supply. Stationary battery storage systems are also used for grid standardized and uninterruptible power supply (UPS), e.g. for data centres. The intermediate storage of electrical energy to enable electricity trading on exchanges is also made possible by stationary battery storage.

Another important field of application for stationary battery storage systems could be the power supply of charging stations for electric vehicles in the future. The Company believes that the inadequately developed infrastructure to date, in particular the still incomplete network of charging stations, has a negative effect on demand. The charging infrastructure is a key factor for the rapid spread of electric mobility. The use of standardized energy storage systems (stationary or transportable) can significantly increase the efficiency and availability of the charging infrastructure without overloading the power grids, e.g. during peak traffic periods.

The Company's business plan provides for strategic objectives:

The Company intends to create modular products of increasing complexity and successively launch them on the market. This means that systems, applications, products and/or product solutions for mobile applications standardized by the Company for stationary applications standardized by the Company are manufactured in an industrial form factor (19-inch rack format) and used in various applications. The product portfolio is to be successively built up and expanded, whereby a high degree of standardization is to be achieved. The aim is to create a particularly high quality and practical functionality of the end product in order to achieve a good customer response ("user experience"). In this context, "Made in Germany" is to be placed in the foreground as a quality feature, especially in the US market.

Main applications planned in this field are mobile energy storage devices and 19-inch rack energy storage devices in modularly expandable form, which are to be certified and launched on the market. In addition, the battery storage systems, applications, products and/or product solutions in the e-mobility sector shall be presented to industrial customers and its performance will be demonstrated in joint tests.

The Company assumes that the mobile energy storage units and 19-inch rack energy storage units will be launched on the market after development and certification. As the Company has identified the USA and Europe as one of the important sales markets, the sensitivity analysis of the business plan to deviations from the most important assumptions involves risks due to a protectionist market access policy (customs duties, etc.) in the USA and energy policy dependencies (duration and speed of the energy turnaround, expiry of feed-in tariffs and expiry of purchase commitments by grid operators for locally generated electricity) in Europe in general and individual countries in particular.

In addition, account must be taken of:

- the extent to which the Company's business activities depend on certain key persons identified as such; key persons are research and development executives, namely inter alia Thomas Kraemer, and, in the area of management, the managing directors of the General Partner, Dirk Koester and Thomas Kraemer
- current and expected competitors;

In the Battery Packages section (inter alia):

Samsung SDI Co. Ltd Yongin, South Korea, LG Chem, Ltd., Seoul, South Korea, BMZ Batterien-Montage-Zentrum GmbH, Karlstein, Tesla Inc., Palo Alto, U.S.A. Kokam Co. Ltd. Siheung, South Korea, EnerDel Inc., Greenfield, IN, U.S.A., OBRIST Powertrain GmbH, Lustenau, Austria, a.o.

In the area of mobile applications (inter alia):

ENERdan GmbH, Berlin, FSP Power Solution GmbH, Mönchengladbach, Polaroid (PLR IP Holdings, LLC), Minnetonka, MN, U.S.A. Goal Zero LLC Bluffdale, UT, U.S.A.

In the field of stationary battery systems:

Schneider Electric SE, Reuil-Malmaison, France, Aentron GmbH – Energy Solutions, Gilching, Akasol AG, Darmstadt, FSP Power Solution GmbH, Mönchengladbach, Olipower Energy & Automation Technology Co., Ltd, Shenzhen, China, Hunterhex AB & (Ltd's), Kista, Sweden, BSOL Batteriesysteme GmbH, Düsseldorf, Keatec Energy Inc, Surrey, BC, Canada, INVENOX GmbH, Garching, commeo GmbH, Wallenhorst, Tesvolt GmbH, Wittenberg, ads- tec Energy GmbH, Nürtingen, Eaton Corporation plc, Dublin, Ireland.

In the area of storage technologies other than lithium batteries in industrial applications: Schmid Group Gebr. SCHMID GmbH, Freudenstadt among other things

- Dependence on a limited number of customers or suppliers; there is no dependence on a limited number of customers or suppliers.
- Indication of assets required for production that do not belong to the Company. The Company uses selective finance leasing (including sale and lease back/sale and rent back) to acquire machinery, whereby at the end of the term a possible takeover of the machinery is negotiated with the respective financing leasing company. The majority of the machines are owned and operated by the Company and are therefore part of its fixed assets.

## 1.11. Corporate Strategy

### *Achieving strong growth*

The Company intends to benefit from the strong dynamics in (i) the electrification of drive technologies in the automotive industry (emobility), (ii) in the area of stationary energy storage systems based on modular systems for use in the home and industrial sector, including in the area of uninterruptible power supply (UPS) for inter alia data centres, and (iii) in the area of mobile and hybrid systems on the basis of the product portfolio it is aiming for, and to win new customers in the process.

Based on the degree of complexity of the different sub-areas as well as the requirements for certification in the automotive sector, cooperation with other suppliers is intended, so that offering solutions (know-how and IP, if applicable) as well as sub-components on the basis of own solutions can be considered.

A further objective of the Company is to build up product manufacturing capacity and cooperations in Germany and, depending on various factors, internationally as well as to enter the market, particularly in Europe, the United States of America and Canada, and possibly Japan, which should increase demand for products. The Company will endeavour to continuously increase the attractiveness of the Company for highly qualified research and development personnel (Human Resources Strategy) in order to accompany the targeted growth process with personnel.

The Company assumes that increasingly high-margin industrial applications can be realised through substitution effects (replacement of lead-acid battery systems by its own Li-ion battery systems). According to the Company, application examples for this include stationary applications inter alia in data centres and other business-critical applications. According to the Company, initially higher customer investments in future Li-ion battery systems should pay off in favour of the customers within the scope of the Total Cost of Ownership (TCO) consideration through longer product life and reduced maintenance costs.

### *Development of the US and European markets, evaluation of further markets*

The Company is currently taking preparatory steps to enter the US and European markets. Part of the proceeds from this Offer will be used to establish the Company's presence in the Distribution markets, inter alia in North America. The Company expects similarly favourable electrification trends and market developments in the USA as in Europe. The Company is also evaluating other markets.

### *Research and development and intended expansion of the market through acquisition of new components and products*

The Company intends to further advance research and development, divided into (i) battery packs and (ii) specific applications (applications) based thereon.

This includes in particular current efforts to build up and expand its product portfolio in the field standardised modular batteries (24 Volt and 48 Volt systems) which, among other things, are to be used in standardised dimensions (19 inch rack) for stationary energy storage systems with applications in the home and industrial sector including in the field of uninterruptible power supply (UPS) (each capable of high voltages up to approx. 800 Volt) as well as in the field of mobile and hybrid systems (portable and transportable solutions which can also be used as stationary modules by means of extension modules) as well as in the field of applications with

- modular directly usable energy storage units as 19 inch rack with up to approx. 800 V (high-voltage capable) as well as 110-380 V on application side; and

- mobile and hybrid systems (portable or transportable solutions, which can also be used as stationary modules by means of extension modules), e.g. in the caravanning and home sectors.

The standardization of systems, applications, products and/or product solutions is intended to increase vertical integration, i.e. the use in a wide variety of applications and in areas with value creation potential.

In the various end markets in which the Company plans to operate, it also intends to achieve market shares by acquiring new products and components. The aim is to enter the market as quickly as possible with high-quality systems, applications, products and/or product solutions, whereby individual components are purchased for applications in line with industry practice (e.g. in the area of inverters, etc., including white labeling if necessary).

#### ***Pursuing growth opportunities through targeted acquisitions***

The Company endeavours to achieve its planned growth also through acquisitions, provided these are strategically sensible. The Company intends to continuously improve its project management and its competencies, while at the same time expanding its market potential. Targeted acquisitions, particularly in Germany, Western Europe, the USA and Asia, are also expected to play a part in this. According to the Company, this could improve the future market position through increased economies of scale in sales, marketing, procurement and production. The Company aims to establish a solid market position in the "Battery systems, applications, products and/or product solutions" segment both in Europe and in the USA with the aim to increase its market position. In particular, the Company sees a good opportunity to achieve a strong and attractive market position in the currently still highly fragmented markets in Europe and the USA.

In addition, the Company intends to expand its business through selective acquisitions of companies focusing on related businesses. Areas or possibly companies operating in business areas which are complementary to those of the Company, such as metalworking or manufacturers of compatible electronic components, may become potential targets of strategic partnerships and investments, including the acquisition of majority interests.

#### ***Licensing of technologies, Know-How and processes in the field of e-mobility***

The Company intends to achieve certifications in the automobile sector and to enter into cooperations (including contract production) in order to achieve the fastest possible and broadest possible market penetration in mass markets.

#### ***Development of safety components for lithium-ion battery storage for e-mobility***

In the field of e-mobility, vehicle manufacturers and OEMs are faced with completely new requirements with regard to product safety in comparison to classic powertrain systems through the use of high-voltage systems. Against this background, the Company intends to improve product safety through special solutions to avoid and, where not otherwise possible, through the controlled destruction of battery systems and to develop and offer further solutions in addition to the existing solutions.

### **1.12. Competitive strengths**

In the opinion of the Company, its competitive strengths lie in the following areas:

#### ***Efficient management with many years of experience***

At its location in Mönchengladbach, the Company has a management team with many years of experience in the field of energy storage systems, portable and transportable battery storage as well as e-mobility with a good network in the market. At the same time, the Company believes that a lean and

efficient team enables it to react quickly to new market opportunities and trends and to position itself on the market in the long term.

### ***Diversified business model***

In its assessment, the Company will have a diversified business model with three intended pillars in the planned business segments "Stationary Energy Storage Systems", "Portable and Transportable Battery Storage Systems" and "E-Mobility" – and thus three different sub-segments of the energy storage market, some of which are subject to other influencing factors. The area of e-mobility, which has special barriers to market entry, can thus profit successively from the other two sub-areas. There will be considerable synergy potential between the three business segments, for example in the areas of purchasing, financing, development and sales, e.g. through the modular design on the basis of standardized battery packs defined by the Company, in which the essential components lithium-ion round cells and contacting technologies are identical or very similar. In the opinion of the Company, this sets the Company apart from other companies that are exclusively focused on individual sub-areas.

### ***Fast charging times of the battery packs***

The market acceptance of battery storage systems in e-mobility depends not only on the range, which is achieved depending on the mobile application (e.g. vehicle) and the installed capacity, but also on the charging time. Very long charging times in some cases are detrimental to sales, especially of purely electric but also hybrid vehicles/applications. The Company was able to realize leading loading times in the market through test institutes.

### ***Innovative and powerful products***

Until now, it has been difficult for industry to manufacture high-power and high-capacity battery packs on the basis of lithium ion round cells, since high packing densities of the battery cells always generate heat during high charging or discharging for physical reasons, which is detrimental to the battery cells' service life (charging cycles) and which is one of the causes, particularly in the field of e-mobility, for the important factors of charging duration, range and constant availability. According to its own assessment, the Company has realised technically sophisticated energy packs with very high energy (both volumetric and gravimetric) using the latest technologies. The temperature management, which was difficult with high packing densities, was successfully implemented by the technologies according to the Company's own assessment. In the view of the Company, the battery packs are very energy efficient and high performance battery packs compared to competitors in terms of energy density and compactness measured by the volumetric and gravimetric energy of the battery packs. Even under very high requirements (high charging and discharging rates), good technical properties could be achieved, i.e. a high homogeneous temperature distribution without significant hotspots (small temperature differences over the entire battery pack) with simultaneous temperature in the permissible operating range and constant availability (i.e. usability without reduction of charging and discharging rates) of the battery packs, which were confirmed by external test institutes during development. The result is a high system availability and reliability, which is also low-maintenance. As a result, it can be summarised that high charging rates, i.e. short charging times, high range due to very high energy density (use of available installation space) and constant availability even under high loads are achieved by means of the battery packs of the emitter transferred to an e-mobility application (e.g. vehicle). In its opinion, the Company's solution for e-mobility applications is better and simpler than competitor solutions.

### ***Recycling und 2nd Life***

Adequate recycling is not only an important aspect within the framework of the ecological balance of the product over its entire service life, but is also decisive for the cost-effective reuse or recycling of the battery cells. In its opinion, the Company has technologies that are particularly geared to this and represents a significantly better and simpler solutions than available systems on the market.



### 1.13. Material Contracts

***Material contracts of the Company within the normal course of business that exist today include these contracts:***

*Agreements in respect of Timberland Securities Investment plc's group*

The Company has been provided loans amounting to EUR 6,659,181 by Timberland Securities Investment plc. In connection with the latter, E-Stream Energy GmbH & Co KG has entered into loan agreements with the respective related parties which stipulate repayment and interest terms.

## 2. AGENTS

### 2.1. Paying Agents

- 2.1.1. Under a paying agency agreement between the Issuer and Flatex Bank AG, a public limited liability company incorporated and existing under the laws of Germany, under the supervision of the BaFin, having its head office in Rotfeder-Ring 7, 60327 Frankfurt am Main, Germany, registered with the Frankfurt am Main registry of companies under number HRB 105687 (the Paying Agent), the Paying Agent may be appointed as principal paying agent for one or more series of bearer notes from time to time beside other paying agent(s) in regard to other series of bearer notes.

The Paying Agent will carry out the tasks set out in the paying agency agreement, including the provision of customary banking services to the Issuer with respect to the Notes issued by the Issuer (except for the registrar and transfer agent services with regard to the registered Notes, which are performed by the registrar and transfer agent(s) (as defined below)).

The Paying Agent has an interest in the offer of the bearer Notes and will receive a remuneration of approximately EUR 8,000 per annum.

The Issuer is free to conclude in future one or more paying agency agreements with one or more paying agents for one or more issued Notes.

- 2.1.2. Under a paying agency agreement between the Issuer and Baader Bank AG, a public limited liability company incorporated and existing under the laws of Germany, under the supervision of the BaFin, having its head office in Weißenstephaner Straße 4, 85716 Unterschleißheim, Germany, registered with the Munich registry of companies under number HRB 121537 (the **Paying Agent**), the Paying Agent may be appointed as principal paying agent for one or more series of bearer notes from time to time beside other paying agent(s) in regard to other series of bearer notes.

The Paying Agent will carry out the tasks set out in the paying agency agreement, including the provision of customary banking services to the Issuer with respect to the Notes issued by the Issuer (except for the registrar and transfer agent services with regard to the registered Notes, which are performed by the registrar and transfer agent(s) (as defined below)).

The Paying Agent has an interest in the offer of the bearer Notes and will receive a remuneration of approximately EUR 8,000 per annum.

The Issuer is free to conclude in future one or more paying agency agreements with one or more paying agents for one or more issued Notes.

### 2.2. Registrar and Transfer Agents

E-Stream Energy GmbH & Co KG is free to perform the function of the register and transfer agent itself or appoint one or more other registrar and transfer agents for one or more issued Notes.

Under a registrar and transfer agreement between the Issuer and Alter Domus Fund Services (Malta) Limited, a private limited liability company incorporated and existing under the laws of Malta, having its registered office at Vision Exchange Building, Territorials Street, Mriehel BKR 3000, Malta, registered with the Companies Register of Malta under number C52740 (**Alter Domus**), Alter Domus is appointed by the Issuer as registrar and transfer agent in respect of the registered Notes.

Alter Domus is regulated by the MFSA and is authorised to provide, inter alia, fund administration services in accordance with the Investment Services Act (Cap. 370 of the laws of Malta). Alter Domus acts as administrator to various other collective investment schemes licensed in Malta.

E-Stream Energy GmbH & Co KG, in its role as registrar and transfer agent, and Alter Domus are both authorised to have its tasks performed by suitable third parties.

Alter Domus has an interest in the offer of the registered Notes and will receive a remuneration of up to EUR 12,000 per annum (based on 1,000 registers) and EUR 1 for any additional register.

In case of fixed rate registered Notes issued in dematerialised form, the Malta Stock Exchange (**MSE**) having its office at Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta functions as registrar and transfer agent. The MSA and the Issuer do not have concluded any agreement with respect to the role and functions of MSE. Furthermore, MSA has no interest in the offer of the registered Notes issued in dematerialised form and will not receive a remuneration for the services performed and executed.

The Issuer is free to conclude in future one or more registrar and transfer agreement(s) with one or more registrar and transfer agents for one or more issued Notes.

### **2.3. Fiscal Agents**

Based on a fiscal agency agreement the Issuer has concluded with Timberland Invest Ltd., which is a private limited liability company incorporated and existing under the laws of Malta, under the supervision of the MFSA, with registered office at 171, Old Bakery Street, Valletta VLT 1455, Malta, having its Head Office in Aragon House, St. George's Park, St. Julian's STJ 3140, Malta, registered with the Maltese registry of companies under number C60291 (the **Fiscal Agent**), the Fiscal Agent, as far as the appointment of a fiscal agent is mandatory in any Public Offer Jurisdictions, performs customary fiscal agency services in respect of the Notes.

Under the fiscal agency agreement, the Fiscal Agent will carry out the customary tasks set out in the fiscal agency agreement.

The Fiscal Agent has an interest in the offer of the Notes and will receive in respect of each issuance of Notes a remuneration of EUR 2,500 plus costs and expenses occurred by third parties (tax advisors a.o.) in the relevant Public Offer Jurisdictions.

The Issuer is free to conclude in future one or more fiscal agency agreements with one or more fiscal agents.

### **2.4. Security Trustee**

The Issuer has concluded a Security Trustee Agreement with CSB Trustees and Fiduciaries Limited (hereinafter "CSB"), a private limited liability company duly registered and validly existing under the laws of Malta, with company registration number C 40390 and having its registered office at Level 3, Tower Business Centre, Tower Street, Swatar, Birkirkara 4013, Malta, duly authorized to act as a trustee or co-trustee in terms of Article 43(3) of the Trusts and Trustees Act (Cap. 331 of the Laws of Malta), acting as Securities Trustee of the Issuer for the Bonds that may be issued under Option XIII, XIV, XV or XVI.

Under the Security Trustee agreement, CSB will act as the Security Trustee in regard to the Guarantor's Guarantee and Indemnity Agreement (hereinafter referred to as "Guarantee") in regard to the guaranteed Bonds that may be issued under Option XIII, XIV, XV or XVI whereby the Guarantor jointly and severally guarantees the punctual performance of the Issuer's payment obligations under such Bond Issue in favour of the Security Trustee for the benefit of the Bondholders.

CSB has an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to EUR 4,000 p.a. per each issuance of a Bond under Option XIII, XIV, XV or XVI.

The Issuer is free to conclude in future one or more Security Trustee agreements with one or more Security Trustee(s).

## 2.5. Listing Agents

The Issuer has concluded a listing agency agreement with Timberland Capital Management GmbH, a private limited liability company incorporated and existing under the laws of Germany, under the supervision of the BaFin, having its head office in Hüttenallee 137, 47800 Krefeld, Germany, registered with the Duisburg registry of companies under number HRB 7204 (**Timberland Capital Management**), acting as listing agent of the Issuer for the application that may be made to the Dritter Markt.

Under the listing agency agreement, Timberland Capital Management will ensure the listing of the register and/or the bearer Notes with the before mentioned market/exchange. Timberland Capital Management may use third parties in order to fulfil its scope of business and its agent role.

Timberland Capital Management has an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to EUR 8,000 per each issuance of bearer Note and a onetime remuneration of EUR 1,500.

The Issuer is free to conclude in future one or more listing agency agreements with one or more listing agents for the before mentioned listings.

The Issuer intends to conclude a listing agency agreement with Walther Ludwig AG, a public limited liability company incorporated and existing under the laws of Germany, under the supervision of the BaFin, having its head office in Kaiserstraße 1, 60311 Frankfurt am Main, Germany, registered with the Frankfurt am Main registry of companies under number HRB 43755 (**ICF Bank**), acting as listing agent of the Issuer for the application that may be made to the Frankfurt Stock Exchange for the bearer Notes to be listed and/or on the Open Markets or the Dritter Markt, respectively.

Under the intended listing agency agreement, the ICF Bank shall ensure the listing of the bearer Notes with the before mentioned markets/exchanges. ICF Bank will have an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to EUR 5,000 per each issuance of bearer Note.

The Issuer intends to conclude a listing agency agreement with ICF Bank AG, a public limited liability company incorporated and existing under the laws of Germany, under the supervision of the BaFin, having its head office in Kaiserstraße 1, 60311 Frankfurt am Main, Germany, registered with the Frankfurt am Main registry of companies under number HRB 43755 (**ICF Bank**), acting as listing agent of the Issuer for the application that may be made to the Frankfurt Stock Exchange for the bearer Notes to be listed and/or on the Open Markets or the Dritter Markt, respectively.

Under the intended listing agency agreement, the ICF Bank shall ensure the listing of the bearer Notes with the before mentioned markets/exchanges. ICF Bank will have an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to EUR 5,000 per each issuance of bearer Note.

## 2.6. Collecting and Account Banks

The Issuer has appointed Commerzbank AG, a public limited company (*Aktiengesellschaft*) incorporated under the laws of the Federal Republic of Germany, having its registered office at Kaiserplatz, 60311 Frankfurt am Main, Germany, and registered in the trade register of Frankfurt/Main under number HRB 32000 as collecting bank and account bank (a **Collecting Bank** and/or a **German Account Bank**).

The Collecting Bank will receive (i) subscription monies from the registered Notes and bearer Notes from the relevant investors which pay the issue price in Euro and (ii) any subscription monies in a currency other than Euro from the Notes from the relevant local branches and subsidiaries or correspondent banks of the Collecting Bank in the relevant jurisdictions. The Collecting Bank will immediately convert the subscription monies (as mentioned under (ii) above) into a Euro amount taking into consideration the applicable spot rate.

The Collecting Bank/German Account Bank has an interest in the offer of the Notes and will receive a remuneration of approximately EUR 650 per annum and market standard payment fees.

The Issuer may appoint from time to time one or more further account bank(s) within the EU and/or EEA (each a Collecting Bank).

Such Collecting Bank(s) will receive subscription monies (as mentioned above) from the registered Notes and bearer Notes from the relevant investors which pay the issue price in Euro and (ii) any subscription monies in a currency other than Euro from the Notes from the relevant local branches and subsidiaries or correspondent banks of the Collecting Bank(s) in the relevant jurisdictions. The Collecting Bank will immediately convert the subscription monies (as mentioned under (ii) above) into a Euro amount taking into consideration the applicable spot rate.

The Collecting Bank(s) will have an interest in the offer of the Notes and will receive a remuneration of approximately up to EUR 1,000 per annum and market standard payment fees.

## 2.7. Distribution Agents

The Issuer has concluded a distribution agency agreement with Timberland Invest Ltd., a private limited liability company incorporated and existing under the laws of Malta, under the supervision of the MFSA, with registered office at 171, Old Bakery Street, Valletta VLT 1455, Malta, having its head office in Aragon House, St. George's Park, St. Julian's STJ 3140, Malta, registered with the Maltese registry of companies under number C60291 (**Timberland Invest**), acting as distribution agent of the Issuer in respect of the Notes.

Under the distribution agency agreement, Timberland Invest and its sales partners and sub-sales partners will ensure the offering and distribution of the Notes in the Public Offer Jurisdictions. Timberland Invest undertakes to use best efforts to offer and distribute the Notes in the Public Offer Jurisdictions in accordance with the relevant selling restrictions and applicable law.

Timberland Invest has an interest in the offer of the Notes and will receive in respect of each subscribed Note a remuneration equivalent to an amount of up to 15 per cent. of the issued Notes.

The Issuer has concluded furthermore a distribution agency agreement with Timberland Capital Management acting as distribution agent of the Issuer in respect of the Notes.

Under the distribution agency agreement, Timberland Capital Management and its sales partners and sub-sales partners will ensure the offering and distribution of the Notes in certain Public Offer Jurisdictions. Timberland Capital Management undertakes to use best efforts to offer and distribute the Notes in certain Public Offer Jurisdiction in accordance with the relevant selling restrictions and applicable law.

Timberland Capital Management has an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to 15 per cent. of the issued Notes.

The Issuer may conclude furthermore (a) distribution agency agreement(s) with further Distributors acting as distribution agent(s) of the Issuer in respect of the Notes.

Under the distribution agency agreement(s), the Distributor(s) and its sales partners and sub-sales partners will ensure the offering and distribution of the Notes in certain Public Offer Jurisdictions. The Distributor(s) will undertake to use best efforts to offer and distribute the Notes in certain Public Offer Jurisdiction in accordance with the relevant selling restrictions and applicable law.

The Distributor(s) will have an interest in the offer of the Notes and will receive a remuneration equivalent to an amount of up to 15 per cent. of the issued Notes.

E-Stream Energy GmbH & Co KG is free to perform the function of the distribution itself or appoint one or more other registrar and transfer agents for one or more issued Notes/Bonds in case such distribution is in line with applicable laws and regulations in the relevant offering or distribution jurisdiction, especially but not limited to the so called "issuers privilege" ("*Emittentenprivileg*").

## DESCRIPTION OF TIMBERLAND SECURITIES INVESTMENT PLC (THE GUARANTOR) AND ITS BUSINESS ACTIVITIES

### 1.1 History and Development of the Guarantor

The Guarantor was registered in Malta for an indefinite duration on 30 January 2015 under the name Timberland Securities Investment Ltd, a private limited liability company incorporated in terms of the Companies Act (Cap. 386 of the Laws of Malta). On 19 April 2016, the Guarantor changed its status to a public limited liability company, as a result of which, the name of the Guarantor was changed to Timberland Securities Investment plc.

### 1.2 Additional Information about the Guarantor

Full legal and commercial name:	Timberland Securities Investment plc
Company registration number:	C-68856
Legal Identifier (LEI):	894500CA1XTDSTWJ1T79
Registered address:	171, Old Bakery Street, Valletta VLT 1455
Office:	Aragon House, St. George's Park, St. Julian's STJ 3140, Malta
Place of registration and domicile:	Malta
Telephone number:	+356-209081-00
Fax number:	+356-209081-50
Email:	info@timberland-investment.com
Website:	www.timberland-investment.com

As at the date of this Base Prospectus, the Guarantor has an authorised share capital of EUR 50,000 divided into 49,999 ordinary A shares and 1 ordinary B share of one (1) Euro each. The issued share capital of the Guarantor is of EUR 50,000 divided into 49,999 ordinary A shares and 1 ordinary B share of one (1) Euro each. The Guarantor is a subsidiary of Timberland Holding II Ltd, Malta, incorporated under the laws of Malta.

### 1.3 Selected Financial Information

The audited Report and Financial Statements of the Guarantor for the financial period from 1 January 2017 to 31 December 2017 have been prepared in accordance with International Financial Reporting Standards (IFRS) as adopted by the European Union and the Companies Act, Cap. 386 of the Laws of Malta and the audited Report and Financial Statements of the Guarantor for the financial period from 1 January 2018 to 31 December 2018 have been prepared in accordance with General Accounting Principles for Small and Medium-sized Entities (GAPSME) and the Companies Act, Cap. 386 of the Laws of Malta:

	2018 (€)
Non-Current assets	5,884,264
Current assets	2,595,254
Total Assets	8,479,518
Shareholder's Equity	1,070,876
Total Liabilities	7,408,642

Total Equity and Liabilities	8,479,518
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The annual audited accounts for the financial period from 1 January 2017 to 31 December 2017:

	2017 (€)
Non-Current assets	2,603,972
Current assets	1,379,345
Total Assets	3,983,317
Shareholder's Equity	885,685
Total Liabilities	3,097,632
Total Equity and Liabilities	3,983,317

The Financial Statements of the Guarantor for the financial period from 1 January 2018 to 31 December 2018 have been independently audited and have been drawn up in accordance with Directive 2014/56/EU and Regulation (EU) 537/2014.

#### 1.4 Statutory Auditor

Issuer appointed PricewaterhouseCoopers (PwC), having its registered office at 78, Triq il-Mithna, Qormi, QRM 3101, Malta as statutory auditor for the financial year 2018 and 2017, respectively. PricewaterhouseCoopers is a firm of certified public accountants holding a warrant to practice the profession of accountant in terms of the Accountancy Profession Act (Cap. 281, Laws of Malta).

#### 1.5 Administration

In terms of the Guarantor's Memorandum of Association, the Guarantor's board of directors must consist, at all times, of a minimum of two directors and a maximum of five directors. As at the date of the publication of this Base Prospectus, the directors of the Guarantor are as follows:

##### *Dirk Koester*

Mr Koester has, since 2003, performed individual portfolio management, fund management and investment advisory services for Timberland Capital Management GmbH.

In particular, he performs the day-to-day portfolio management of the retail sub-fund, Timberland Top-Dividende International together with Mr Kraemer. Since 1999, Mr Koester has also worked for Timberland Service GmbH, Germany, which is a licensed financial service provider in Germany (section 34 lit. f of the German Trade, Commerce and Industry Regulation Act (*Gewerbeordnung*)) whose services include the distribution of financial products, including the fund Timberland Top-Dividende International, to retail, professional and institutional investors as well as other financial service providers. In this regard, Mr Koester works on a day-to-day basis with the register and transfer agents of the said products.

In 2006, the fund Timberland Top-Dividende International was migrated to, and was set up as a sub-fund of, AHW SICAV (a new setup SICAV) with LRI Invest as UCITS Management Company. Mr Koester served as chairman (*Verwaltungsratsvorsitzender*) of the board of directors (*Verwaltungsrat*) of the said SICAV between 2006 and 2010. Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Koester worked for in the capacities referenced above) were respectively appointed as portfolio manager and distribution agent/information agent to the said SICAV.

In August 2010, when the fund Timberland Top-Dividende International was migrated to, and became a sub-fund of, Timberland SICAV, Mr Koester was appointed as chairman of the board of the said company. In this instance, Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Koester worked for in the capacities reference above) were also respectively

appointed to perform day-to-day portfolio management and the functions of distribution agent/information agent to the SICAV.

In addition to the above, Mr Koester has also, since 1999, setup (together with Mr Kraemer) several investment structures and AIFs in Germany, which are authorized for public offering by the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)*). His work included several functions ranging from assistance in setting up of the said structures to the day-to-day running thereof including inter alia being a member of a supervisory board (*Aufsichtsrat*).

Mr Koester is a board member of Timberland Investment GmbH and is also the head of portfolio management at the said company. In 2014, Timberland Investment GmbH was granted authorization by the BaFin as full-scope alternative investment fund manager for closed ended AIFs including individual portfolio management, investment advice, reception and transmission of orders and the safekeeping and management of shares or units in domestic investment funds, EU investment funds and/or foreign AIF for others and the marketing of units or shares in investment funds to third parties.

Mr Koester is a member of the board of directors and member of the investment committee of Timberland Fund Management Ltd. and member of the board of directors and member of investment advisory committee of Timberland Invest Ltd. Timberland Fund Management Ltd. is a Maltese MFSA-licensed full-scope AIFM, which is authorised to manage open-ended and close-ended AIFs and is also authorised to perform discretionary portfolio management services, to receive and transmit orders and to provide investment advice. Timberland Fund Management Ltd. passports its services to nearly all Member States of the European Union. Timberland Invest Ltd. is licensed as MiFID-company to provide a number of services including the reception and transmission of orders, investment advice and placement of financial instruments without a firm commitment in respect of all financial instruments falling within the remit of Annex 1 to MiFID II. Timberland Invest Ltd. passports its service to all Member States of the European Union and to Norway, Island and Liechtenstein, all of which are countries of the European Economic Area.

As of today, Mr Koester also serves as member of the board of directors of Timberland Securities plc (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands), and Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg), all of which are securitisation companies. He also serves as member of the board of directors of additional financial and non-financial entities. Furthermore, he serves inter alia as a member of the board of directors of (i) Timberland Management GmbH, which is a General Partner to inter alia Timberland Finance GmbH & Co KG and its branch in Hungary as well Timberland Finance International GmbH & Co KG and its branch in Hungary and (ii) E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

### ***Thomas Kraemer***

Mr Kraemer has, since 1996, performed individual portfolio management and investment advisory services. Mr Kraemer has been a shareholder and board member of Timberland Capital Management GmbH since 1996. The said company is since 1998 under authorization of the predecessor of the BaFin, *Bundesaufsichtsamt für das Kreditwesen (BaKred)*, and the services thereof are passported to several European countries.

In 1999, together with DG Bank Luxembourg, Mr Kraemer set up a retail sub-fund, Timberland Top-Dividende International, which was a sub-fund of DG LUX Multimanager I SICAV (the latter being authorized for retail public offering in Luxembourg, Germany, and, as of 2002, also in Austria). Mr Kraemer is responsible for the day-by-day portfolio management of this fund and since 2003, he has performed this role together with Mr Dirk Koester.

Mr Kraemer has also, since 1999, been a member of the board of directors of Timberland Service GmbH, Germany, which is licensed as a financial service provider in Germany (section 34 lit. f



German Trade, Commerce and Industry Regulation Act (*Gewerbeordnung*)) and acts as distribution agent of the fund Timberland Top-Dividende International.

In 2006, Mr Kraemer assisted in the migration of the fund Timberland Top-Dividende International to AHW SICAV (a new setup SICAV) with LRI Invest as UCITS Management Company. Mr Kraemer was deputy chairman (*stellvertretender Verwaltungsrat*) of the board of directors (*Verwaltungsrat*) of the SICAV between 2006 and August of 2010. Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Kraemer was involved in, in the capacities referenced above) were respectively appointed as portfolio manager and distribution agent/information agent to said SICAV.

In 2010, Mr Kraemer assisted in the migration of the fund Timberland Top-Dividende International to Timberland SICAV. Mr Kraemer has, since August 2010, been appointed as deputy chairman (*stellvertretender Verwaltungsrat*) of Timberland SICAV. In this instance, Timberland Capital Management GmbH and Timberland Service GmbH (both of which Mr Kraemer was involved in, in the capacities referenced above) were also appointed to perform the functions of portfolio manager and distribution agent/information agent to said SICAV.

In addition to the above, Mr Kraemer has also, since 1999, setup several investment structures (*Vermögensanlagen*) and AIFs in Germany, which have been (as of 2009) authorized for public offering by BaFin. His work included several functions ranging from assistance in drafting the prospectus of the said AIF/investment structures (together with the advising law firm) to the day-to-day running thereof, including setting up the relationship with Commerzbank AG (as account bank for the said AIFs/investment structures).

Mr Kraemer is a shareholder and board member of Timberland Investment GmbH. In 2014, Timberland Investment GmbH was granted authorization by the BaFin as full scope AIFM for closed ended AIFs including individual portfolio management, investment advice, reception and transmission of orders and the safekeeping and management of shares or units in domestic investment funds, EU investment funds and/or foreign AIF for others and the marketing of units or shares in investment funds to third parties.

Mr Kraemer is also a board member and investment committee member of Timberland Fund Management Ltd. and a board member and member of investment advisory committee of Timberland Invest Ltd. Timberland Fund Management Ltd. is a Maltese MFSA-licensed full-scope AIFM, which is authorised to manage open-ended and close-ended AIFs and is also authorised to perform discretionary portfolio management services, to receive and transmit orders and to provide investment advice. Timberland Fund Management Ltd. passports its services to nearly all Member States. Timberland Invest Ltd. is licensed as MiFID-company to provide a number of services including the reception and transmission of orders, investment advice and placement of financial instruments without a firm commitment in respect of all financial instruments falling within the remit of Annex 1 to MiFID II. Timberland Invest Ltd. passports its service to all Member States and to Norway, Island and Liechtenstein, all of which are countries of the European Economic Area.

E-Stream Energy GmbH & Co KG has access to Timberland companies that perform and have access to large parts of the investment chain for setup, administration, portfolio management and distribution to and of different legal structures like securitization, AIFs under AIFMD, investment structures (*Vermögensanlagen*) which are not subject to AIFMD and UCITS.

As of today, Mr Kraemer serves as member of the board of directors of Timberland Securities plc (Malta), Timberland Securities SPC and Timberland Securities II SPC (Cayman Islands), and Timberland Securities S.A. and Timberland Investment S.A. (Luxembourg), all of which are securitisation companies.

He also serves as member of the board of directors of additional financial and non-financial entities. Furthermore, he serves inter alia as a member of the board of directors of (i) Timberland Management GmbH, which is a General Partner to inter alia Timberland Finance GmbH & Co KG and its branch in Hungary as well Timberland Finance International GmbH & Co KG and its branch in Hungary and (ii) E-Stream Energy Management GmbH, which is a General Partner to E-Stream Energy GmbH & Co KG.

### ***Anthony J Paris***

Mr Paris is a business consultant mainly working on projects to deliver improvements in service delivery performance and project management. His ideas on project leadership and management are described in a book written by Gordon D. Webster and published by Gower Press in English and by the Spanish Institute for Quality in Spanish. His management work included several years helping organizations like Chase Manhattan Bank, American Express, Metropolitan Life, NASA, and General Electric in the USA. Currently he is based in Europe, consulting with large organizations such as Computer Sciences Corporation (CSC), Schindler Elevators & Escalators, Citibank, BBVA, Department of the Treasury (Southern Australia), Genpact and UST Global.

Mr Paris graduated in mechanical engineering from University of Manchester, in England. At the same university, he later wrote a thesis on the cooling and controlling of nuclear reactors using liquid sodium as a coolant and was awarded a M.Sc. from Manchester University. His mathematical modelling work on nuclear reactors forms the basis of a number of business, financial and risk assessment models that he developed for various clients.

Mr Paris worked as systems analyst in England from 1968 to 1970 and moved to USA in 1970 where he worked with several financial institutions as management consultant from 1970 to 1978 developing systems to help investment analysts and portfolio managers. In 1978, he started a management training & consulting business in New York delivering services to Fortune 500 companies. From 1990 to 1996, he was managing director for Air Malta, the Maltese national airline, performing a major reorganization and implementing major automation projects. From 1996 onwards, he worked with major companies in the fields of operations management, project management and service management. He also worked with hedge fund managers on forecasting models and risk management models.

Mr Paris currently co-manages a USD 30 million family office fund. In addition, he is a director on the board of various fund management and administration companies based in Malta, with MLRO and risk officer responsibility. He also serves as member of the board of directors of additional financial and non-financial entities.

## **1.6 Organisational Structure**

As of the date of this Base Prospectus, the shareholders of the Guarantor are as follows:

- Timberland Holding II Ltd. (C 68800), having registered address at 171, Old Bakery Street, Valletta, VLT 1455, Malta, which holds 99.99 per cent. of the issued share capital of the Guarantor ; and
- Timberland Investment Ltd. (MC-295373), having registered address at PO Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands, which holds 0.01 per cent. of the issued share capital of the Guarantor.

The Guarantor does, as of the date of this Base Prospectus, have shareholdings in other companies.

## **1.7. Principal Activities and Markets**

The principal objects of the Guarantor (and powers which may be exercised to attain such objects) are those which are set out in clause 4 of the Guarantor's Memorandum of Association, which is incorporated by reference herein.

As of the date of the publication of this Base Prospectus, the principal activity of the Guarantor comprises acting as arranger or sub-arranger in respect of the issuance of limited recourse notes by Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A.

In its role as arranger or sub-arranger in respect of the issuance of notes by the aforementioned entities, all of which are securitization vehicles, the Guarantor provides (amongst others) the following services:

- the provision of consultancy services in connection with the acquisition, holding and liquidation of the underlying securitized assets;
- the co-ordination of all documentary and legal aspects of the issuance of notes by Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A.; and
- paying amounts due under the notes issued by Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A.

As consideration for performing its role as arranger or sub-arranger in respect of services outlined above, the Guarantor receives customary fees.

The main markets within which the Guarantor currently competes are the Republic of Malta, the Republic of Austria, the Federal Republic of Germany, Hungary, the Republic of Ireland, the Grand Duchy of Luxembourg and the Cayman Islands, whilst the main markets within which Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc and Timberland Investment S.A. currently compete are the Republic of Austria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the French Republic, the Federal Republic of Germany, Hungary, the Republic of Ireland, the Italian Republic, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland.

The Guarantor may, in the future, act as arranger or sub-arranger in other securitization and index-linked transactions or carry out other services in any of the aforementioned and/or other jurisdictions.

#### Material Contracts

*Arranger Agreements in respect of Issuance of notes by Timberland Securities SPC, Timberland Securities SPC II, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A.*

Pursuant to agreements dated 27 August 2015, the Guarantor was appointed to act as arranger or sub-arranger in respect of the issuance of notes by Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A. In terms of the said agreements, the Guarantor was appointed to assist in the setting up of the securitization transactions and to provide, amongst others, the following services to Timberland Securities SPC, Timberland Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A. respectively: (a) the provision of consultancy services in connection with the acquisition, holding and liquidation of the underlying securitized assets; and (b) the co-ordination of all documentary and legal aspects of the issuance of notes by Timberland Securities SPC, Timberland

Securities II SPC, Timberland Securities plc, Timberland Securities S.A. and Timberland Investment S.A. All agreements may be terminated, inter alia, by the delivery by either party thereto of one month's written notice.

*Agreements in respect of E-Stream Energy GmbH & Co KG*

The Guarantor has provided loans amounting to EUR 6,659,181 (as at 31 December 2018) to E-Stream Energy GmbH & Co KG. In connection with the latter, Timberland Securities Investment plc has entered into loan agreements with the respective related parties which stipulate repayment and interest terms.

## TAXATION

### 1. GENERAL TAXATION INFORMATION

Warning: The tax legislation of the investor's Member State and of the Issuer's country of incorporation may have an impact on the income received from the securities.

The following information provided below does not purport to be a complete description of the tax law and practice currently available. Potential purchasers of Notes are advised to consult their own tax advisers as to the tax consequences of transactions involving the Notes.

Purchasers and/or sellers of Notes may be required to pay stamp taxes and other charges in accordance with the laws and practices of the country of transfer in addition to the issue price or purchase price (if different) of the Notes.

Transactions involving Notes (including purchases, transfer or redemption), the accrual or receipt of any payments in respect of the Notes and the death of a Noteholder may have tax consequences for potential purchasers which may depend, amongst other things, upon the tax status of the potential purchaser and may relate to stamp duty, stamp duty reserve tax, income tax, corporation tax, capital gains tax and/or inheritance tax.

The Issuer does not assume any responsibility for the withholding of taxes at source.

### 2. AUSTRIA

This section on taxation contains a brief summary of the Issuer's understanding with regard to certain important principles which are of significance in connection with the purchase, holding or sale of the Notes in Austria. This summary does not purport to exhaustively describe all possible tax aspects and does not deal with specific situations which may be of relevance for certain potential investors. The following comments are rather of a general nature and included herein solely for information purposes. They are not intended to be, nor should they be construed to be, legal or tax advice. This summary is based on the currently applicable tax legislation, case law and regulations of the tax authorities, as well as their respective interpretation, all of which may be amended from time to time. Such amendments may possibly also be effected with retroactive effect and may negatively impact on the tax consequences described. It is recommended that potential investors in the Notes consult with their legal and tax advisors as to the tax consequences of the purchase, holding or sale of the Notes. Tax risks resulting from the Notes (in particular from a potential qualification as equity for tax purposes instead of debt) shall in any case be borne by the investor. For the purposes of the following it is assumed that the Notes are legally and factually offered to an indefinite number of persons.

The Issuer assumes no responsibility with respect to taxes withheld at source.

#### (a) General remarks

Individuals having a domicile (*Wohnsitz*) and/or their habitual abode (*gewöhnlicher Aufenthalt*), both as defined in sec. 26 of the Austrian Federal Fiscal Procedures Act (*Bundesabgabenordnung*), in Austria are subject to income tax (*Einkommensteuer*) in Austria on their worldwide income (unlimited income tax liability; *unbeschränkte Einkommensteuerpflicht*). Individuals having neither a domicile nor their habitual abode in Austria are subject to income tax only on income from certain Austrian sources (limited income tax liability; *beschränkte Einkommensteuerpflicht*).

Corporations having their place of management (*Ort der Geschäftsleitung*) and/or their legal seat (*Sitz*), both as defined in sec. 27 of the Austrian Federal Fiscal Procedures Act, in Austria are subject to corporate income tax (*Körperschaftsteuer*) in Austria on their worldwide income (unlimited corporate income tax liability; *unbeschränkte Körperschaftsteuerpflicht*). Corporations having neither their place of management nor their legal seat in Austria are subject to corporate income tax only on

income from certain Austrian sources (limited corporate income tax liability; *beschränkte Körperschaftsteuerpflicht*).

Both in case of unlimited and limited (corporate) income tax liability Austria's right to tax may be restricted by double taxation treaties.

(b) Income taxation of the Notes

Pursuant to sec. 27(1) of the Austrian Income Tax Act (*Einkommensteuergesetz*), the term investment income (*Einkünfte aus Kapitalvermögen*) comprises:

- income from the letting of capital (*Einkünfte aus der Überlassung von Kapital*) pursuant to sec. 27(2) of the Austrian Income Tax Act, including dividends and interest; the tax basis is the amount of the earnings received (sec. 27a(3)(1) of the Austrian Income Tax Act);
- income from realised increases in value (*Einkünfte aus realisierten Wertsteigerungen*) pursuant to sec. 27(3) of the Austrian Income Tax Act, including gains from the alienation, redemption and other realisation of assets that lead to income from the letting of capital (including zero coupon bonds); the tax basis amounts to the sales proceeds or the redemption amount minus the acquisition costs, in each case including accrued interest (sec. 27a(3)(2)(a) of the Austrian Income Tax Act); and
- income from derivatives (*Einkünfte aus Derivaten*) pursuant to sec. 27(4) of the Austrian Income Tax Act, including cash settlements, option premiums received and income from the sale or other realisation of forward contracts like options, futures and swaps and other derivatives such as index certificates (the mere exercise of an option does not trigger tax liability); e.g., in the case of index certificates, the tax basis amounts to the sales proceeds or the redemption amount minus the acquisition costs (sec. 27a(3)(3)(c) of the Austrian Income Tax Act).

Also the withdrawal of the Notes from a securities account (*Depotentnahme*) and circumstances leading to a restriction of Austria's taxation right regarding the Notes vis-à-vis other countries, e.g. a relocation from Austria (*Wegzug*), are in general deemed to constitute a sale (cf. sec. 27(6) of the Austrian Income Tax Act). The tax basis amounts to the fair market value minus the acquisition costs (sec. 27a(3)(2)(b) of the Austrian Income Tax Act).

Individuals subject to unlimited income tax liability in Austria holding the Notes as non- business assets are subject to income tax on all resulting investment income pursuant to sec. 27(1) of the Austrian Income Tax Act. In case of investment income from the Notes with an Austrian nexus (*inländische Einkünfte aus Kapitalvermögen*), basically meaning income paid by an Austrian paying agent (*auszahlende Stelle*) or an Austrian custodian agent (*depotführende Stelle*), the income is subject to withholding tax (*Kapitalertragsteuer*) at a flat rate of 27.5%; no additional income tax is levied over and above the amount of tax withheld (final taxation pursuant to sec. 97(1) of the Austrian Income Tax Act). In case of investment income from the Notes without an Austrian nexus, the income must be included in the investor's income tax return and is subject to income tax at the flat rate of 27.5%. In both cases upon application the option exists to tax all income subject to income tax at a flat rate pursuant to sec. 27a(1) of the Austrian Income Tax Act at the lower progressive income tax rate (option to regular taxation pursuant to sec. 27a(5) of the Austrian Income Tax Act). The acquisition costs must not include ancillary acquisition costs (*Anschaffungsnebenkosten*; sec. 27a(4)(2) of the Austrian Income Tax Act). Expenses such as bank charges and custody fees must not be deducted (sec. 20(2) of the Austrian Income Tax Act); this also applies if the option to regular taxation is exercised. Sec. 27(8) of the Austrian Income Tax Act, inter alia, provides for the following restrictions on the offsetting of losses: negative income from realised increases in value and from derivatives may be neither offset against interest from bank accounts and other non-securitized claims vis-à-vis credit institutions (except for cash settlements and lending fees) nor against income from private foundations,

foreign private law foundations and other comparable legal estates (*Privatstiftungen, ausländische Stiftungen oder sonstige Vermögensmassen, die mit einer Privatstiftung vergleichbar sind*); income subject to income tax at a flat rate pursuant to sec. 27a(1) of the Austrian Income Tax Act may not be offset against income subject to the progressive income tax rate (this equally applies in case of an exercise of the option to regular taxation); negative investment income not already offset against positive investment income may not be offset against other types of income. The Austrian custodian agent has to effect the offsetting of losses by taking into account all of a taxpayer's securities accounts with the custodian agent, in line with sec. 93(6) of the Austrian Income Tax Act, and to issue a written confirmation to the taxpayer to this effect.

Individuals subject to unlimited income tax liability in Austria holding the Notes as business assets are subject to income tax on all resulting investment income pursuant to sec. 27(1) of the Austrian Income Tax Act. In case of investment income from the Notes with an Austrian nexus, the income is subject to withholding tax at a flat rate of 27.5%. While withholding tax has the effect of final taxation for income from the letting of capital, income from realised increases in value and income from derivatives must be included in the investor's income tax return (nevertheless income tax at the flat rate of 27.5%). In case of investment income from the Notes without an Austrian nexus, the income must always be included in the investor's income tax return and is subject to income tax at the flat rate of 27.5%. In both cases upon application the option exists to tax all income subject to income tax at a flat rate pursuant to sec. 27a(1) of the Austrian Income Tax Act at the lower progressive income tax rate (option to regular taxation pursuant to sec. 27a(5) of the Austrian Income Tax Act). Expenses such as bank charges and custody fees must not be deducted (sec. 20(2) of the Austrian Income Tax Act); this also applies if the option to regular taxation is exercised. Pursuant to sec. 6(2)(c) of the Austrian Income Tax Act, depreciations to the lower fair market value and losses from the alienation, redemption and other realisation of financial assets and derivatives in the sense of sec. 27(3) and (4) of the Austrian Income Tax Act, which are subject to income tax at the flat rate of 27.5%, are primarily to be offset against income from realised increases in value of such financial assets and derivatives and with appreciations in value of such assets within the same business unit (*Wirtschaftsgüter desselben Betriebes*); only 55% of the remaining negative difference may be offset against other types of income.

Pursuant to sec. 7(2) of the Austrian Corporate Income Tax Act (*Körperschaftsteuergesetz*), corporations subject to unlimited corporate income tax liability in Austria are subject to corporate income tax on income in the sense of sec. 27(1) of the Austrian Income Tax Act from the Notes at a rate of 25%. In the case of income in the sense of sec. 27(1) of the Austrian Income Tax Act from the Notes with an Austrian nexus, the income is subject to withholding tax at a flat rate of 27.5%. However, a 25% rate may pursuant to sec. 93(1a) of the Austrian Income Tax Act be applied by the withholding agent, if the debtor of the withholding tax is a corporation. Such withholding tax can be credited against the corporate income tax liability. Under the conditions set forth in sec. 94(5) of the Austrian Income Tax Act withholding tax is not levied in the first place. Losses from the alienation of the Notes can be offset against other income.

Pursuant to sec. 13(3)(1) in connection with sec. 22(2) of the Austrian Corporate Income Tax Act, private foundations (*Privatstiftungen*) pursuant to the Austrian Private Foundations Act (*Privatstiftungsgesetz*) fulfilling the prerequisites contained in sec. 13(3) and (6) of the Austrian Corporate Income Tax Act and holding the Notes as non-business assets are subject to interim taxation at a rate of 25% on interest income, income from realised increases in value and income from derivatives (inter alia, if the latter are in the form of securities). Pursuant to the Austrian tax authorities' view, the acquisition costs must not include ancillary acquisition costs. Expenses such as bank charges and custody fees must not be deducted (sec. 12(2) of the Austrian Corporate Income Tax Act). Interim tax does generally not fall due insofar as distributions subject to withholding tax are made to beneficiaries in the same tax period. In case of investment income from the Notes with an Austrian nexus, the income is in general subject to withholding tax at a flat rate of 27.5%. However, a 25% rate may pursuant to sec. 93(1a) of the Austrian Income Tax Act be applied by the withholding agent, if the debtor of the withholding tax is a corporation. Such withholding tax can be credited against the tax

falling due. Under the conditions set forth in sec. 94(12) of the Austrian Income Tax Act withholding tax is not levied.

Individuals and corporations subject to limited (corporate) income tax liability in Austria are taxable on investment income from the Notes if they have a permanent establishment (*Betriebsstätte*) in Austria and the Notes are attributable to such permanent establishment (cf. sec. 98(1)(3) of the Austrian Income Tax Act, sec. 21(1)(1) of the Austrian Corporate Income Tax Act). Individuals subject to limited income tax liability in Austria are also taxable on interest in the sense of the Austrian EU Withholding Tax Act (*EU-Quellensteuergesetz*, see below) from the Notes if withholding tax is levied on such interest (this does not apply, inter alia, if the Issuer has neither its place of management nor its legal seat in Austria and is not acting through an Austrian branch, which condition the Issuer understands to be fulfilled in the case at hand; cf. sec. 98(1)(5)(b) of the Austrian Income Tax Act). Under applicable double taxation treaties, relief from Austrian income tax might be available. However, Austrian credit institutions must not provide for such relief at source; instead, the investor may file an application for repayment of tax with the competent Austrian tax office.

(c) EU withholding tax

Sec. 1 of the Austrian EU Withholding Tax Act – implementing Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments – provides that interest payments paid or credited by an Austrian paying agent (*Zahlstelle*) to a beneficial owner who is an individual resident in another EU-Member State (or in certain dependent or associated territories, which currently include Anguilla, Aruba, the British Virgin Islands, Curaçao, Guernsey, the Isle of Man, Jersey, Montserrat, Sint Maarten and the Turks and Caicos Islands) are subject to EU withholding tax (*EU-Quellensteuer*) of 35%. Sec. 10 of the Austrian EU Withholding Tax Act provides for an exemption from EU withholding tax if the beneficial owner presents to the paying agent a certificate drawn up in his/her name by the competent authority of his/her member state of residence for tax purposes, indicating the name, address and tax or other identification number or, failing such, the date and place of birth of the beneficial owner, the name and address of the paying agent, and the account number of the beneficial owner or, where there is none, the identification of the security; such certificate shall be valid for a period not exceeding three years.

Pursuant to Council Directive (EU) 2015/2060 of 10 November 2015 repealing Council Directive 2003/48/EC, the latter was in general repealed with effect from 1 January 2016. However, pursuant to detailed grandfathering provisions, Austria shall in general continue to apply Council Directive 2003/48/EC until 31 December 2016.

(d) Tax treaties Austria/Switzerland and Austria/Liechtenstein

The Treaty between the Republic of Austria and the Swiss Confederation on Cooperation in the Areas of Taxation and Capital Markets and the Treaty between the Republic of Austria and the Principality of Liechtenstein on Cooperation in the Area of Taxation provide that a Swiss, respectively Liechtenstein, paying agent has to withhold a tax amounting to 25% or 27.5% respectively, on, inter alia, interest income, dividends and capital gains from assets booked with an account or deposit of such Swiss, respectively Liechtenstein, paying agent if the relevant holder of such assets (i.e. in general individuals on their own behalf and as beneficial owners of assets held by a domiciliary company (*Sitzgesellschaft*)) is tax resident in Austria. The same applies to such income from assets managed by a Liechtenstein paying agent if the relevant holder of the assets (i.e. in general individuals as beneficial owners of a transparent structure) is tax resident in Austria. For Austrian income tax purposes this withholding tax has the effect of final taxation regarding the underlying income if the Austrian Income Tax Act provides for the effect of final taxation for such income. The treaties, however, do not apply to interest covered by the agreements between the European Community and the Swiss Confederation, respectively the Principality of Liechtenstein, regarding Council Directive 2003/48/EC on taxation of savings income in the form of interest payments. The taxpayer can opt for voluntary disclosure instead of the withholding tax by expressly authorising the Swiss, respectively Liechtenstein, paying agent to



disclose to the competent Austrian authority the income, which subsequently has to be included in the income tax return.

(e) Austrian inheritance and gift tax

Austria does not levy inheritance or gift tax.

Certain gratuitous transfers of assets to private law foundations and comparable legal estates (*privatrechtliche Stiftungen und damit vergleichbare Vermögensmassen*) are subject to foundation transfer tax (*Stiftungseingangssteuer*) pursuant to the Austrian Foundation Transfer Tax Act (*Stiftungseingangssteuergesetz*). Such tax is triggered if the transferor and/or the transferee at the time of transfer have a domicile, their habitual abode, their legal seat or their place of management in Austria. Certain exemptions apply in cases of transfers mortis causa of financial assets within the meaning of sec. 27(3) and (4) of the Austrian Income Tax Act (except for participations in corporations) if income from such financial assets is subject to income tax at a flat rate pursuant to sec. 27a(1) of the Austrian Income Tax Act. The tax basis is the fair market value of the assets transferred minus any debts, calculated at the time of transfer. The tax rate is in general 2.5%, with a higher rate of 25% applying in special cases. Special provisions apply to transfers of assets to entities falling within the scope of the tax treaty between Austria and Liechtenstein.

In addition, there is a special notification obligation for gifts of money, receivables, shares in corporations, participations in partnerships, businesses, movable tangible assets and intangibles if the donor and/or the donee have a domicile, their habitual abode, their legal seat or their place of management in Austria. Not all gifts are covered by the notification obligation: In case of gifts to certain related parties, a threshold of EUR 50,000 per year applies; in all other cases, a notification is obligatory if the value of gifts made exceeds an amount of EUR 15,000 during a period of five years. Furthermore, gratuitous transfers to foundations falling under the Austrian Foundation Transfer Tax Act described above are also exempt from the notification obligation. Intentional violation of the notification obligation may trigger fines of up to 10% of the fair market value of the assets transferred.

Further, gratuitous transfers of the Notes may trigger income tax at the level of the transferor pursuant to sec. 27(6) of the Austrian Income Tax Act (see above).

## CROATIA

This section on taxation contains a brief description of the Issuer's understanding with regard to certain important principles which are of significance in connection with the purchase, holding or sale of Notes in the Republic of Croatia. This section does not purport to exhaustively describe all possible tax aspects and does not deal with specific situations which may be of relevance for certain potential investors. The following description is rather of a general nature and included herein solely for information purposes. They are not intended to be, nor should they be construed to be, legal or tax advice. The description is also based on the currently valid and applicable tax legislation. It should be noted that the tax legislation is subject to the frequent amendments and that certain amendments might have impact on tax consequences described below. It is advisable that the potential investors consult tax advisors as to the tax consequences of purchase, holding and sale of the Notes. Tax risks resulting from the Notes (for example, from a potential re-characterization for tax purposes as equity instead of debt) shall in any case be borne by the investor. For the purpose of the following it is assumed that the Notes are legally and factually offered to an indefinite number of persons.

There is no tax on the income from the Notes withheld at source under Croatian tax law.

The Issuer assumes no responsibility with respect to taxes withheld at source.

(a) General remarks

Individuals having a residence (permanent resident or habitual abode) in Croatia are subject to personal income tax (*porez na dohodak*) in Croatia on their worldwide income (unlimited income tax liability; *načelo svjetskog dohotka*). Individuals not having a residence in Croatia are subject to income tax only on income from certain Croatian sources (limited income tax liability; *načelo tuzemnog dohotka*).

Corporations having their registered seat in Croatia are subject to corporate income tax (*porez na dohodak*) on their worldwide income (unlimited corporate income tax liability). Corporations not having their registered seat in Croatia are subject to corporate income tax only if they have permanent establishment in Croatia (limited corporate income tax liability).

Both in case of unlimited and limited (corporate) income tax liability Croatia's right to tax may be restricted by applicable double tax conventions executed by and between Croatia and the country of source or residence (as the case may be).

#### (b) Taxation of Income

If the Croatian corporate income tax resident realizes interest income on Notes, such interest income is included in the tax base and is taxable respectively. The regular corporate income tax rate in Croatia is 20%.

In case of Croatian corporate income tax non-resident, the income resulting from the Notes is taxable in Croatia only if such non-residents have a permanent establishment (*stalna poslovna jedinica*) in Croatia and such income is attributable to the permanent establishment in Croatia.

In case of the Croatian personal income tax resident, the interest from notes is not considered to be a taxable income from interest (regardless of the issuer and the type of notes). There is no further guidance as to when certain types of notes might be characterized (qualified) as equity instead of debt. However, based on a broad language of Article 30 Paragraph 15 Item 4 Personal Income Tax Act (excluding interest income from all types of notes from the taxable income), the income from the interest on Notes should not be taxable in Croatia.

#### (c) Taxation of Principal

Pursuant to the Croatian laws, payment of principals under the Note is not subject of any tax regime.

#### (d) Taxation of Capital Gain

For the purpose of this part of Base Prospectus, capital gain is defined as the profit accomplished by selling the Notes being the difference between the purchase price paid for acquiring the Note and the selling price for which the Note are sold.

In case of the Croatian corporate income tax resident, the capital gain is calculated in the income tax base and taxable respectively. The regular corporate income tax rate is 20%.

In case of the Croatian personal income tax resident, personal income tax is levied, with certain exemptions, on capital gain realized by taxpayer – natural person – on the disposal of the Note. The tax base is calculated as balance between agreed (or market) disposal value (i.e., output value) and the acquisition value (i.e., input value) of the disposed Note, decreased by the amount of capital loss incurred in the same tax year. The personal income tax on such capital gains is levied on an annual basis, at a rate of 12%.

By way of exemption, personal income tax on capital gains is not levied on the disposal of financial instruments in certain cases – e.g. when the disposed Note is acquired by a taxpayer before 1 January 2016, or in cases where the financial instrument is disposed after expiration of 3-year holding period (i.e. period between the acquisition and disposal of the respective Note).

(e) Inheritance and Gift Tax

Croatia levies a tax on inheritance and gifts, when legal entities and individuals receive gifts and inheritance in Croatia. The securities received as a gift, inheritance or on other basis without compensation are subject to such tax, at a rate of 5%, if their market value exceeds the amount of HRK 50,000 (approx. EUR 6,600).

The taxpayers are recipients of inheritance/gift. However, by way of exemption, certain persons are not liable for tax, being for example: spouse, blood relatives in the direct line, certain blood or marriage relatives living in the same household, etc.

CYPRUS

The following is a general analysis of certain Cyprus tax implications. This analysis makes no claim as to its completeness, nor does it take into account any specific circumstances and does not purport to be a comprehensive description of or tax advice on all the tax considerations that may be relevant in a particular case or to a particular holder of Notes. It is based on Cypriot laws currently in force and as applied in practice as of the date hereof and shall be subject to any changes in tax laws occurring after such date. Prospective holders of Notes may seek the advice of their professional tax advisors to clarify any tax implications resulting from the receipt of a Payment under the Notes.

Under the Cyprus Tax Law an individual who is a tax resident of Cyprus is taxed on all chargeable income accrued or derived from all sources in Cyprus and abroad. Individuals who are not tax resident of Cyprus are taxed on certain income accrued or derived from sources in Cyprus. An individual is tax resident of Cyprus if he/ she spends in Cyprus more than 183 days in any one calendar year. Foreign taxes paid can be credited against the personal income tax liability.

Under the Cyprus Tax Law a company which is a tax resident in Cyprus is taxed on its income accrued or derived from all chargeable sources in Cyprus and abroad. A non-Cyprus tax resident company is taxed on income accrued or derived from a business activity which is carried out through a permanent establishment in Cyprus and on certain income arising from sources in Cyprus. A company is resident in Cyprus if it is managed and controlled in Cyprus. Foreign taxes paid can be credited against the corporation tax liability.

(a) Tax on Payment (Interest and Principal)

The payment corresponding to the repayment of the principal amount of the Notes should not be subject to tax in Cyprus. Interest income is subject to tax in Cyprus as follows.

(b) Individuals – Cyprus Tax Residents

Income tax. From January 1st, 2003, pursuant to Law 118(I)/2002 on Income Tax, as amended, interest income is income tax exempt.

Special Defense Contribution (SDC). Since January 1st, 2003, pursuant to Law 117(I)/2002 on Special Contribution for the Defense of the Republic, as amended, an individual who is tax resident in Cyprus and receives or is credited with interest income, is subject to SDC at a rate of 30%.

(c) Legal Entities – Cyprus Tax Residents

Income tax. From January 1st, 2009, pursuant to Law 118(I)/2002 on Income Tax, as amended, interest income not arising from the ordinary conduct of business or interest not closely connected with the ordinary conduct of the business, is exempt from income tax. Interest income arising in the ordinary conduct of business, including any interest closely connected with the ordinary conduct of the business, as well as interest acquired by open-ended or close-ended collective investment schemes, is

not considered as interest but as trading profit and, therefore, it is considered as taxable income of the company for income purposes. Income tax is imposed at a rate of 12.5%.

Special Defense Contribution. Since January 1st, 2003, pursuant to Law 117(I)/2002 on SDC for the Defense of the Republic (CDC), as amended, every legal person who resides in the Republic and receives or is credited with interest income, is subject to SDC at a rate of 30%. However, interest income arising in the ordinary conduct of business, including any interest closely connected with the ordinary conduct of the business, as well as interest acquired by open-ended or closed-ended collective investment schemes, are exempt from the SDC.

(d) Other non-Cypriot Residents (Individuals and Legal Entities)

In case of holders of Notes who are not tax residents of Cyprus, the manner of taxation depends on the tax regime of each Noteholder's country of residence. Non-residents of Cyprus are entitled to receive interest without paying any Cypriot income tax and SDC. In addition, there is never any withholding tax on interest paid to non-residents of Cyprus.

(A) Non – Domicile rules

Under the "non-domicile" rules, a Cyprus tax resident individual who is not domiciled of Cyprus will effectively not be subject to SDC in Cyprus or any interest, rents or dividends (whether actual or deemed) regardless of whether such income is derived from sources within Cyprus and regardless of whether such income is remitted to a bank account or economically used in Cyprus. It is noted that no tax is imposed on individuals under Income Tax Law in respect of interest and dividend income.

The term "domiciled in Cyprus" is defined in the law as an individual who has a domicile of origin in accordance with the Cyprus Wills and Succession Law but it does not include:

- (i) An individual who has obtained and maintained a domicile of choice outside Cyprus in accordance with the Cyprus Wills and Succession Law, provided that such an individual has not been a tax resident of Cyprus for a period of 20 consecutive years preceding the tax year; or
- (ii) An individual who has not been a tax resident of Cyprus for a period of 20 consecutive years prior to the introduction of the law.

Notwithstanding the above, an individual who has been a tax resident of Cyprus for at least 17 years out of the last 20 years prior to the tax year will be considered to be "domiciled in Cyprus" and as such be subject to SDC regardless of his/her domicile or origin.

(B) Stamp Duty

Cyprus stamp duty is payable on every instrument executed if it relates to any (a) property situated in Cyprus or (b) matter or thing which is performed or done in Cyprus.

There are instruments which are subject to stamp duty in Cyprus at a fixed fee and instruments which are subject to stamp duty based on the value of the instrument. For contracts the stamp duty rates are as follows:

For amounts up to €5,000, no stamp duty is payable.

For amounts between €5,001 — €170,000: 0.15%.

For amounts over €170,001: 0.2%, with a cap of €20,000.

Stamp duty at the above rates must be paid within 30 days from the date of execution of the relevant document(s) in Cyprus or from the date of receipt of such document(s) into Cyprus. Non-payment of stamp duty will not invalidate an agreement. The risks of non-payment of stamp duty are that if an otherwise stampable document is at any time submitted to any public authority in Cyprus, it is possible that that public authority may require such document to be stamped before it is submitted to that authority. In the event that the stampable document, which has not been stamped, is to be admitted as evidence before a Cyprus Court, the Court will require that this is properly stamped, together with a penalty of up to 20% of the stamp duty that is due but unpaid, before it is allowed to be submitted as evidence.

(C) Information on Taxes on the Income from Securities withheld at Source

As far as Cypriot tax residents are concerned, it is the duty of the Issuer to withhold interest at source.

## CZECH REPUBLIC

The information set out below is of a general nature and relates only to certain principal Czech withholding tax considerations. Accordingly, it does not deal with any other Czech tax consequences of acquiring, holding or disposing of the Notes, which may be relevant to a decision to purchase the Notes, and is not intended to be, nor should it be regarded as, legal or tax advice. Prospective holders of the Notes should seek, in the light of their individual situation, their own professional advice as to the consequences of acquiring, holding or disposing of the Notes in all relevant jurisdictions. The information is based on the tax laws of the Czech Republic as in effect on the date of this Base Prospectus and their prevailing interpretations available on or before such date. All of the foregoing is subject to change, which could apply retroactively and could affect the continued validity of this summary.

For the purposes of this information, it has been assumed that the Issuer is neither resident for tax purposes nor has a permanent establishment in the Czech Republic.

(a) Withholding Tax

All interest and other payments to be made by the Issuer under the Notes may be made free of withholding on account of any taxes imposed by the Czech Republic.

(b) Securing Tax

In general, Czech tax residents (or Czech permanent establishments of Czech tax non-residents) acquiring investment instruments, such as the Notes, are required, under their own responsibility, to withhold and to remit to Czech tax authorities a 1 per cent. securing tax from the purchase price when purchasing the investment instruments from a seller who is resident for tax purposes outside the European Union or the European Economic Area. Such obligation can be eliminated under a tax treaty concluded between the Czech Republic and the country in which the seller is a tax resident. Furthermore, it can be waived in advance based on a decision of Czech tax authorities.

## FRANCE

The following is a description based on the laws and regulations in full force and effect in France as at the date of this Base Prospectus, which may be subject to change in the future, potentially with retroactive effect. Investors should be aware that the description below is of a general nature and does not constitute legal or tax advice and should not be understood as such. Prospective investors are therefore advised to consult their own qualified advisors so as to determine, in the light of their individual situation, the tax consequences of the purchase, holding, redemption or disposal of the Notes.

## Withholding taxes

*The following is a summary addressing only the French compulsory withholding tax treatment of income arising from the holding of the Notes. This summary is prepared on the assumption that (i) the Issuer is not and will not be a French resident for French tax purposes and (ii) any transactions in connection with the Notes are not and will not be attributed or attributable to a French branch, permanent establishment or other fixed place of business of the Issuer in France.*

All payments by the Issuer in respect of the Notes will be made free of any compulsory withholding or deduction for or on account of any income tax imposed, levied, withheld, or assessed by France or any political subdivision or taxing authority thereof or therein.

However, if the paying agent (*établissement payeur*) is established in France, pursuant to Article 125 A of the French Code (*général des impôts*), subject to certain limited exceptions, interest and assimilated income received in relation to securities or claims which are regarded as debt for French tax purposes by individuals who are fiscally domiciled (*domiciliés fiscalement*) in France are subject to a 24% withholding tax which is deductible from their personal income tax liability in respect of the year in which the payment has been made. In such case, social contributions (CSG, CRDS and other related contributions) are also levied by way of withholding tax at an aggregate rate of 15.5%.

## GERMANY

The following is a general discussion of certain German tax consequences of the acquisition, holding and disposal of Notes. It does not purport to be a comprehensive description of all German tax considerations that may be relevant to a decision to purchase Notes, and, in particular, does not consider any specific facts or circumstances that may apply to a particular purchaser. This discussion is based on the tax laws of Germany currently in force and as applied on the date of this Base Prospectus, which are subject to change, possibly with retroactive or retrospective effect.

As each series or tranche of Notes may be subject to a different tax treatment due to the specific terms of such series or tranche of Notes as set out in the respective terms and conditions of the Notes, the following section only provides some general information on the possible tax treatment.

Prospective purchasers of Notes are advised to consult their own tax advisors as to the tax consequences of the purchase, ownership and disposal of Notes, including the effect of any state, local or church taxes, under the tax laws of Germany and any country of which they are resident or whose tax laws apply to them for other reasons.

### (a) German Tax Residents

The section "German Tax Residents" refers to persons who are tax residents of Germany (i.e. persons whose residence, habitual abode, statutory seat, or place of effective management and control is located in Germany).

### (A) Withholding tax on distributions and on capital gains

Distributions received by a private Noteholder will be subject to German withholding tax if the Notes are kept or administered in a custodial account with the same (i) German branch of a German or non-German bank or financial services institution, (ii) German securities trading company or (iii) German securities trading bank (each, a **Disbursing Agent**, *auszahlende Stelle*). The tax rate is 25 per cent. (plus solidarity surcharge at a rate of 5.5 per cent. thereon, the total withholding being 26.375 per cent.). For individual Noteholders who are subject to church tax an electronic information system for church withholding tax purposes applies in relation to investment income, with the effect that church tax will be collected by the Disbursing Agent by way of withholding unless the investor has filed a blocking notice

(*Sperrvermerk*) with the German Federal Central Tax Office (*Bundeszentralamt für Steuern*) in which case the investor will be assessed to church tax.

The same treatment applies to capital gains (i.e. the difference between the proceeds from the disposal, redemption, repayment or assignment after deduction of expenses directly related to the disposal, redemption, repayment or assignment and the cost of acquisition) derived by a private Noteholder provided the Notes have been kept or administered in a custodial account with the same Disbursing Agent since the time of their acquisition. If similar Notes kept or administered in the same custodial account were acquired at different points in time, the Notes first acquired will be deemed to have been sold first for the purposes of determining the capital gains. Where Notes are acquired and/or sold or redeemed in a currency other than Euro, the sales/redemption price and the acquisition costs have to be converted into Euro on the basis of the foreign exchange rates prevailing on the sale or redemption date and the acquisition date respectively with the result that any currency gains or losses are part of the capital gains. If distribution claims are disposed of separately (i.e. without the Notes), the proceeds from the disposition are subject to withholding tax. The same applies to proceeds from the payment of distribution claims if the Notes have been disposed of separately.

To the extent the Notes have not been kept or administered in a custodial account with the same Disbursing Agent since the time of their acquisition, upon the disposal, redemption, repayment or assignment withholding tax applies at a rate of 26.375 per cent. (including solidarity surcharge, plus church tax, if applicable) on 30 per cent. of the disposal proceeds (plus interest accrued on the Notes (Accrued Interest, *Stückzinsen*), if any), unless the current Disbursing Agent has been notified of the actual acquisition costs of the Notes by the previous Disbursing Agent or by a statement of a bank or financial services institution from another Member State of the European Union or the European Economic Area or from certain other countries in accordance with art. 17 para. 2 of the Council Directive 2003/48/EC on the taxation of savings income (e.g. Switzerland or Andorra).

Pursuant to a tax decree issued by the German Federal Ministry of Finance dated 18 January 2016 a bad debt-loss (*Forderungsausfall*) and a waiver of a receivable (*Forderungsverzicht*), to the extent the waiver does not qualify as a hidden capital contribution, shall not be treated like a disposal. Accordingly, losses suffered upon such bad debt-loss or waiver shall not be tax-deductible. The same rules should be applicable according to the said tax decree, if the Notes expire worthless so that losses may not be tax-deductible at all. A disposal of the Notes will only be recognised according to the view of the tax authorities, if the received proceeds exceed the respective transaction costs.

In computing any German tax to be withheld, the Disbursing Agent generally deducts from the basis of the withholding tax negative investment income realised by a private Noteholder via the Disbursing Agent (e.g. losses from the sale of other securities with the exception of shares). The Disbursing Agent also deducts Accrued Interest on the Notes or on other securities paid separately upon the acquisition of the respective security by a private Noteholder via the Disbursing Agent. In addition, subject to certain requirements and restrictions, the Disbursing Agent credits foreign withholding taxes levied on investment income in a given year regarding securities held by a private Noteholder in the custodial account with the Disbursing Agent.

Private Noteholders are entitled to an annual allowance (*Sparer-Pauschbetrag*) of EUR 801 (EUR 1,602 for married couples and for partners in accordance with the registered partnership law (*Gesetz über die Eingetragene Lebenspartnerschaft*) filing jointly) for all investment income received in a given year. Upon the private Noteholder filing an exemption certificate (*Freistellungsauftrag*) with the Disbursing Agent, the Disbursing Agent will take the allowance into account when computing the amount of tax to be withheld. No withholding tax

will be deducted if the Noteholder has submitted to the Disbursing Agent a certificate of non-assessment (*Nichtveranlagungsbescheinigung*) issued by the competent local tax office.

German withholding tax will not apply to gains from the disposal, redemption, repayment or assignment of Notes held by a corporation while ongoing payments, such as distributions, are subject to withholding tax (irrespective of any deductions of foreign tax and capital losses incurred). The same may apply where the Notes form part of a trade or business, subject to further requirements being met.

(B) Taxation of distributions and capital gains

The personal income tax liability of a private Noteholder deriving income from capital investments under the Notes is, in principle, settled by the tax withheld. To the extent withholding tax has not been levied, such as in the case of Notes kept in custody abroad or if no Disbursing Agent is involved in the payment process, the private Noteholder must report his or her income derived from the Notes on his or her tax return and then will also be taxed at a rate of 25 per cent. (plus solidarity surcharge and church tax thereon, where applicable). If the withholding tax on a disposal, redemption, repayment or assignment has been calculated from 30 per cent. of the disposal proceeds (rather than from the actual gain), a private Noteholder may and in case the actual gain is higher than 30 per cent. of the disposal proceeds must also apply for an assessment on the basis of his or her actual acquisition costs. Further, a private Noteholder may request that all investment income of a given year is taxed at his or her lower individual tax rate based upon an assessment to tax with any amounts over withheld being refunded. In each case, the deduction of expenses (other than transaction costs) on an itemized basis is not permitted.

Losses incurred with respect to the Notes can only be off-set against investment income of the private Noteholder realised in the same or the following years.

Where Notes form part of a trade or business, the withholding tax, if any, will not settle the personal or corporate income tax liability. Where Notes form part of a trade or business, distributions (accrued) must be taken into account as income. The respective Noteholder will have to report income and related (business) expenses on the tax return and the balance will be taxed at the Noteholder's applicable tax rate. Withholding tax levied, if any, will be credited against the personal or corporate income tax of the Noteholder. Where Notes form part of a German trade or business distributions and gains from the disposal, redemption, repayment or assignment of the Notes may also be subject to German trade tax.

(b) Non-German Tax Residents

Distributions and capital gains from the disposal, redemption, repayment or assignment of Notes are not subject to German taxation, unless the Notes form part of the business property of a permanent establishment, including a permanent representative, or a fixed base maintained in Germany by the Noteholder. In this case a tax regime similar to that explained above under "German Tax Residents" applies.

Where income from the Notes is subject to German taxation as set forth in the preceding paragraph and the Notes are kept or administered in a custodial account with a Disbursing Agent, withholding tax may be levied under certain circumstances. Where Notes are not kept in a custodial account with a Disbursing Agent and proceeds from the disposal, assignment or redemption of a Note are paid by a Disbursing Agent to a non-resident upon delivery of the Notes, withholding tax generally will also apply. The withholding tax may be refunded based on an assessment to tax or under an applicable tax treaty.

(c) Inheritance and Gift Tax



No inheritance or gift taxes with respect to any Notes will arise under the laws of Germany, if, in the case of inheritance tax, neither the deceased nor the beneficiary, or, in the case of gift tax, neither the donor nor the donee, is a resident of Germany and such Note is not attributable to a German trade or business for which a permanent establishment is maintained, or a permanent representative has been appointed, in Germany. Exceptions from this rule apply to certain German expatriates.

(d) Other Taxes

No stamp, issue or registration taxes or such duties will be payable in Germany in connection with the issuance, delivery or execution of the Notes. Currently, net assets tax is not levied in Germany.

The European Commission and certain EU Member States (including Germany) are currently intending to introduce a financial transactions tax (FTT) (presumably on secondary market transactions involving at least one financial intermediary). It is currently uncertain when the proposed FTT will be enacted by the participating EU Member States and when the FTT will enter into force with regard to dealings with the Notes.

## HUNGARY

*The following is a general discussion of certain Hungarian tax consequences relating to the acquisition and ownership of Notes. It does not purport to be a comprehensive description of all tax considerations which may be relevant to a decision to purchase Notes, and, in particular, does not consider any specific facts or circumstances that may apply to a particular purchaser. It is based on laws currently in force in Hungary and applicable on the date of this Base Prospectus, but subject to change, possibly with retrospective effect. The acquisition of the Notes by non-Hungarian holders of Notes, or the payment of interest under the Notes may trigger additional tax payments in the country of residence of the holder of Notes, which is not covered by this summary, but where the provisions of the treaties on the avoidance of double taxation should be taken into consideration. Prospective purchasers of Notes are advised to consult their own tax advisers as to the tax consequences of the purchase, ownership and disposition of Notes, including the effect of any state or local taxes, under the tax laws of Hungary and each country of which they are residents.*

(a) Withholding Tax (foreign resident individual holders of Notes)

The payments of interest on and yield realised upon the redemption or sale of publicly offered and traded Notes (**Interest Income**) is taxed at 15 per cent. Notes listed on a regulated market of an EEA member state are considered publicly offered and traded Notes.

The proceeds paid on privately placed Notes which are not listed on a regulated market of an EEA member state is considered as other income (**Other Income**) which is taxable as part of the individual's aggregated income (the tax payable is 15 per cent.). The capital gains realised on the sale of such Notes is considered, as a general rule, capital gains income (**Capital Gains Income**). The tax rate applicable to Capital Gains Income is 15 per cent.

Foreign resident individual holders of Notes are subject to tax in Hungary if they realise Interest Income from Hungarian sources or income that is otherwise taxable in Hungary if the international treaty or reciprocity so requires. Interest Income should be treated as having a Hungarian source where:

- (A) the Issuer is resident in Hungary for tax purposes;
- (B) the Issuer has a permanent establishment in Hungary and Interest Income realised on the basis of the Notes is paid by the Hungarian permanent establishment of the Issuer;
- (C) the foreign resident individual holder of Notes has a permanent establishment in Hungary to which the Interest Income is attributable.

The tax on payments of the Interest Income is to be withheld by the "Payor" (*kifizető*) (as defined below).

Pursuant to Act XCII of 2003 on the Rules of Taxation (**ART**) a "Payor" means a Hungarian resident legal person, organization, or private entrepreneur who provides taxable income, irrespective of whether such payment is made directly or through an intermediary (post office, credit institution). In respect of interest, "Payor" shall mean the borrower of a loan or, the issuer of a note, including, the investment service provider or credit institution providing the interest instead of it. In respect of revenues originating from a transaction concluded with the involvement of a licensed stockbroker, "Payor" shall mean such stockbroker. The Hungarian permanent establishment of a foreign resident entity is also considered as a "Payor".

Interest, as defined by Schedule 7 of the ART (which implements the provisions of the Savings Directive), realised on the Notes by citizens of any other Member State of the European Union is not subject to Hungarian tax where a paying agent based in Hungary is obliged to provide data to the Hungarian state tax authority on the basis of Schedule 7 of the ART.

A foreign resident individual holder who does not have a permanent establishment in Hungary is not subject to tax in Hungary if he realises Capital Gains Income from Hungary since such income is not considered as Hungarian source income.

Please note that the provisions of the applicable double tax convention, if any, should be considered when assessing the Hungarian tax liabilities of a foreign resident individual holder.

(b) Withholding Tax (foreign resident corporate holders of Notes)

Interest on Notes paid to foreign resident corporate holders of Notes, who do not have a permanent establishment in Hungary, by resident legal entities or other persons and any capital gains realised by such foreign resident holders of Notes on the sale of the Notes is not subject to tax in Hungary. The tax liability of a foreign resident corporate holder of Notes, which has a permanent establishment in Hungary is limited, in general, to the income from business activities realised through its Hungarian permanent establishment.

(c) Taxation of Hungarian resident individual holders of Notes

Act CXVII of 1995 on Personal Income Tax (the **Personal Income Tax Act**) applies to the tax liability of Hungarian and foreign private individuals. The tax liability of Hungarian resident private individuals covers the worldwide income of such persons.

According to the provisions of the Personal Income Tax Act, in the case of individual holders of Notes, Interest Income is the income paid as interest and the capital gains realised upon the redemption or the sale of publicly offered and publicly traded debt securities.

The withholding tax on Interest Income is 15 per cent. Notes listed on a regulated market of an EEA member state are considered publicly offered and traded Notes.

The proceeds paid on privately placed Notes which are not listed on a regulated market of an EEA member state is considered as Other Income which is taxable as part of the individual's aggregated income (the tax payable is 15 per cent.). The capital gains realised on the sale or redemption of such Notes is considered, as a general rule, Capital Gains Income. The tax rate applicable to Capital Gains Income is 15 per cent. Pursuant to Act LXVI of 1998 on Healthcare Contributions (the **Healthcare Contributions Act**), Interest Income and Capital Gains Income realised by Hungarian resident individuals subject to further conditions is generally subject to 6 per cent. and 14 per cent. healthcare contributions respectively.

The rules of the Personal Income Tax Act may in certain circumstances impose a requirement upon the "Payor" (*kifizető*) (as defined below) to withhold tax on the interest payments to individual holders of Notes. In certain circumstances, the Healthcare Contributions Act also imposes a requirement upon the "Payor" to withhold healthcare contribution on the interest payments to individual holders of Notes.

Pursuant to the ART the definition of a "Payor" covers a Hungarian resident legal person, other organisation, or private entrepreneur that (who) provides taxable income, irrespective of whether such payment is made directly or through an intermediary (post office, credit institution). In respect of interest, Payor shall mean the borrower of a loan or the issuer of a note including, the investment service provider or credit institution providing the interest instead of it. In respect of revenues originating from a transaction concluded with the involvement of a licensed stockbroker, Payor shall mean such stockbroker. In respect of income that is earned in a foreign country and taxable in Hungary, Payor shall mean the "paying agent" (*megbízott*) (legal person, organisation, or private entrepreneur) having tax residency in Hungary, except in cases where the role of a financial institution is limited to performing the bank transfer or payment.

(d) Taxation of Hungarian resident corporate holders of Notes

Under Act LXXXI of 1996 on Corporate Tax and Dividend Tax (the **Corporation Tax Act**), Hungarian resident taxpayers have a full, all-inclusive tax liability. In general, resident entities are those established under the laws of Hungary (i.e. having a Hungarian registered seat). Foreign persons having their place of management in Hungary are also considered as Hungarian resident taxpayers.

In general, interest and capital gains realised by Hungarian resident corporate holders of Notes on the Notes will be taxable in the same way as the regular income of the holders of Notes. The corporation tax rate in Hungary is 10 per cent. up to the first HUF 500 million of the taxpayer's annual before tax income and 19 per cent. for the part exceeding the HUF 500 million threshold.

## IRELAND

*The following is a summary based on the laws and practices in force in Ireland, as at the date of this Base Prospectus, of certain matters regarding the tax position of investors who are the absolute beneficial owners of their Notes and should be treated with appropriate caution. This summary deals only with Notes held beneficially as capital assets and does not address special classes of Note holders such as dealers in Notes or trusts. The summary does not constitute tax or legal advice and the comments below are of a general nature only and do not discuss all aspects of Irish taxation that may be relevant to any particular holder of Notes. Prospective investors in the Notes are advised to consult their own tax advisors on the tax implications of the purchase, holding, redemption or sale of the Notes and the receipt of interest thereon under the laws of their country of residence, citizenship or domicile. The comments are made on the assumption that the Issuer is not resident in Ireland for Irish tax purposes and does not carry on a trade in Ireland through a branch or agency.*

(a) Irish Withholding Tax

Under Irish tax law there is no obligation on the Issuer to operate any withholding tax on payment in respect of the Notes except where such payment has an Irish source. The interest could be considered to have an Irish source, where, for example, the payment constitutes yearly interest and such interest is paid out of funds maintained in Ireland or where the Notes are secured on Irish situate assets. The mere offering of the Notes to Irish investors will not cause the payment to have an Irish source.

In certain circumstances, collection or encashment agents and other persons receiving interest on the Notes in Ireland on behalf of an Irish resident holder of Notes will be obliged to operate a withholding tax.

(b) Taxation of income

Unless exempted, an Irish resident or ordinarily resident holder of Notes and a non-resident holder of Notes holding Notes through an Irish branch or agency will be liable to Irish tax on the amount of any interest or other income including potentially any premium on redemption received from the Issuer. Individual holders of Notes would also potentially be liable to social insurance contributions and the universal social charge. Corporate investors will suffer corporation tax on the interest or other payment received from the Issuer. Credit against Irish tax on the interest received may be available in respect of any foreign withholding tax deducted by the Issuer.

(c) Taxation of capital gains

An Irish resident or ordinarily resident holder of Notes and a non-resident holder of Notes holding the Notes through an Irish branch or agency would potentially be liable to Irish tax on capital gains on any gains arising on a disposal of Notes. Reliefs and allowances may be available in computing the liability of the holder of the Notes.

(d) Stamp Duty

Transfers of Notes should not be subject to Irish stamp duty, provided the transfers do not relate to (i) Irish land or buildings or any rights over such property or (ii) stocks or securities of an Irish registered company.

(e) Capital Acquisitions Tax

A gift or inheritance comprising of Notes will be within the charge to capital acquisitions tax if either (i) the disponent or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the disponent is domiciled in Ireland irrespective of his residence or that of the donee/successor) or (ii) if the Notes are regarded as property situate in Ireland. Bearer Notes could be considered property situated in Ireland if the bearer certificates were located in Ireland. This tax is charged on gifts and inheritances above a certain threshold determined both by the relationship between the disponent and the donee/successor; and by reference to previous gifts or inheritances received.

(f) Offshore Fund Taxation

A holding of Notes could potentially be treated as a material interest in an offshore fund and subject to more onerous tax provisions applicable to offshore funds. As recommended above a holder of Notes should obtain independent tax advice in relation to the tax implications of the acquisition, holding and disposing of Notes.

(g) Provision of Information

**General**

Holders of Notes should be aware that where any interest or other payment on Notes is paid to them by or through an Irish paying agent or collection agent then the relevant person may be required to supply the Irish Revenue Commissioners with details of the payment and certain details relating to the holder of the Notes. Where the holder of the Notes is not Irish resident, the details provided to the Irish Revenue Commissioners may, in certain cases, be passed by them to the tax authorities of the jurisdiction in which the holder of the Notes is resident for taxation purposes.

**ITALY**

*The statements herein regarding taxation are based on the laws in force in Italy as at the date of this Base Prospectus and are subject to any changes in law occurring after such date, which could be made on a retroactive basis. The following description does not purport to be a comprehensive*

*description of all the tax considerations which may be relevant to a decision to subscribe for, purchase, own or dispose of Notes and does not purport to deal with the tax consequences applicable to all categories of investors, some of which (such as dealers in securities or commodities) may be subject to special rules.*

*Prospective purchasers of the Notes are advised to consult their own tax advisers concerning the overall tax consequences of their ownership of the Notes.*

The Italian tax consequences of the purchase, ownership and disposal of the debt instruments may be different depending on whether:

- (A) they represent securities qualifying as bonds or securities similar to bonds (*obbligazioni o titoli similari alle obbligazioni*) pursuant to Article 44 of Presidential Decree No. 917 of 22 December 1986, as amended and supplemented. Pursuant to Article 44 of Decree 917, for securities to qualify as securities similar to bonds (*titoli similari alle obbligazioni*), they must (i) have a fixed or determinable maturity; (ii) incorporate an unconditional obligation to pay at maturity an amount not less than the therein indicated; and (iii) attribute to the holders no direct or indirect right to control or participate in the management of the Issuer; and
  - (B) they represent securities qualifying as atypical securities (*titoli atipici*) pursuant to Article 5 of Legislative Decree No. 512 of 30 September 1983, as amended and supplemented. Pursuant to Articles 5 and 8 of Decree 512, atypical securities are securities that do not fall within the category of (a) shares (*azioni*) and securities similar to shares (*titoli similari alle azioni*) and of (b) bonds (*obbligazioni*) or securities similar to bonds (*titoli similari alle obbligazioni*).
- (b) Tax Treatment of Notes qualifying as atypical securities (*titoli atipici*)

Interest payments relating to the Notes, which are neither deemed to fall within the category of bonds (*obbligazioni*) or debentures similar to bonds (*titoli similari alle obbligazioni*) nor of shares (*azioni*) or securities similar to shares (*titoli similari alle azioni*), as clarified above, are subject to 26 per cent. withholding tax if made in favour of certain categories of Italian resident investors, including: (i) an Italian resident individual, (ii) an Italian resident non-commercial partnership, (iii) an Italian resident non-commercial private or public institution, (iv) an Italian open-ended or closed-ended investment fund, a SICAF (an Italian investment company with fixed share capital) or a SICAV (an Italian investment company with variable capital) (together, the **Fund**), (v) an Italian real estate investment fund established pursuant to Article 37 of Legislative Decree No. 58 of 24 February 1998, as amended and supplemented, and Article 14-bis of Law No. 86 of 25 January 1994 and Italian real estate investment companies with fixed capital (the **Real Estate SICAF**), (vi) an Italian pension fund (subject to the regime provided for by Article 17 of the Legislative Decree No. 252 of 5 December 2005), or (vii) an Italian resident investor exempt from Italian corporate income taxation, such withholding tax is withheld as a final withholding tax.

The withholding tax does not apply to an Italian resident holder which is (i) a company or similar commercial entity (including the Italian permanent establishment of foreign entities), (ii) a commercial partnership, or (iii) a commercial private or public institution.

Moreover, no taxation applies on payments to a non-Italian resident holder of the Notes on interest or premium relating to the Notes provided that, if the Notes are deposited in Italy, the non-Italian resident holder of the Notes declares itself to be a non-Italian resident according to Italian tax regulations.

(c) Capital Gains Tax

Any gain obtained from the sale or redemption of the Notes would be treated as part of the taxable income (and, in certain circumstances, depending on the "status" of the holder, also as part of the net value of production for IRAP purposes) if realised by an Italian company or a similar commercial

entity (including the Italian permanent establishment of foreign entities to which the Notes are connected) or Italian resident individuals engaged in an entrepreneurial activity to which the Notes are connected.

Where an Italian resident holder of the Notes is an individual not holding the Notes in connection with an entrepreneurial activity and certain other persons, any capital gain realised by such holder of the Notes from the sale or redemption of the Notes would be subject to an *imposta sostitutiva*, levied at the current rate of 26 per cent. Noteholders of the Notes may set off losses with gains. Under some conditions and limitations, Noteholders may set off losses with gains.

In respect of the application of the *imposta sostitutiva*, taxpayers may opt for one of the three regimes described below.

Under the "tax declaration" regime (*regime della dichiarazione*), which is the default regime for Italian resident individuals not engaged in entrepreneurial activity to which the Notes are connected, the *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all capital gains, net of any incurred capital loss, realised by the Italian resident individuals holding the Notes not in connection with an entrepreneurial activity pursuant to all sales or redemptions of the Notes carried out during any given tax year. Italian resident individuals holding the Notes not in connection with an entrepreneurial activity must indicate the overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual tax return and pay *imposta sostitutiva* on such gains together with any balance of income tax due for such year. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years. Pursuant to Law Decree No. 66 of 24 April 2014, as converted into law with amendments by Law No. 89 of 23 June 2014 (Decree 66), depreciations may be carried forward to be offset against increases in value of the same nature realised after 30 June 2014 for an overall amount of: (i) 48.08 per cent. of the relevant depreciations realised before 1 January 2012; (ii) 76.92 per cent. of the depreciations realised from 1 January 2012 to 30 June 2014.

As an alternative to the tax declaration regime, Italian resident individuals holding the Notes not in connection with an entrepreneurial activity may elect to pay the *imposta sostitutiva* separately on capital gains realised on each sale or redemption of the Notes (the *risparmio amministrato* regime). Such separate taxation of capital gains is allowed subject to (i) the Notes being deposited with Italian banks, SIMs or certain authorised financial intermediaries; and (ii) an express election for the *risparmio amministrato* regime being punctually made in writing by the relevant holder of the Notes. The depository is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of the Notes (as well as in respect of capital gains realised upon the revocation of its mandate), net of any incurred capital loss, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from the proceeds to be credited to the holder of the Notes or using funds provided by the holder of the Notes for this purpose. Under the *risparmio amministrato* regime, where a sale or redemption of the Notes results in a capital loss, such loss may be deducted from capital gains subsequently realised, within the same securities management, in the same tax year or in the following tax years up to the fourth. Under the *risparmio amministrato* regime, the holder of the Notes is not required to declare the capital gains in its annual tax return. Pursuant to Decree 66, depreciations may be carried forward to be offset against increases in value of the same nature realised after 30 June 2014 for an overall amount of: (i) 48.08 per cent. of the relevant depreciations realised before 1 January 2012; (ii) 76.92 per cent. of the depreciations realised from 1 January 2012 to 30 June 2014. Under the *risparmio amministrato* regime, the Noteholder is not required to declare the capital gains in the annual tax return.

Any capital gains realised by Italian resident individuals holding the Notes not in connection with an entrepreneurial activity who have entrusted the management of their financial assets, including the Notes, to an authorised intermediary and have opted for the so-called (*risparmio gestito*) regime will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end, subject to a 26 per cent. substitute tax, to be paid by the managing authorised

intermediary. Under the *risparmio gestito* regime, any depreciation of the managed assets accrued at year end may be carried forward against any increase in value of the managed assets accrued in any of the four succeeding tax years. Under the *risparmio gestito* regime, the holder of the Notes is not required to declare the capital gains realised in its annual tax return. Pursuant to Decree 66, depreciations may be carried forward to be offset against increases in value of the same nature realised after 30 June 2014 for an overall amount of: (i) 48.08 per cent. of the relevant depreciations realised before 1 January 2012; (ii) 76.92 per cent. of the depreciations realised from 1 January 2012 to 30 June 2014. Under the *risparmio gestito* regime, the Noteholder is not required to declare the capital gains realised in the annual tax return and remains anonymous.

Any capital gains realised by a holder of the Notes which is a Fund will not be subject to *imposta sostitutiva*, but will be included in the result of the relevant portfolio. Such result will not be taxed with the Fund, but a withholding tax of 26 per cent. will be levied, in certain circumstances, on distributions made in favour of unitholders or shareholders.

Any capital gains realised by a holder of the Notes which is an Italian pension fund (subject to the regime provided for by article 17 of the Legislative Decree No. 252 of 5 December 2005) will be included in the result of the relevant portfolio accrued at the end of the tax period, to be subject to the 20 per cent. substitute tax.

Under the current regime provided by Law Decree No. 351 of 25 September 2001, converted into law with amendments by Law No. 410 of 23 November 2001, Law Decree No. 78 of 31 May 2010, converted into Law No. 122 of 30 July 2010 and Legislative Decree No. 44 of 4 March 2014, all as amended, capital gains realised from the disposal of the Notes by Italian resident real estate investment funds established pursuant to Article 37 of Legislative Decree No. 58 of 24 February 1998, as amended and supplemented, and Article 14-bis of Law No. 86 of 25 January 1994 and Real Estate SICAFs are subject neither to substitute tax nor to any other income tax in the hands of a real estate investment fund or a Real Estate SICAF.

Capital gains realised by non-Italian resident holders from the sale and redemption of the Notes are not subject to Italian taxation, provided that the Notes are (i) traded on regulated markets, or (ii) if not traded, are held outside Italy.

#### (d) Inheritance and Gift Taxes

Pursuant to Law Decree No. 262 of 3 October 2006 converted into Law No. 286 of 24 November 2006, as subsequently amended, the transfers of any valuable asset (including shares, bonds or other securities) as a result of death or donation are taxed as follows:

- (A) transfers in favour of spouses and direct descendants or direct ancestors are subject to an inheritance and gift tax applied at a rate of 4 per cent. on the value of the inheritance or the gift exceeding, for each beneficiary, €1,000,000;
- (B) transfers in favour of relatives to the fourth degree or relatives-in-law to the third degree are subject to an inheritance and gift tax at a rate of 6 per cent. on the entire value of the inheritance or the gift. Transfers in favour of brothers/sisters are subject to the 6 per cent. inheritance and gift tax on the value of the inheritance or the gift exceeding, for each beneficiary, €100,000; and
- (C) any other transfer is, in principle, subject to an inheritance and gift tax applied at a rate of 8 per cent. on the entire value of the inheritance or the gift.

If the transfer is made in favour of persons with severe disabilities, the tax is levied at the rate mentioned above on the value exceeding, for each beneficiary, €1,500,000.

(e) Transfer Tax

Contracts relating to the transfer of securities are subject to the registration tax as follows: (i) public deeds and notarised deeds are subject to fixed registration tax at rate of €200; (ii) private deeds are subject to registration tax only in case of use or voluntary registration.

(f) Stamp Duty

Pursuant to Article 19(1) of Decree No. 201 of 6 December 2011 (Decree 201), a proportional stamp duty applies on an annual basis to any periodic reporting communications which may be sent by a financial intermediary to a Noteholder in respect of any Notes which may be deposited with such financial intermediary in Italy. The stamp duty applies at a rate of 0.2 per cent. and, for taxpayers different from individuals, cannot exceed €14,000. This stamp duty is determined on the basis of the market value or – if no market value figure is available – the nominal value or redemption amount of the Notes held.

Based on the wording of the law and the implementing decree issued by the Italian Ministry of Economy on 24 May 2012, the stamp duty applies to any investor who is a client (as defined in the regulations issued by the Bank of Italy on 20 June 2012) of an entity that exercises in any form a banking, financial or insurance activity within the Italian territory.

(g) Wealth Tax on Notes Deposited Abroad

Pursuant to Article 19(18) of Decree 201, Italian resident individuals holding Notes outside the Italian territory are required to pay an additional tax at a rate of 0.2 per cent. This tax is calculated on the market value of the Notes at the end of the relevant year or – if no market value figure is available – the nominal value or the redemption value of such financial assets held outside the Italian territory. Taxpayers are entitled to an Italian tax credit equivalent to the amount of wealth taxes paid in the State where the financial assets are held (up to an amount equal to the Italian wealth tax due).

(h) Tax monitoring obligations

According to the Law Decree No. 167 of 28 June 1990, converted with amendments into Law No. 227 of 4 August 1990, as amended from time to time, individuals, non-profit entities and certain partnerships (*società semplici* or similar partnerships in accordance with Article 5 of Presidential Decree No. 917 of 22 December 1986) resident in Italy for tax purposes, under certain conditions, are required to report for tax monitoring purposes in their yearly income tax return (or, in case the income tax return is not due, in a proper form that must be filed within the same time as prescribed for the income tax return) the amount of investments directly or indirectly held abroad. The disclosure requirements are not due if the foreign financial investments (including the Notes) are held through an Italian resident intermediary or are only composed by deposits and/or bank accounts having an aggregate value not exceeding an €15,000 threshold throughout the year.

(i) The Proposed European Financial Transactions Tax (FTT)

On 14 February 2013, the European Commission published a proposal (the Commission's Proposal) for a Directive for a common FTT in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the participating Member States). However, Estonia has since stated that it will not participate.

The Commission's Proposal has very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances.

Under the Commission's Proposals the FTT could apply in certain circumstances to persons both within and outside of the participating Member States. Generally, it would apply to certain dealings in



the Notes where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

However, the FTT proposal remains subject to negotiation between the participating Member States. It may therefore be altered prior to any implementation. Additional EU Member States may decide to participate.

Prospective holders of the Notes are advised to seek their own professional advice in relation to the FTT.

## LIECHTENSTEIN

The following information is of general nature only and shall give an overview of the principles of taxation under the laws currently in force in Liechtenstein. The information below does not, and is not intended to, constitute comprehensive legal or tax advice. Investors should consult their own professional advisors as to the implications of their subscribing for, purchasing, holding, exchanging or disposing of the Notes under the laws of the jurisdictions in which they may be subject to taxation. In addition, prospective investors should bear in mind that future legislative, judicial or administrative developments could have an impact on the information below and could affect the tax consequences for investors.

### (a) Taxation of individuals in the Principality of Liechtenstein

Individuals with domicile or habitual abode in Liechtenstein are subject to unrestricted taxation in Liechtenstein, encompassing their entire net wealth and their entire income. However, various types of income and assets do not constitute taxable income and wealth, respectively, under the Liechtenstein Tax Act (the Tax Act). This in particular holds true for income arising from assets which are subject to wealth tax in Liechtenstein. Thus, given that the Notes of a Noteholder who is unrestrictedly taxable in Liechtenstein constitute taxable wealth within the meaning of the Tax Act, any interest payments of such Notes do, as a consequence, not qualify as taxable income and are, therefore, not subject to income taxation in Liechtenstein. As a result, while the Notes held by a Noteholder with domicile or habitual abode in Liechtenstein constitute taxable wealth in Liechtenstein, interest payments received by such Noteholder do not constitute taxable income.

Other tax-exempt types of income under the Tax Act are, for example, dividends arising from participations in domestic and foreign legal entities and capital gains from the disposal and liquidation of participations in domestic and foreign legal entities. Thus, dividends as well as capital gains and liquidation proceeds arising after the conversion of the Notes into equity do not constitute taxable income within the meaning of the Tax Act.

Under the Tax Act, wealth is not taxed directly (by means of a certain percentage of the taxable wealth). Rather, a fixed percentage of the taxable wealth (currently four per cent; to be determined every year by the Liechtenstein parliament) is added to the taxable income and the total tax is then calculated based on the sum of the taxable income and the fixed percentage of the taxable wealth. The taxable wealth is determined based on the market value of the assets at the beginning of the year or at the beginning of the period of tax liability, respectively; for example, securities with a quotation are valued according to the quotation and, in general, securities without a quotation as well as non-securitized rights and claims, including privileges whose value can be determined, shall be assessed according to market value, which generally shall not be set lower than nominal value, unless the taxpayer demonstrates that the nominal value does not correspond to the market value.

Individuals whose domicile and habitual abode is not in Liechtenstein are subject to restricted taxation in Liechtenstein, encompassing only their domestic wealth and their domestic income. Domestic wealth comprises real estate and business premises located in Liechtenstein.

(b) Taxation of legal entities and trusts in the Principality of Liechtenstein

Legal entities domiciled or having their actual place of management in Liechtenstein are subject to unrestricted taxation in Liechtenstein, encompassing their entire net earnings.

On the other hand, no Liechtenstein tax applies with respect to the capital of legal entities. Therefore, unlike the income from the wealth of individuals (see above), the income generated from the wealth of legal entities is not tax-exempt. As a consequence, interest payments of Notes held by legal entities which are unrestrictedly taxable in Liechtenstein constitute taxable income in Liechtenstein.

By contrast, dividends arising from participations in domestic and foreign legal entities and capital gains from the disposal or liquidation of participations in domestic and foreign legal entities do not constitute taxable income for legal entities, either (the term "dividends" includes ordinary dividends, profit shares, extraordinary dividends, bonus payouts and irregular distributions of profits and distributions of reserves).

Legal entities which neither have their domicile nor their actual place of management in Liechtenstein are subject to restricted taxation in Liechtenstein, encompassing only their domestic corporate income.

Legal entities are entitled to a deduction of 4 % of their equity capital (unless such capital is not related to their business) for purposes of assessing their taxable net income. Further, losses suffered in past years can be carried forward for an unlimited period of time.

Legal entities taxable in Liechtenstein are subject to ordinary corporate income tax on all their net income at a standard flat rate of 12.5 per cent per year. However, any Liechtenstein legal entity which does not pursue any commercial activity can apply for the status of a Private Asset Structure (a PAS) if the requirements as stipulated in Art. 64 Tax Act are met. This, for example, holds true for legal entities which only hold bankable assets (such as shares, bonds or other securities, eg Notes), other assets (such as gold, art collections, liquid funds) or participations, provided that the legal entity and its shareholders or beneficiaries do not exert actual control by means of direct or indirect influence on the management of its underlying entities. Legal entities being granted the status of a PAS are subject to the minimum corporate tax in the amount of CHF 1,200.00 per year only and the regular 12.5% corporate income tax does not apply. PAS do not have to file annual tax returns.

Finally, trusts which have been established pursuant to Liechtenstein law or whose actual place of management is in Liechtenstein are in any event only subject to the minimum corporate income tax of CHF 1,200.00 per year in Liechtenstein. The same holds true for foreign trusts which receive earnings in Liechtenstein.

## LUXEMBOURG

(a) General Information

The following information is of a general nature only and is based on the laws presently in force in Luxembourg, though it is not intended to be, nor should it be construed to be, legal or tax advice. Prospective investors in the Notes should therefore consult their own professional advisers as to the effects of state, local or foreign laws, including Luxembourg tax law, to which they may be subject.

Please be aware that the residence concept used under the respective headings below applies for Luxembourg income tax assessment purposes only.

Any reference in the present sub-section to a tax, duty, levy, impost or other charge or withholding of a similar nature refers to Luxembourg tax law and/or concepts only. Also, please note that a reference to Luxembourg income tax encompasses corporate income tax (*impôt sur le revenu des collectivités*), municipal business tax (*impôt commercial communal*), a solidarity surcharge (*contribution au fonds pour l'emploi*), a temporary tax to balance the state budget (*impôt d'équilibrage budgétaire temporaire*) as well as personal income tax (*impôt sur le revenu*) generally. Prospective purchasers of the Notes may further be subject to net wealth tax (*impôt sur la fortune*) as well as other duties, levies or taxes. Corporate income tax, municipal business tax as well as the solidarity surcharge invariably apply to most corporate taxpayers resident of Luxembourg for tax purposes. Individual taxpayers are generally subject to personal income tax, the solidarity surcharge as well as the temporary tax to balance the state budget. Under certain circumstances, where an individual taxpayer acts in the course of the management of a professional or business undertaking, municipal business tax may apply as well.

(b) Taxation of the Noteholders

(A) Withholding Tax

(i) Non-resident Noteholders

Under Luxembourg general tax laws currently in force, there is no withholding tax on payments of principal, premium or interest made to non-resident Noteholders, nor on accrued but unpaid interest in respect of the Notes, nor is any Luxembourg withholding tax payable upon redemption or repurchase of the Notes held by non-resident Noteholders.

(ii) Resident Noteholders

Under Luxembourg general tax laws currently in force and subject to the law of 23 December 2005, as amended (the **Relibi Law**) as described below, there is no withholding tax on payments of principal, premium or interest made to Luxembourg resident Noteholders, nor on accrued but unpaid interest in respect of the Notes, nor is any Luxembourg withholding tax payable upon redemption or repurchase of the Notes held by Luxembourg resident Noteholders.

Under the Relibi Law, payments of interest or similar income made or ascribed by a paying agent established in Luxembourg to or for the benefit of an individual beneficial owner who is resident of Luxembourg or to a residual entity (within the meaning of the laws of 21 June 2005 implementing the Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (the Savings Directive) and ratifying the treaties entered into by Luxembourg and certain dependent and associated territories of EU Member States (the Territories), as amended) established in an EU Member State (other than Luxembourg) or one of the Territories and securing such payments for the benefit of such individual beneficial owner will be subject to a withholding tax of 10 per cent. Such withholding tax will be in full discharge of income tax if the beneficial owner is an individual acting in the course of the management of his/her private wealth. Responsibility for the withholding of the tax will be assumed by the Luxembourg paying agent. Payment of interest under the Notes coming within the scope of the Relibi Law will be subject to a withholding tax at a rate of 10 per cent.

(B) Income Taxation

(i) Non-resident Noteholders

A non-resident Noteholder, not having a permanent establishment or permanent representative in Luxembourg to which/whom the Notes are attributable, is not subject to Luxembourg income tax on interest accrued or received, redemption premiums or issue discounts, under the Notes. A gain realised by such non-resident Noteholder on the sale or disposal, in any form whatsoever, of the Notes is further not subject to Luxembourg income tax.

A non-resident corporate Noteholder or an individual Noteholder acting in the course of the management of a professional or business undertaking, who has a permanent establishment or permanent representative in Luxembourg to which or to whom the Notes are attributable, is subject to Luxembourg income tax on interest accrued or received, redemption premiums or issue discounts, under the Notes and on any gains realised upon the sale or disposal, in any form whatsoever, of the Notes.

(ii) Resident Noteholders

Noteholders who are residents of Luxembourg will not be liable for any Luxembourg income tax on repayment of principal.

- Luxembourg resident corporate Noteholder

A corporate Noteholder must include any interest accrued or received, any redemption premium or issue discount, as well as any gain realised on the sale or disposal, in any form whatsoever, of the Notes, in its taxable income for Luxembourg income tax assessment purposes.

A corporate Noteholder that is governed by the law of 11 May 2007 on family estate management companies, as amended, or by the law of 17 December 2010 on undertakings for collective investment, or by the law of 13 February 2007 on specialised investment funds, as amended, is neither subject to Luxembourg income tax in respect of interest accrued or received, any redemption premium or issue discount, nor on gains realised on the sale or disposal, in any form whatsoever, of the Notes.

- Luxembourg resident individual Noteholder

An individual holder of Notes, acting in the course of the management of his/her private wealth, is subject to Luxembourg income tax at progressive rates in respect of interest received, redemption premiums or issue discounts, under the Notes, except if (i) withholding tax has been levied on such payments in accordance with the Relibi Law, or (ii) the individual holder of Notes has opted for the application of a 10 per cent. tax in full discharge of income tax in accordance with the Relibi Law, which applies if a payment of interest has been made or ascribed by a paying agent established in a EU Member State (other than Luxembourg), or in a Member State of the European Economic Area (other than a EU Member State), or in a state/territory that has entered into a treaty/agreement with Luxembourg relating to the Savings Directive. A gain realised by an individual holder of Notes, acting in the course of the management of his/her private wealth, upon the sale or disposal, in any form whatsoever, of Notes is not subject to Luxembourg income tax, provided this sale or disposal took place more than six months after the Notes were acquired. However, any portion of such gain corresponding to accrued but unpaid interest income is subject to Luxembourg income tax, except if tax has been levied on such interest in accordance with the Relibi Law.

An individual holder of Notes acting in the course of the management of a professional or business undertaking must include this interest in its taxable basis. If applicable, the tax levied in accordance with the Relibi Law will be credited against his/her final tax liability.

(c) Net Wealth Taxation

A corporate Noteholder, whether it is resident of Luxembourg for tax purposes or, if not, it maintains a permanent establishment or a permanent representative in Luxembourg to which/whom such Notes are attributable, is subject to Luxembourg wealth tax on such Notes, except if the holder of Notes is governed by the law of 11 May 2007 on family estate management companies, as amended, or by the law of 17 December 2010 on undertakings for collective investment, or by the law of 13 February 2007 on specialised investment funds, as amended.

An individual Noteholder, whether he/she is resident of Luxembourg or not, is not subject to Luxembourg wealth tax on such Notes.

(d) Other Taxes

In principle, neither the issuance nor the transfer, repurchase or redemption of Notes will give rise to any Luxembourg registration tax or similar taxes.

However, a fixed or (*ad valorem*) registration duty may be due upon the registration of the Notes in Luxembourg in the case where the Notes must be produced before an official Luxembourg authority (including a Luxembourg court), or in the case of a registration of the Notes on a voluntary basis.

Where a holder of Notes is a resident of Luxembourg for tax purposes at the time of his/her death, the Notes are included in his/her taxable estate, for inheritance tax assessment purposes.

Gift tax may be due on a gift or donation of Notes if embodied in a Luxembourg deed passed in front of a Luxembourg notary or recorded in Luxembourg.

There is no Luxembourg value added tax payable in respect of payments in consideration for the issuance of the Notes or in respect of the payment of interest or principal under the Notes or the transfer of the Notes. Luxembourg value added tax may, however, be payable in respect of fees charged for certain services rendered to the Issuer, if for Luxembourg value added tax purposes such services are rendered or are deemed to be rendered in Luxembourg and an exemption from Luxembourg value added tax does not apply with respect to such services.

## Malta

*The following information is of a general nature only and is based on the laws presently in force in Malta, though it is not intended to be, nor should it be construed to be, legal or tax advice. The information contained within this section is limited to Maltese income tax law issues in respect of non-Maltese residents and prospective investors in the Notes should therefore consult their own professional advisers as to the effects of state, local or foreign laws, including Malta tax law, to which they may be subject.*

*Any reference in the present section to income tax law concepts (including residence law concepts) refers to Maltese tax law and/or concepts only.*

(a) Non-Maltese Residents

Non-Maltese residents are exempt from Maltese tax in respect of any profits or capital gains derived from the transfer (including redemption, liquidation or cancellation) of the Notes provided that:

- (a) the company does not own, directly or indirectly, any immovable property in Malta; and
- (b) the beneficial owner of the gain or profit is not resident in Malta and is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta

Non-Maltese residents are also exempt from Maltese tax in respect of any interest, discount or premium in respect of the Notes provided that:

- (a) the non-Maltese resident does not carry on any trade or business in Malta through a permanent establishment to which the debt claim giving rise to the interest, discount or premium, is effectively connected; and
- (b) the beneficial owner of the interest, discount or premium is not resident in Malta and is not owned and controlled by, directly or indirectly, nor acts on behalf of an individual or individuals who are ordinarily resident and domiciled in Malta

The above exemptions may be subject to requisite declarations/evidence being provided to the company in terms of law so that the company is exempted from withholding taxes.

(b) Malta Tax on Interest

Since interest is payable in respect of the Notes which are the subject of a public issue, unless the Issuer is otherwise instructed by a Noteholder or if the Noteholder does not fall within the definition of "recipient" in terms of article 41(c) of the Income Tax Act (Cap. 123, laws of Malta), interest shall be paid to such person net of a final withholding tax, currently at the rate of 15% of the gross amount of the interest, pursuant to article 33 of the Income Tax Act (Cap. 123, laws of Malta). Noteholders who do not fall within the definition of a "recipient" do not qualify for the said rate and should seek advice on the taxation of such income as special rules may apply. For the purpose of the above, a "recipient" is generally a person who is resident in Malta during the year in which investment income is payable to him or other persons or entities acting on behalf of such resident person or a trustee or foundation pursuant to or by virtue of which any money or other property whatsoever shall be paid or applied to or for the benefit of such resident persons. The withholding tax is considered a final tax and a Maltese resident individual Noteholder need not declare the interest so received in his income tax return. No person shall be charged further tax in respect of such income. In the case of a valid election made by an eligible Noteholder resident in Malta to receive the interest due without the deduction of final tax, interest will be paid gross and such person will be obliged to declare the interest so received in his income tax return and be subject to tax on it at the progressive rate/s applicable to that person at that time. Additionally, in this latter case, the Issuer will advise the Inland Revenue on an annual basis in respect of all interest paid gross and of the identity of all such recipients unless the beneficiary does not qualify as a "recipient" in terms of article 41(c) of the Income Tax Act (Cap. 123, laws of Malta). Any such election made by a resident Noteholder at the time of subscription may be subsequently changed by giving notice in writing to the Issuer. Such election or revocation will be effective within the time limit set out in the Income Tax Act (Cap. 123, laws of Malta). In terms of article 12(1)(c) of the Income Tax Act (Cap. 123, laws of Malta) Noteholders who are not resident in Malta satisfying the applicable conditions set out in the Income Tax Act (Cap. 123, laws of Malta) are not taxable in Malta on the interest received and will receive interest gross, subject to the requisite declaration/evidence being provided to the Issuer in terms of law.

(c) European Union Savings Directive

Non-residents of Malta should note that payment of interest to individuals and certain residual entities residing in another EU Member State is reported on an annual basis to the Commissioner for Revenue, who will in turn exchange the information with the competent tax authority of the Member State where

the recipient of interest is resident. This exchange of information takes place in terms of the EU Savings Directive 2003/48/EC as amended by Council Directive 2014/48/EU of 24 March 2014.

(d) Foreign Account Tax Compliance Act ("FATCA")

FATCA is contained within the U.S. Hiring Incentives to Restore Employment (HIRE) Act of 2010. Subsequent to the intergovernmental agreement signed between the U.S. Government and the Maltese Government on the 16 December 2013, FATCA was transposed into Maltese law by way of Legal Notice 78 of 2014 as amended by Legal Notice 30 of 2015. Investors and prospective investors in the Notes should note that the Issuer is classified under FATCA as a Reporting Malta Financial Institution. As a result, the Issuer is required to report any financial accounts (as this term is defined under FATCA) held with it by specified U.S. persons (as this term is defined under FATCA) to the Maltese tax authorities. Consequently, if at any point in time a Noteholder, whose investment in the Notes is held under nominee by the Issuer, is classified by the Issuer as a specified U.S. person, the Issuer is required, in terms of FATCA, to report details of the Noteholder as well as details of the Noteholder's investment in the Notes to the Maltese tax authorities.

In terms of FATCA, the Issuer may request certain information in order to be in a position to determine if the Noteholder is a specified U.S. person or not. In the event that the Noteholder does not provide the required details to the Issuer, the Issuer may, in terms of FATCA, report such Noteholder to the Maltese tax authorities as recalcitrant or alternatively the Issuer may close all financial accounts of the Noteholder held with it. Any details of the Noteholders which are reported by the Issuer to the Maltese tax authorities will, subsequently, be forwarded by the Maltese tax authorities to the U.S. tax authorities.

(e) Malta Capital Gains on Transfer of the Notes

As the Notes do not fall within the definition of "securities" in terms of article 5(1)(b) of the Income Tax Act (Cap. 123, laws of Malta) that is, "shares and stocks and such like instruments that participate in any way in the profits of the company and whose return is not limited to a fixed rate of return", no Malta tax on capital gains is chargeable in respect of transfer of the Notes held as capital assets at the time of disposal.

(f) Duty on Documents and Transfers

No Maltese duty on documents and transfers should be chargeable on the issue of the Notes.

After the issue, future transfers of the Notes between Noteholders will also not be dutiable according to the provisions of the Maltese law, specifically the Duty on Documents and Transfers Act.

(g) Exchange of Information

In terms of applicable Maltese legislation, the Issuer and/or its agent are required to collect and forward certain information (including, but not limited to, information regarding payments made to certain Bondholders) to the Commissioner for Revenue. The Commissioner for Revenue will or may, in turn, automatically or on request, forward the information to other relevant tax authorities subject to certain conditions.

(h) POLAND

(i) General Information

The following is a discussion of certain Polish tax considerations relevant to an investor resident in Poland or which is otherwise subject to Polish taxation. This statement should not be deemed to be tax advice. It is based on Polish tax laws and, as its interpretation refers to the position as at the date of

this Base Prospectus, it may thus be subject to change including a change with retroactive effect. Any change may negatively affect the tax treatment, as described below. This description does not purport to be complete with respect to all tax information that may be relevant to investors due to their personal circumstances. Prospective purchasers of the Notes are advised to consult their professional tax advisor regarding the tax consequences of the purchase, ownership, disposal, redemption or transfer without consideration of any Notes. The information provided below does not cover tax consequences concerning income tax exemptions applicable to specific taxable items or specific taxpayers (eg domestic or foreign investment funds).

The reference to "interest" as well as to any other terms in the paragraphs below means "interest" or any other term as understood in Polish tax law.

(j) Issuer's withholding obligations

The Issuer, which is a non-Polish entity, is not liable to withhold Polish withholding tax.

(k) Polish tax resident individuals (natural persons)

A Polish tax resident individual is a natural person who has his/her centre of personal or business interests located in Poland or who stays in Poland for longer than 183 days in a year, unless any relevant tax treaty dictates otherwise.

(l) Interest income

Under Art. 30a.7 of the Personal Income Tax Act (the Act on Personal Income Tax dated 26 July 1991, as amended (consolidated text, J.L. 2012, No.0, item 361, as amended, the **PIT Act**), interest income does not cumulate with general income subject to the progressive tax rate, but under Art. 30a.1.2 of the PIT Act it is subject to 19 per cent. flat rate tax.

Under Art. 41.4 of the PIT Act, the interest payer, other than an individual not acting within the scope of his/her business activity, should withhold the 19 per cent. Polish tax upon any interest payment. Under Art. 41.4d of the PIT Act, the entities operating securities accounts for the individuals, acting as tax remitters, should withhold this interest income if such interest income (revenue) has been earned in the territory of Poland and is connected with securities registered in the said accounts, and the interest payment to the individual (the taxpayer) is made through said entities. There are no regulations on where interest income is earned. In practice, unless specific circumstances indicate otherwise, it is considered that interest income is earned at the jurisdiction of the debtor. Although this is not expressly regulated in the tax law, in practice, the obligation to withhold Polish income tax applies only to Polish interest payers and not foreign payers. Consequently, no Polish withholding tax should be withheld on interest payment made from securities issued by a foreign, i.e. not Polish, company.

Separate, specific rules apply to interest income on securities held on Polish omnibus accounts. Under Article 41.10 of the PIT Act, insofar as securities registered in omnibus accounts are concerned, the entities operating omnibus accounts through which the amounts due are paid are liable to withhold the flat-rate income tax on interest income. The tax is charged on the day of placing the amounts due at the disposal of the omnibus account holder.

Pursuant to Article 30a.2a of the PIT Act, with respect to income (revenue) from interest transferred to taxpayers holding rights attached to securities registered in Polish omnibus accounts whose identity has not been revealed to the tax remitter in accordance with the Act on Trading in Financial Instruments, a 19% flat-rate tax is withheld by the tax remitter (under art. 41.10 of the PIT Act the entity operating the omnibus account) from the aggregate income (revenue) released for the benefit of all such taxpayers through the omnibus account holder.



Under Article 45.3b of the PIT Act, if the tax is not withheld, the individual is obliged to settle the tax himself/herself by 30 April of the following year.

Under Article 30a.9 of the PIT Act, withholding tax incurred outside Poland (including countries which have not concluded a tax treaty with Poland), up to an amount equal to the tax paid abroad, but not higher than 19 per cent. tax on the interest amount, could be deducted from the Polish tax liability. Double tax treaties can provide other methods of withholding tax settlements.

(m) Other income

Income other than interest derived by a Polish tax resident individual from financial instruments held as non-business assets, qualify as capital income according to Art. 17 of the PIT Act. This income does not cumulate with the general income subject to the progressive tax scale but is subject to a 19 per cent. flat rate tax. The costs of acquiring the Notes are recognised at the time the revenue is achieved. In principle, this income should be settled by the taxpayer by 30 April of the year following the year in which the income was earned. No tax or tax advances are withheld by the person making the payments.

(n) Notes held as business assets

If an individual holds the securities as business assets, in principle, interest and capital gains income should be subject to tax in the same way as other business income. The tax, at 19 per cent. flat rate or the 18 per cent. to 32 per cent. progressive tax rate depending on the choice and meeting of certain conditions by the individual, should be settled by the individual himself/herself.

(o) Polish tax resident corporate income taxpayers

A Polish tax resident is a corporate income taxpayer having its registered office or place of management in Poland. Such entity is subject to income tax in respect of the securities (including any capital gains and on interest/discount), following the same principles as those which apply to any other income received from business activity. As a rule, for Polish income tax purposes interest is recognised as revenue on a cash basis, i.e. when it is received and not when it has accrued. In respect of capital gains, the cost of acquiring the securities will be recognised at the time the revenue from the disposal of securities for remuneration is achieved. The taxpayer itself (without the involvement of the tax remitter) settles tax on interest (discount) or capital gains on securities, which is aggregated with other income derived from business operations conducted by the taxpayer.

The appropriate tax rate will be the same as the tax rate applicable to business activity, i.e. 19 per cent. for a corporate income taxpayer.

(p) Non-Polish tax residents: natural person or corporate income taxpayers

A non-Polish tax resident individual is a natural person who does not have his/her centre of personal or business interests located in Poland and who does not stay in Poland for longer than 183 days in a year, unless any respective double tax treaty provides otherwise.

A non-Polish tax resident corporate income taxpayer is a corporate income taxpayer who does not have its registered office or place of management in Poland, unless any respective double tax treaty provides otherwise.

Non-Polish tax resident individuals and corporate income taxpayers are subject to Polish income tax only with respect to their income earned in Poland. There are no explicit regulations on where interest or capital gains or other income is earned. However, in practice it is considered that if securities are issued by a foreign entity, interest should not be considered as having been earned in Poland. In such case capital gains should neither be considered as arising in Poland unless the securities are sold on a

stock exchange in Poland (the Warsaw Stock Exchange), in which case the tax authorities may consider the income as originating in Poland. If the latter is the case, however, most of the tax treaties concluded by Poland provide for a tax exemption with respect to Polish income tax on capital gains derived from Poland by a foreign tax resident. In order to benefit from a tax treaty, a foreign investor should present a relevant certificate of its tax residency.

Moreover, with respect to the interest payments, the relevant provisions of the EU Savings Directive may apply.

If a foreign recipient of income acts through a permanent establishment in Poland to which interest is related, as a matter of principle it should be treated in the same manner as a Polish tax resident.

(q) Tax on Civil Law Transactions

In light of Art. 1.1.1.a of the Tax on Civil Law Transactions Act (the Act on the Tax on Civil Law Transactions dated 9 September 2000, as amended (consolidated text, J.L. 2010, No.101, item 649, amended)), agreements for sale or exchange of assets or proprietary rights are subject to tax on civil law transactions. Such transactions are taxable if their subjects are:

- (A) assets located in Poland or proprietary rights exercisable in Poland;
- (B) assets located abroad or proprietary rights exercisable abroad if the acquirer's place of residence or registered office is located in Poland and the civil law transaction was carried out in Poland.

Notes should not be considered as rights exercisable in Poland.

Neither an issuance of Notes nor a redemption of Notes is subject to tax on civil law transactions.

Tax on the sale or exchange of Notes (which, as a rule are considered to be rights) is 1% of their market value. It is payable within 14 days after the sale or exchange agreement has been entered into. However, if such agreement has been entered into in notarial form, the tax due should be withheld and paid by the notary public. Tax on sale of Notes is payable by the entity acquiring the Notes. In the case of exchange agreements, tax on civil law transactions should be payable by both parties jointly and severally.

In practice, however, the majority of transactions such as selling the Notes on a regulated market (within the meaning of the Act on Trading in Financial Instruments) or to or with intermediation of investment firms or foreign investment firms, are tax-exempt.

(r) Remitter's liability

Under Art. 30 of the Tax Code (the Tax Code dated 29 August 1997, as amended (consolidated text, J.L. 2012, item 749, amended)), a tax remitter failing to fulfil its duty to calculate, withhold or pay tax to a relevant tax authority is liable for the tax that has not been withheld or that has been withheld but not paid, up to the value of all its assets. The tax remitter is not liable if the specific provisions provide otherwise or if tax has not been withheld due to the taxpayer's fault. In such a case, the relevant tax authority will issue a decision concerning the taxpayer's liability.

## ROMANIA

*The following is a general description of certain Romanian tax considerations relating to the Notes. It does not purport to be a complete analysis of all tax considerations relating to the Notes and it is not intended to be, nor should it be construed to be, local or tax advice. Prospective purchasers of Notes should consult their own tax advisers as to which countries' tax laws could be relevant to*

*acquiring, holding and disposing of Notes and receiving payments of interest, principal and/or other amounts under the Notes and the consequences of such actions under the tax laws of those countries. This summary is based upon the laws and practice in force as of the date of the Base Prospectus and is subject to any change in law and the interpretation and application thereof that may take effect after such date and could be made with retroactive effect.*

A new Romanian Fiscal Code was brought into force starting with 1 January 2016 (by virtue of Law no. 227/2015 regarding the Fiscal Code as subsequently amended and supplemented - **Romanian Fiscal Code**) introducing important changes in the taxation of financial transactions, especially regarding taxation of individuals. Accordingly, little precedent exists as to the application of this new Fiscal Code. Also, a new **Romanian Fiscal Procedure Code** was brought into force starting with 1 January 2016 (by virtue of Law no. 207/2015 regarding the Fiscal Procedure Code as subsequently amended and supplemented - "Romanian Fiscal Procedure Code"). In this respect, please be aware that there are uncertainties regarding the applicability in practice of some provisions.

- (a) For the purposes of the Romanian Fiscal Code:
  - (A) a **resident individual** is defined as any individual who meets at least one of the following conditions: (a) he/she has the domicile in Romania, or (b) he/she has the centre of vital interests (Romanian language: *centrul intereselor vitale*) located in Romania, or (c) he/she is present in Romania for a period or several periods exceeding in aggregate 183 days during any twelve-month period ending in the fiscal year concerned, or (d) he/she is a Romanian citizen working abroad as an officer or an employee of the Romanian state. By way of exception to the above, foreign citizens having diplomatic or consular statute in Romania, or foreign citizens who are employees or officers of an international or intergovernmental organization registered in Romania, foreign citizens who are officers or employees of a foreign state in Romania, as well as their family members will be not deemed tax residents in Romania.
  - (B) a **Romanian legal entity** is defined as any legal entity established in accordance with Romanian law;
  - (C) a **legal entity established pursuant to European law** is defined as any legal entity established in accordance with and by the mechanics contemplated by European regulations;
  - (D) a **resident** in Romania is defined as any Romanian entity, any foreign entity which has its place of effective management in Romania, any entity having its headquarters in Romania, incorporated according to European legislation and any tax resident individual;
  - (E) a **foreign legal entity** is defined as any legal entity which is not a Romanian legal entity and any legal entity established pursuant to European law which is not headquartered in Romania;
  - (F) a **non-resident individual** is defined as any individual who does not meet the conditions in order to qualify as tax resident individual; and
  - (G) a **non-resident** is defined as any foreign legal entity, any tax non-resident individual, and any other foreign entities, including undertakings for collective investment in transferable securities without legal personality, which are not registered in Romania according to the law.
- (b) Taxation of interest
  - (A) Taxation of Noteholders not resident in Romania for tax purposes

Individuals and companies who are deemed Romanian tax non-residents are liable to Romanian income tax only on the Romanian source income. As the Issuer is a Malta entity, these would not qualify as Romanian source income, thus the non-resident individuals and

companies would not have the obligation to report in Romania the interest income obtained through holding the Notes, with the exception of the case where the interest income is attributable to a Permanent Establishment of the non-resident Noteholder located in Romania.

(B) Taxation of Noteholders resident in Romania for tax purposes

(i) Legal entities

Income received on the Notes by resident legal entities in the form of interest on the Notes will be subject to corporate income tax (profit tax) at the rate of 16 per cent.

The income recipient is responsible for declaring and paying the tax in Romania on foreign sourced income, on an annual basis, i.e. there is no withholding at source of such tax and the Issuer or the paying agents does not assume any responsibility to withhold any payments for or on account of Romanian tax.

Where income tax was withheld at source, based on the tax law of another country, generally a tax credit could be claimed upon the submission of the tax return.

According to the provisions of the Romanian Fiscal Code, the tax credit could be claimed if there are fulfilled, cumulatively, the following conditions:

1. the provisions of a Double Tax Treaty concluded between Romania and a foreign country in which the tax was paid are applicable;
2. the tax credit is applied on the corporate income tax calculated for the year in which the tax was paid in the foreign country if the legal entity presents documentation attesting the payment of tax abroad.

The method of elimination of double taxation (i.e. credit method or exemption method) may vary depending on the specific provisions of the applicable double tax treaty.

(ii) Individuals

Individuals who are deemed Romanian tax residents are liable to Romanian income tax on their worldwide income. The Romanian income tax rate on interest income is 16% flat, applied to the gross interest obtained. The tax resident individuals have the obligation to declare the interest income obtained from abroad, though submitting a Romanian annual tax return by 25th May of the following year during which the income is obtained (i.e. interest income obtained during 2016 has to be declared by 25 May 2017). Where interest income is obtained from more countries, separate tax returns have to be submitted for each source country (e.g. interest income obtained both from Malta and Liechtenstein, has to be declared through separate annual tax returns, i.e. one for Malta and another one for Liechtenstein).

The income recipient is responsible for declaring and paying the tax in Romania on foreign sourced income, on an annual basis, i.e. there is no withholding at source of such tax and the Issuer or the paying agents does not assume any responsibility to withhold any payments for or on account of Romanian tax.

The Romanian income tax due is assessed by the Romanian tax authorities through issuing tax assessments for each tax return submitted. The income tax has to be paid within 60 days as of the communication date of the tax assessments. Where income tax was withheld at source, generally a tax credit could be claimed upon the

submission of the tax return. The tax credit could be claimed if there are fulfilled, cumulatively, the following conditions:

1. the provisions of a Double Tax Treaty concluded between Romania and a foreign country in which the tax was paid are applicable;
2. the tax paid abroad, for the income received abroad, it was paid by the individual. The payment of the tax is justified by a document issued by the competent authority of that country.

Investment income (including interest income and capital gains) is also subject to Romanian health insurance contribution at a rate of 5,5% applied on the tax base. However for the year 2016, where the individual also derives salary/pension income or income from independent activities taxable in Romania, he/she would be exempted for health insurance contribution on the investment income obtained. As of 2017, health insurance contribution is due on investment income, irrespective if the individual derives also other types of income, such as employment/pension income, income from independent activities, etc.

(c) Taxation of capital gains

(A) Taxation of Noteholders not resident in Romania for tax purposes

Individuals and companies who are deemed Romanian tax non-residents are liable to Romanian income tax only on the Romanian source income. As the Issuer is a Malta entity, these would not qualify as Romanian source income, thus the non-resident individuals and companies would not have the obligation to report in Romania the capital gain obtained through holding or selling the Notes, with the exception of the case where the capital gain income is derived by a Permanent Establishment of the non-resident Noteholder located in Romania and the income is attributable to such Permanent Establishment.

(B) Taxation of Noteholders resident in Romania for tax purposes

(i) Legal entities

Income received by resident legal entities as capital gains from the transfer of Notes, will be subject to corporate income tax (profit tax) at the rate of 16 per cent.

The income recipient is responsible for declaring and paying the tax in Romania on foreign sourced income, on an annual basis, i.e. there is no withholding at source of such tax and the Issuer or the paying agents does not assume any responsibility to withhold any payments for or on account of Romanian tax.

Where income tax was withheld at source, generally a tax credit could be claimed upon the submission of the tax return. The tax credit could be claimed if there are fulfilled, cumulatively, certain conditions (please see above).

(ii) Individuals

As mentioned above, individuals who are deemed Romanian tax residents are liable to Romanian income tax on their worldwide income. The Romanian income tax rate on capital gains is 16% flat, applied to the net annual capital gain. The individuals have the obligation to declare the capital gains obtained from abroad, through submitting a Romanian annual tax return to the Romanian tax authorities by 25th May of the following year during which the income is obtained (i.e. capital gains obtained

during 2016 have to be reported by 25 May 2017). As described above, separate tax returns have to be submitted depending the source of the capital gains obtained.

The capital gain has to be determined at each transaction, however only the annual capital gain/capital loss (calculated as the sum of all the gains and losses incurred during the year) has to be reported on the Romanian annual tax return. Capital losses should also be declared through the annual tax returns, in order to be able to carry them forward during the following seven (7) years and decrease the tax base during the following years.

The Romanian income tax due is assessed by the Romanian tax authorities through issuing tax assessments for each tax return submitted. The income tax has to be paid within 60 days as of the communication date of the tax assessments.

In terms of social security, please see our comments above in respect to investment income.

The income recipient is responsible for declaring and paying the tax in Romania on foreign sourced income, on an annual basis, i.e. there is no withholding at source of such tax and the Issuer or the paying agents does not assume any responsibility to withhold any payments for or on account of Romanian tax.

Where income tax was withheld at source, generally a tax credit could be claimed upon the submission of the tax return. The tax credit could be claimed if there are fulfilled, cumulatively, certain conditions (please see above).

## SLOVAKIA

The information set out below is a description of certain material Slovak tax consequences of the acquisition, holding, sale, assignment and redemption of the Notes and it does not purport to be a complete analysis of all Slovak tax considerations relating to the Notes that may be relevant to a decision to purchase the Notes. This description does not take into account or discuss the tax laws of any country other than the Slovak Republic nor does it take into account the individual circumstances, financial situation or investment objectives of an investor in the Notes.

This description is based on the tax laws of the Slovak Republic as in effect on the date of this Base Prospectus and their prevailing interpretations available on or before such date. Information in this section is subject to change, which could apply retroactively and could affect the validity of this summary. With regard to certain types of notes, neither official statements of the tax authorities nor court decisions exist and it is not clear how such notes will be treated.

Noteholders should consult their own tax advisors as to the consequences under the tax laws of the country in which they are resident for tax purposes and the tax laws of the Slovak Republic concerning the acquisition, holding, sale, assignment and redemption of the Notes and receiving payments of interest, principal and/or other payments under the Notes, including, in particular, the application to their own situation of the tax considerations discussed below as well as the application of state, local, foreign or other tax laws.

Individuals and legal entities who are tax residents in the Slovak Republic are subject to income taxation (personal income tax or corporate income tax) on their worldwide income, regardless of its source, including interests from the Notes, redemption of the Notes and capital gains from the sale of the Notes. "Income" shall generally mean income both in cash and in kind (even if obtained through an exchange) priced at the value which is usual in the place and at the time of performance or consumption, taking into account its type and quality, and, where appropriate, its condition and grade of depreciation, unless stated otherwise under applicable legislation.

Taxable income from the Notes derived by individuals is taxed at a tax rate of 19% for the part of the annual tax base up to the amount of 176.8 times subsistence minimum and 25% for the part of the annual tax base which exceeds this amount. Income from the sale of the Notes derived by individuals decreased by expenses may be exempt from income tax up to the amount of EUR 500 in one tax period. Taxable income from the Notes derived by individuals may be subject to obligatory health insurance contributions due in Slovakia. It should be noted that the above information on tax rate and exemption(s) applies for the tax period of the year 2015 and may be changed in the following tax periods.

Interests from the Notes and income received upon redemption of Notes representing income sourced outside the Slovak Republic received by the individuals who are tax residents in the Slovak Republic are taxable; the tax base could generally be reduced by mandatory health and social security insurance contributions payable from this income. Capital gain from the sale of the Notes derived by individuals who are tax residents in the Slovak Republic is taxable, the acquisition price of the Notes and related expenses including mandatory health and social security insurance contributions payable from this income are tax deductible. In general, any loss from sale of the Notes is not recognized for tax purposes.

Taxable income from the Notes derived by legal entities is taxed at a tax rate of 22%. Legal entities who are tax residents in the Slovak Republic which hold the Notes as their business assets pay corporate income tax from interest received and capital gain from the sale / redemption of the Notes within general tax base (determined in accordance with the accounting regulations). Loss from the sale of the Notes may not be recognized for tax purposes provided the taxpayer reported an overall loss from the sale of all notes sold in the respective tax period (exceptions apply).

The Slovak Republic does not apply withholding tax on income from notes having its source in the Slovak Republic, unless the recipient is an individual Slovak tax resident, a non-profit organisation, National Property Fund or the National Bank of Slovakia. Income from the Notes may potentially be qualified as having its source in the Slovak Republic only in rare circumstances, e.g. if the Notes are kept in a securities account maintained by a financial agent who distributes the Notes on behalf of the Issuer. In such case, the financial agent (but not the Issuer itself) could be potentially qualified as the payer of withholding tax in the Slovak Republic at the withholding tax rate of 19% or, if the income from the Notes is distributed to a tax payer of a non-contractual state, 35%. The list of the contractual states is published on the website of the Ministry of Finance of the Slovak Republic.

Due to the repeated recent amendments to the income tax and health insurance contributions regimes, each individual and legal entity must evaluate obligations in this area which may arise under relevant legislation, including transitional provisions.

## SLOVENIA

The following is a general description of certain Slovenian tax considerations relating to the Notes, based on the Issuer's understanding of the current law and its practice in Slovenia. It does not purport to be a complete analysis of all relevant tax considerations. Furthermore, it only relates to the position of investors who are beneficial owners of the Notes and the interest and may not apply to certain classes of investors. Prospective purchasers of the Notes should consult their tax advisers as to the consequences under the tax laws of the country of which they are resident for tax purposes and the tax laws of the Republic of Slovenia of acquiring, holding and disposing of the Notes and receiving payments of interest, principal and/or other amounts under the Notes. This summary is based upon the law as in effect on the date of this Base Prospectus and is subject to any change in law that may take effect after such date.

- (a) Income Tax Treatment of Resident Investors
- (A) Individuals (Private Portfolio)

A resident individual (within the meaning of Sec 6 of the Slovenian Personal Income Tax Act (*Zakon o dohodnini*), hereinafter referred to as the Slovenian PITA) holding the Notes as private assets is subject to Slovenian income tax at the rate of 25% on interest within the meaning of Sec 81 of the Slovenian PITA. Under Sec 81(2) of the Slovenian PITA, the notion of interest includes any compensation from a financial debt arrangement not being considered a return of principal, including compensation for risk or reduction of the principal due to inflation, unless otherwise provided by law, as well as discounts, bonuses, premiums and similar income from a financial debt arrangement. According to the Slovenian tax authorities, payments from financial derivatives (e.g. warrants) fall within the scope of Sec 81(2) of the Slovenian PITA.

In general, the income tax is collected by way of a withholding tax deduction, provided that the income is paid or collected by a domestic paying agent as defined in Sec 58 of the Slovenian Tax Procedure Act (*Zakon o davčnem postopku*). The tax so withheld is final. In case there is no domestic paying agent, the income tax is levied by way of the annual tax assessment, which the recipient has to submit himself.

In general the taxable base equals to the amount of interest received. The taxable base on interest resulting from a sale or redemption of discounted and zero coupon Notes prior to or on maturity of the note shall be the interest calculated for the period from the date of acquisition to the date of sale or redemption of the note.

Any tax on interest withheld under the EU Savings Directive (EU withholding tax) may be, in general, credited against the Slovenian income tax on such income. Any excess amount of EU withholding tax may be, in general, refunded by the Slovenian tax authority.

Under Secs 32(1) and 96(2)(4) of the Slovenian PITA, which provide for a tax exemption for gains from sale of debt securities and derivatives, capital gains from the disposal of the Notes are not subject to income tax. However, capital gains from alienation of the Notes are subject to tax in accordance with the Act on tax on profit from disposal of derivatives (*Zakon o davku od dobička od odsvojitve izvedenih finančnih instrumentov*), which taxes capital gains derived from the alienation of derivatives (as defined in Sec 7 of the Financial Instruments Market Act (*Zakon o trgu finančnih instrumentov*)) and debt securities, except for discounted and zero coupon Notes. In general, a capital gain is determined as the difference between the proceeds from the disposal or redemption (reduced by 1% lump-sum costs) of the Notes and their acquisition costs (increased by 1% lump-sum costs). The tax rate depends on the holding period of the Notes and amounts to

1. 40% in the first 12 months of the holding;
2. 25% in the following 4 years of holding;
3. 15% from the 6th year of the holding;
4. 10% from the 11th year of the holding; and
5. 5% from the 16th year of holding.

After 20 years of the holding, capital gains are not taxable. Capital losses from the disposal or redemption of the Notes held as private assets are, generally, recognized for tax purposes and reduce capital gains, which are taxable under the Act on tax on profit from disposal of derivatives and have been realized in the same tax period.

(B) Individuals (Business Portfolio)



An individual holding the Notes as business assets is, generally, subject to progressive income tax rates up to 50% on his yearly profit (difference between income and expenses). When calculating the profit, the interest from the Notes are considered as taxable income, unless the interest income is excluded from the business income under Sec 54 of the Slovenian PITA (which covers Notes issued in series and regulated within the Slovene Financial Instruments Market Act (*Zakon o trgu finančnih instrumentov*)). In the latter case, the investor is taxable in the same manner as individuals holding the Notes as private portfolio (25% flat rate taxation).

Capital gains from the disposal or redemption of the Notes held as business assets, and not excluded under Article 54 of Slovene PITA, are generally included into the yearly taxable base. Such taxable base is then subject to a progressive income tax rates of up to 50%.

The exemption to this general rule applies, if the individual utilizes the "lump-sum" cost scheme, under which his yearly profit (amount of yearly turnover, diminished by 80% lump-sum costs) is taxed with a 20% flat rate. However, such a scheme may only be utilized by individuals, whose yearly turnover does not exceed EUR 50.000 (or EUR 100.000 if they employ at least one person full time for at least 5 months in a calendar year), provided that they have properly notified the Tax Authority in advance thereof.

(C) Corporations

Interest and capital gains from the Notes held by a Slovenian resident corporation within the meaning of Sec 5 of the Slovenian Corporate Income Tax Act (*Zakon o davku od dohodkov pravnih oseb*) (hereinafter referred to as Slovenian CITA) are, in general, subject to Slovenian corporate income tax (*davek od dohodkov pravnih oseb*) at the flat rate of 17%. The income must be included in the annual tax return.

The companies, whose yearly turnover does not exceed EUR 50.000 EUR (or EUR 100.000 if they employ at least one person full time for at least 5 months in a calendar year) may also utilize the "lump-sum" cost scheme, under which their yearly profit (amount of yearly turnover, diminished by 80% lump-sum costs) is taxed with a 17% flat rate. The Tax Authority has to be properly notified in advance about utilizing such scheme.

(b) Income Tax Treatment of non-Resident Investors

Non-resident holders of the Notes are, in general, not subject to Slovenian income tax, provided that the Notes are not held as business assets of a Slovenian permanent establishment of the investor and the income derived from the Notes does not otherwise constitute Slovenian sourced income.

(c) EU Savings Directive

Under the provisions implementing the EU Directive on the taxation of savings income (2003/48/EC) as applicable from 1 July 2005, Slovenia provides the tax authorities of other EU Member states with details of payments of interests and other similar income paid by a person in Slovenia to an individual resident in another Member State.

(d) Inheritance and gift tax

Individuals and private law entities within the meaning of Sec 3 of the Slovenian Inheritance and Gift Tax Act (*Zakon o davku na dediščine in darila*) are subject to Slovenian inheritance and gift tax in case of a transfer of the Notes by way of inheritance or gift. In general, the tax base is the market value of the transferred property at the time, when the tax liability arises, decreased by debts, costs and charges born by the property. The tax rate depends on the value of the assets transferred and the relationship between the deceased and the heir or between the donator and the recipient. An exemption

may apply to certain transfers, such as e.g. transfers between direct descendants and spouses and transfers of movable property of which the total value does not exceed EUR 5,000.

(e) Other taxes

No stamp duties, capital transfer tax or similar other taxes apply in Slovenia upon the purchase, sale or other disposal of the Notes.

## SPAIN

*The following discussion is of a general nature. It is based on the laws presently in force in Spain, though it is not intended to be, nor should it be construed to be, legal or tax advice. This section does not constitute a complete description of all the tax issues that may be relevant in making the decision to invest in the Notes or of all the tax consequences that may derive from the subscription, acquisition, holding, transfer, redemption or reimbursement of the Notes and does not purport to describe the tax consequences applicable to categories of investors subject to special tax rules. Prospective investors in the Notes should therefore consult their own professional advisers as to the effects of state, regional or local law in Spain, to which they may be subject.*

(a) Individuals with Tax Residence in Spain

(A) Personal Income Tax

Personal Income Tax is levied on an annual basis on the worldwide income obtained by Spanish resident individuals, whatever the source is and wherever the relevant payer is established. Therefore any income that Spanish holders of the Notes may receive under the Notes will be subject to Spanish taxation.

Both interest periodically received and income arising on the disposal, redemption or reimbursement of the Notes obtained by individuals who are tax resident in Spain will be regarded as financial income for tax purposes (i.e. a return on investment derived from the transfer of own capital to third parties).

Both types of income will be included in the savings part of the taxable income subject to Personal Income Tax and will be taxed at the following tax rates: (i) 19 per cent. for financial income up to €6,000; (ii) 21 per cent. for financial income from €6,001 to €50,000; and (iii) 23 per cent. for any amount in excess of €50,000.

Spanish holders of the Notes shall compute the gross interest obtained in the savings part of the taxable base of the tax period in which it is due, including amounts withheld, if any.

Income arising on the disposal, redemption or reimbursement of the Notes will be calculated as the difference between: (a) their disposal, redemption or reimbursement value; and (b) their acquisition or subscription value. Costs and expenses effectively borne by the holder on the acquisition and transfer of the Notes may be taken into account for calculating the relevant taxable income, provided that they can be duly justified.

Likewise, expenses relating to the management and deposit of the Notes, if any, will be tax-deductible, excluding those pertaining to discretionary or individual portfolio management.

Losses that may derive from the transfer of the Notes cannot be offset if the investor acquires homogeneous Notes within the two-month period prior or subsequent to the transfer of the Notes, until he/she transfers such homogeneous Notes.

Additionally, tax credits for the avoidance of international double taxation may apply in respect of taxes paid outside Spain on income deriving from the Notes, if any.

(B) Wealth Tax

- (C) In accordance with Law 48/2015, of 29 October, Wealth Tax has been temporarily restored for the tax period 2016. Wealth Tax is levied on the net worth of an individual's assets and rights. The marginal rates range between 0.2 per cent. and 2.5 per cent. although the final tax rates may vary depending on any applicable regional tax laws and some reductions could apply. Individuals with tax residency in Spain who are under the obligation to pay Wealth Tax must take into account the value of the Notes which they hold as at 31 December each year, when calculating their Wealth Tax liabilities Inheritance and Gift Tax

Inheritance and Gift Tax is levied on individuals' heirs and donees resident in Spain for tax purposes. It is calculated taking into account several circumstances, such as the age and previous net worth of the heir or donee and the kinship with the deceased person or donor. The applicable tax rate currently ranges between 7.65 and 34 per cent. depending on the particular circumstances, although the final tax payable may increase up to 81.6 per cent. This is nevertheless subject to the specific rules passed by the relevant Spanish regions with respect to this tax.

(b) Legal Entities with Tax Residence in Spain

**Corporate Income Tax**

Both interest periodically received and income arising on the disposal, redemption or reimbursement of the Notes obtained by entities which are resident for tax purposes in Spain shall be computed as taxable income of the tax period in which they accrue.

The general tax rate for limited liability companies is 25 per cent. Special rates apply in respect of certain types of entities (such as qualifying collective investment institutions).

Tax credits for the avoidance of international double taxation may apply in respect of taxes paid outside Spain on income deriving from the Notes, if any.

(c) Individuals and Legal Entities with no Tax Residence in Spain

A non-resident holder of Notes, who has a permanent establishment in Spain to which such Notes are effectively connected with, is subject to Spanish Non-Resident Income Tax on any income under the Notes, including both interest periodically received and income arising on the disposal, redemption or reimbursement of the Notes. In general terms, the tax rules applicable to individuals and legal entities with no tax residence in Spain but acting through a permanent establishment in Spain are the same as those applicable to Corporate Income taxpayers (explained above).

(d) Spanish Withholding Tax

The Issuer will not be responsible for making any withholding on account of Spanish taxes to the extent it is not resident in Spain and does not have a permanent establishment in Spain to which the issue of the Notes is connected.

However, where a financial institution (either resident in Spain or acting through a permanent establishment in Spain) acts as depositary of the Notes or intervenes as manager in the collection of any income under the Notes, such financial institution will be responsible for making the relevant withholding on account of Spanish tax on any income deriving from the Notes. Currently, the withholding tax rate in Spain is 19 per cent.

Amounts withheld in Spain, if any, can be credited against the final Spanish Personal Income Tax liability, in the case of Spanish tax resident individuals, or against final Spanish Corporate Income Tax

liability, in the case of Spanish corporate taxpayers, or against final Non-Resident Income Tax, in the case of a Spanish permanent establishment of a non-resident holder of the Notes.

However, holders of the Notes who are Corporate Income taxpayers or Non-Resident Income taxpayers acting through a permanent establishment in Spain can benefit from a withholding tax exemption when the Notes are listed in an OECD official stock exchange.

Furthermore, such financial institution may become obliged to comply with the formalities set out in the Regulations on Spanish Personal Income Tax (Royal Decree 439/2007, of 30 March) and Corporate Income Tax (Royal Decree 634/2015, of 10 July) when intervening in the transfer or reimbursement of the Notes.

(e) Indirect Taxation

The acquisition, transfer, redemption, reimbursement and exchange of the Notes will be exempt from Transfer Tax and Stamp Duty as well as Value Added Tax.

UNITED KINGDOM

*The following is a summary of the Issuer's understanding of current United Kingdom law and published HM Revenue and Customs' practice relating only to the United Kingdom withholding tax treatment of payments of interest (as that term is understood for United Kingdom tax purposes) in respect of Notes. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Notes. The United Kingdom tax treatment of prospective Noteholders depends on their individual circumstances and may be subject to change in the future. Prospective Noteholders who may be subject to tax in a jurisdiction other than the United Kingdom or who may be unsure as to their tax position should seek their own professional advice.*

Payments of interest on the Notes that does not have a United Kingdom source may be made without deduction or withholding on account of United Kingdom income tax. If interest paid on the Notes does have a United Kingdom source, then payments may be made without deduction or withholding on account of United Kingdom income tax in any of the following circumstances.

Payments of interest on Notes may be made without deduction of or withholding on account of United Kingdom tax where the maturity of the Notes is less than 365 days and those Notes do not form part of a scheme or arrangement of borrowing intended to be capable of remaining outstanding for more than 364 days.

Payments of interest on Notes may be made without deduction of or withholding on account of United Kingdom income tax if the Notes are "regulatory capital securities". The Notes will be "regulatory capital securities" if they qualify, or have qualified, as Tier 2 instruments under Article 63 of Commission Regulation (EU) No 575/2013 and form, or have formed, a component of Tier 2 capital for those purposes. This is subject to there being no arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage (as defined in section 1139 of the Corporation Tax Act 2010) for any person as a result of the application of the Taxation of Regulatory Capital Securities Regulations 2013 in respect of the Notes.

In other cases, an amount must generally be withheld from payments of interest on the Notes that has a United Kingdom source on account of United Kingdom income tax at the basic rate (currently 20%), subject to any other available exemptions and reliefs. However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to a Noteholder, HMRC can issue a notice to the Issuer to pay interest to the Noteholder without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

An amount may also be required to be withheld from payments on the Notes that have a United Kingdom source and are not interest, but are nevertheless treated as annual payments for United Kingdom tax purposes, on account of United Kingdom income tax at the basic rate. However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to a Noteholder, HMRC can issue a notice to the Issuer to pay interest to the Noteholder without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

The proposed financial transactions tax (FTT)

On 14 February 2013, the European Commission published a proposal (the **Commission's Proposal**) for a Directive for a common financial transactions tax (**FTT**) in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the **participating Member States**). However, Estonia has since stated that it will not participate.

The Commission's Proposal has very broad scope and could, if introduced, apply to certain dealings in the Notes (including secondary market transactions) in certain circumstances. The issuance and subscription of Notes should, however, be exempt.

Under the Commission's Proposal the FTT could apply in certain circumstances to persons both within and outside of the participating Member States. Generally, it would apply to certain dealings in the Notes where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

However, the FTT proposal remains subject to negotiation between participating Member States. It may therefore be altered prior to any implementation, the timing of which remains unclear. Additional EU Member States may decide to participate.

Prospective holders of the Notes are advised to seek their own professional advice in relation to the FTT.

## SELLING RESTRICTIONS

### 1. PUBLIC OFFER SELLING RESTRICTION UNDER THE PROSPECTUS REGULATION

In relation to each Member State of the European Economic Area other than a Public Offer Jurisdiction falling under the Prospectus Regulation (each, a **Relevant Member State**), and with effect from and including the date on which the Prospectus Regulation is applicable in that Relevant Member State (the **Relevant Date**) an offer of Notes which are the subject of the offering contemplated by this Base Prospectus cannot be made to the public in that Relevant Member State except that, with effect from and including the Relevant Date, an offer of such Notes to the public may be made in that Relevant Member State at any time:

- (A) at any time to any legal entity which is a qualified investor as defined in the Prospectus Regulation;
- (B) at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Regulation) subject to obtaining the prior consent of the Issuer; or
- (C) at any time in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of Notes referred to in (a) to (c) above shall require the Issuer to publish a prospectus pursuant to Article 6 of the Prospectus Regulation, or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision:

- (D) the expression an offer of notes to the public in relation to any notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe the Notes, as the same may be varied in that Member State by any measure under the Prospectus Regulation in that Member State;
- (E) the expression Prospectus Regulation means Regulation (EU) 2017/1129 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (and amendments thereto).

It should also be noted that the offering, sale and delivery of the Notes and the distribution of this Base Prospectus are subject to legal restrictions in certain jurisdictions. The Issuer and Distributors invite persons who come into possession of this Prospectus to inform themselves about and comply with such restrictions.

### 2. EUROPEAN ECONOMIC AREA

The Notes have not been and will not be offered, sold or publicly promoted or advertised in the European Economic Area other than in compliance with the Prospectus Regulation (as amended).

### 3. UNITED STATES OF AMERICA AND ITS TERRITORIES

The Notes are not and will not be registered under the U.S. Securities Act of 1933, as amended. Accordingly, they will not be offered, sold or delivered, directly or indirectly, to the public in the United States except pursuant to an exemption from the registration requirements of the U.S. Securities Act of 1933 and, in particular, this Prospectus does not constitute and may not be distributed as a public offering or invitation to purchase Securities in the United States.

#### **4. SWITZERLAND**

In case an offer of Notes, if any, takes place into or within Switzerland, the Distributors Timberland Capital Management GmbH and Timberland Invest Ltd. as mentioned in this Base Prospectus have represented and agreed that it will only offer or sell the Notes in Switzerland in compliance with all applicable laws and regulations in force in Switzerland, and will, to the extent necessary, obtain any consent, approval or permission required, if any, for the offer or sale by it of Notes under the laws and regulations in force in Switzerland. Only this Base Prospectus and any other information incorporated therein by reference and required to ensure compliance with the Swiss Code of Obligations and all other applicable laws and regulations of Switzerland (in particular, additional and updated corporate and financial information that shall be provided by the Issuer) may be used in the context of an offer to the public in or into Switzerland. The Distributors Timberland Capital Management GmbH and Timberland Invest Ltd. as mentioned in this Base Prospectus have agreed that all of such documents and information shall be furnished to any potential purchaser in Switzerland upon request in such manner and at such times as shall be required by the Swiss Code of Obligations and all other applicable laws and regulations of Switzerland.

## **DOCUMENTS INCORPORATED BY REFERENCE**

The following documents, which have been previously published and filed with the FMA, shall be incorporated by reference in, and form part of, this Base Prospectus:

1. the Memorandum of Association of E-Stream Energy GmbH & Co KG dated 2 December 2004 (as supplemented); and
2. Report and Financial Statements of E-Stream Energy GmbH & Co KG for the period from 1 January 2017 to 31 December 2017;
3. audited Report and Financial Statements of E-Stream Energy GmbH & Co KG for the period from 1 January 2018 to 31 December 2018; and

with respect to Timberland Securities Investment plc as Guarantor (in case applicable):

4. the Memorandum of Association of Timberland Securities Investment Ltd. (now: Timberland Securities Investment plc) dated 19 April 2016; and
5. audited Report and Financial Statements of Timberland Securities Investment plc for the period from 1 January 2017 to 31 December 2017; and
6. audited Report and Financial Statements of Timberland Securities Investment plc for the period from 1 January 2018 to 31 December 2018.
7. the Guarantee, Guarantee II, Guarantee III and Guarantee IV issued by Timberland Securities Investment plc as Guarantor.



## **OFFER TO THE PUBLIC**

The Issuer has requested or will request that the FMA provides to the competent authority in each of the Public Offer Jurisdictions a certificate of approval attesting that the Base Prospectus has been drawn up in accordance with the Prospectus Regulation. Upon provision of such certificate, an offer of the Notes may be made other than pursuant to Article 1(4) of the Prospectus Regulation in the Public Offer Jurisdictions during the period set out in section 1 below. The Notes may only be offered or sold in any jurisdictions (including, without limitation, the Public Offer Jurisdictions), in accordance with the requirements of the relevant securities laws and regulations applicable in such jurisdictions.

### **1. OFFER PERIOD**

The offer period will be specified in the Final Terms. The Issuer reserves the right for any reason to close the offer period early. The Issuer reserves the right for any reason to close the offer period early. Subject to the Final Terms the Issuer reserves the right for any reason to continue the offer period after expiry of the period of validity of the Base Prospectus under a succeeding base prospectus.

Notice will be made to investors by means of a notice published on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)). The Issuer will also regularly inform Noteholders during the offer period about the number of Notes sold during such offer period to investors by publishing the relevant information on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)). The Issuer will notify the FMA of the result of the offering of the Notes at the end of the offer period.

### **2. SUBSCRIPTION PERIOD**

Notes will be offered during a subscription period as specified in the Final Terms. Subject to applicable Final Terms, after expiration of the subscription period, the offer period continues or may be continued. In this case, a respective offer will be made without engagement.

### **3. ISSUE PRICE**

During the subscription period or in case the Notes are offered without engagement after expiration of the subscription period, the Issuer will offer and sell each Note at the relevant issue price as determined in the applicable Final Terms. The issue price in respect of the Notes is published on each business day (as defined in the Terms and Conditions) on the Issuer's website ([www.estream-energy.com](http://www.estream-energy.com)) and sent to the FMA in accordance with relevant Prospectus Regulation.

### **4. PUBLICATION OF AN OFFER TO THE PUBLIC**

The offer of the Notes will be made through different communication channels including public announcements, advertisements, mailing of quarterly reports or newsletters to existing or future investors, marketing activities in connection with coordinated advertising brochures and other printed matter.

### **5. METHOD OF CALCULATING THE YIELD**

The yield for Notes will be calculated by the use of the applicable calculation method (as defined in the Terms and Conditions), which determines the effective rate of interest of notes taking into account accrued interest (if any) and the applicable rate of distributions (as determined in the applicable Final Terms). An indication of the yield in respect of the Notes will be specified in the applicable Final Terms. The yield indicated will be calculated as the yield to maturity as at the issue date of the Notes and will not be an indication of future yield.

**6. CONDITIONS OF THE OFFER**

The Issuer reserves the right to withdraw the offer of Notes for any reason at any time prior to the end of the offer period. In addition, and subject to the Final Terms, the Issuer reserves the continuation of the public offering of the Notes after expiry of the period of validity of the Base Prospectus under a succeeding base prospectus. Subject to the Final Terms, the Issuer reserves the right to continue the public offer subject to the filing of new Final Terms for the Notes under another base prospectus. For the avoidance of doubt, if any application has been made by a potential investor to purchase the Notes and the Issuer exercises the right to withdraw the offer, each such potential investor shall not be entitled to subscribe for or otherwise purchase any Notes. Notice of such withdrawal or cancellation of the issuance of the Notes will be made to investors by means of a notice published on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)) or any successor website.

**7. THE TIME PERIOD DURING WHICH THE OFFER OF THE NOTES WILL BE OPEN AND DESCRIPTION OF THE APPLICATION PROCESS**

Applications for the purchase of Notes can be made to the Issuer with a copy to the Distribution Agent(s) at its/their address(es) as set out in section "*Description of the Parties*". Amendments to the offer period and the application process, if any, will be notified to investors by means of a notice published on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)) or any successor website.

**8. DETAILS OF THE MINIMUM AND/OR MAXIMUM AMOUNT OF APPLICATION**

Subject to applicable Final Terms and further specification, there is no minimum allocation of Notes per investor. The maximum allocation of Notes will be subject only to availability at the time of the application. Also subject to further specification, there are no pre-identified allotment criteria. The Issuer will adopt allotment criteria that ensure equal treatment of prospective investors and the Issuer or the Distribution Agent(s) will notify each applicant of the amount of Notes allotted. All the Notes requested will be assigned up to the maximum amount of the offer.

**9. DETAILS OF THE METHOD FOR PAYING UP AND DELIVERING THE NOTES**

The Notes will be, as the case may be and subject to further determination in the relevant Final Terms, either sold against payment of the issue price to the Issuer or to any agent designated by the Issuer as described under section "*Selling Restrictions*" of this Base Prospectus or free of payment. Each investor will be notified of the settlement arrangements in respect of the Notes at the time of such investor's application.

**10. DESCRIPTION OF POSSIBILITY TO REDUCE SUBSCRIPTIONS AND MANNER FOR REFUNDING EXCESS AMOUNT PAID BY APPLICANTS**

In case not specified otherwise in the relevant Final Terms, it is not possible to reduce subscriptions.

**11. MANNER AND DATE IN WHICH RESULTS OF THE OFFER ARE TO BE MADE PUBLIC**

In case not specified otherwise in the relevant Final Terms, the Issuer will inform the Noteholders during the offer period about the number of Notes sold during such offer period to investors by publishing the relevant information on the website of the Issuer ([www.estream-energy.com](http://www.estream-energy.com)) or any successor website.

Process for notifying applicants of the amount allotted and an indication whether dealing may begin before notification is made

Information in relation to the process for notifying applicants of the amount allotted will be set out in the applicable Final Terms. Subject to the relevant Final Terms, the Issuer reserves the right to arrange for a trading on terms of issue.

**12. CATEGORIES OF POTENTIAL INVESTORS TO WHICH THE NOTES ARE OFFERED**

Offers of Notes may be made in each of the Public Offer Jurisdictions (as specified in the Final Terms) to any person during the offer period. In other EEA countries, offers during the offer period may only be made pursuant to an exemption from the obligation under the Prospectus Regulation. Outside of the offer period, offers in all jurisdictions (including the Public Offer Jurisdictions) will only be made pursuant to an exemption from the obligation under the Prospectus Regulation.

**13. LIST OF JURISDICTIONS, IN WHICH NON-EXEMPT OFFERS MAY BE MADE**

Non-exempt offers may be made in the Republic of Austria, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Federal Republic of Germany, the French Republic, Hungary, the Republic of Ireland, the Italian Republic, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, the Republic of Poland, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland.

**14. USE OF PROCEEDS**

The Issuer is free to use the proceeds as it wishes. The net proceeds from the Notes will be used for general corporate purposes or for the purpose of the general funding of the Issuer or will be utilized, directly or indirectly, by being on-lent to group and/or related companies of the Issuer, including the refinancing of existing debt, or otherwise as specified in the relevant Final Terms.

## GENERAL INFORMATION

### 1. AUTHORISATION

The issue of the Notes was duly authorised by the resolution of the board of directors of the Issuer during a meeting held on 16 October 2019.

### 2. GUARANTEE

Timberland Securities Investment plc has given solely in regard to the Notes issued with the Conditions titled "Option II – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes under German law" or "Option VI – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes" or "Option VIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes" or "Option XIII – Terms and Conditions of the guaranteed Fixed Rate Registered Notes Issued in Dematerialised Form" its unconditional and irrevocable Guarantee for the due payment of the amounts corresponding to the principal of and interest on the Notes issued by the Issuer in an amount as set out in the relevant Final Terms. The Guarantee will be governed by German law. The Guarantor has obtained or will obtain from time to time all necessary consents, approvals and authorisations in connection with the Guarantee.

Timberland Securities Investment plc has given furthermore solely in regard to the Notes issued with the Conditions titled "Option III – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II under German law" or "Option VII – Terms and Conditions of the guaranteed Fixed Rate Bearer Notes II" or "Option IX – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II" or "Option XIV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes II issued in Dematerialised Form" its unconditional and irrevocable Guarantee II for the due payment of the amounts corresponding to the principal of and interest on the Notes issued by the Issuer in an amount as set out in the relevant Final Terms. The Guarantee II will be governed by German law. The Guarantor has obtained or will obtain from time to time all necessary consents, approvals and authorisations in connection with the Guarantee II.

Timberland Securities Investment plc has given furthermore solely in regard to the Notes issued with the Conditions titled "Option XV – Terms and Conditions of the guaranteed Fixed Rate Registered Notes III issued in Dematerialised Form" its unconditional and irrevocable Guarantee III for the due payment of the amounts corresponding to the principal of and interest on the Notes issued by the Issuer in an amount as set out in the relevant Final Terms. The Guarantee III will be governed by Maltese law. The Guarantor has obtained or will obtain from time to time all necessary consents, approvals and authorisations in connection with the Guarantee III.

Timberland Securities Investment plc has given furthermore solely in regard to the Notes issued with the Conditions titled "Option XVI – Terms and Conditions of the guaranteed Fixed Rate Registered Notes IV issued in Dematerialised Form" its unconditional and irrevocable Guarantee IV for the due payment of the amounts corresponding to the principal of and interest on the Notes issued by the Issuer in an amount as set out in the relevant Final Terms. The Guarantee IV will be governed by Maltese law. The Guarantor has obtained or will obtain from time to time all necessary consents, approvals and authorisations in connection with the Guarantee IV.

### 3. LISTING AND ADMISSION TO TRADING

#### *Registered Notes*

An application for the admission to trading of the fixed rate registered notes issued in dematerialised form may be made to Official List of the Malta Stock Exchange and/or the MTF (*Dritter Markt*) of the Vienna Stock Exchange and/or the the Unregulated Market (*Prospekte*) of the Maltese Stock Exchange and any other market(s) as defined in the relevant Final Terms. Both the contingent capital

fixed rate registered notes and the fixed rate registered notes will not be listed or admitted to trading on any stock exchange. An application for the admission to trading of the contingent capital fixed rate registered notes and/or the fixed rate registered notes may be made to the MTF (*Dritter Markt*) of the Vienna Stock Exchange.

#### *Bearer Notes*

Application may be made to the Luxembourg Stock Exchange for the bearer Notes to be listed on the official list of the Luxembourg Stock Exchange. Application may also be made for the inclusion to trading on the the Open Market (*Freiverkehr*) of the Frankfurt Stock Exchange market and/or the Open Market (*Freiverkehr*) of the Munich Stock Exchange market and/or the Open Market (*Freiverkehr*) of the Stuttgart Stock Exchange market and/or the Euro MTF market of the Luxembourg Stock Exchange and/or on MTF (*Dritter Markt*) of the Vienna Stock Exchange. The afore-mentioned markets do not classify as 'regulated' within the meaning of Directive 2014/65/EU on markets in financial instruments, however, are nonetheless subject to regulation emanating from said Directive.

Application for listing and/or for the inclusion to trading may also be made to any other regulated and/or unregulated market.

#### **4. CLEARING SYSTEMS**

The bearer Notes may be accepted for clearance through the following clearing systems: Euroclear Bank S.A./N.V. (1 Boulevard du Roi Albert II, B-1210 Brussels), Clearstream Banking S.A. (42, avenue J.F. Kennedy, L-1855 Luxembourg), Clearstream Banking AG (The Cube, Mergenthalerallee 61, D-65760 Eschborn) and OeKB CSD GmbH (Strauchgasse 1-3, 1010 Vienna, Austria).

The Registered Notes Issued in Dematerialised Form may be accepted for clearance through the following clearing systems: Central Securities Depository of the Malta Stock Exchange (Garrison Chapel, Castille Place, Valletta, VLT 1063, Malta).

The International Security Identification Number (ISIN) or other securities identification numbers (if any) for each issue of Notes will be set out in the relevant Final Terms.

#### **5. DOCUMENTS AVAILABLE**

During the life span of this Base Prospectus physical copies of the following documents may be inspected during usual business hours at the registered office of the Issuer or on the website of the Issuer under [www.estream-energy.com](http://www.estream-energy.com):

- (a) the Memorandum of Association of E-Stream Energy GmbH & Co KG dated 2 December 2004 (as supplemented); and
- (c) Report and Financial Statements of E-Stream Energy GmbH & Co KG for the period from 1 January 2017 to 31 December 2017; and
- (d) audited Report and Financial Statements of E-Stream Energy GmbH & Co KG for the period from 1 January 2018 to 31 December 2018; and
- (e) any future financial statements of the Issuer; and
- (f) the Memorandum of Association of Timberland Securities Investment Ltd. dated 19 April 2016; and
- (g) audited Report and Financial Statements of Timberland Securities Investment plc for the period from 1 January 2017 to 31 December 2017; and

- (h) audited Report and Financial Statements of Timberland Securities Investment plc for the period from 1 January 2018 to 31 December 2018 and
- (i) the Guarantee, Guarantee II, Guarantee III and Guarantee IV issued by Timberland Securities Investment plc acting as Guarantor.

## 6. FORWARD-LOOKING STATEMENTS

This Base Prospectus contains forward-looking statements. Forward-looking statements are all statements that do not relate to historical or current facts and events. This also applies to statements in the "Risk Factors" and "Business Review and Prospects" sections and wherever the Base Prospectus contains information about the Issuer's future financial performance, plans and expectations regarding the Issuer's business, growth and profitability and the economic environment to which the Issuer is exposed. The forward-looking statements are based on the current assessment made by the Issuer to the best of its knowledge. Such forward-looking statements are based on assumptions and factors and are therefore subject to risks and uncertainties. Therefore, it is important to read in particular the sections "Risk Factors", "Business Review" and "Business Review and Prospects" which contain a detailed description of factors that may affect the business development of the Issuer and the industry in which the Issuer operates.

The forward-looking statements are based on the Issuer's current plans, estimates, forecasts and expectations and on certain assumptions which, although the Issuer believes that they are reasonable at this time, may subsequently prove to be incorrect. Many factors may cause the actual performance or earnings or performance of the Issuer to be materially different from any future performance or performance expressed or implied by such forward-looking statements.

These factors include, among others:

- changes in general economic, business or legal conditions,
- political or regulatory changes,
- changes in the Issuer's competitive environment,
- other factors discussed in more detail in the section "Risk Factors", and
- factors that are not known to the Issuer at the present time.

If, as a result of these factors, risks or uncertainties arise in individual or several cases, or if assumptions made by the Issuer prove to be incorrect, it cannot be excluded that actual results may differ materially from those described in this Base Prospectus as assumed, believed, estimated or expected. For this reason, the Issuer may be prevented from achieving its financial and strategic objectives.

The Issuer does not intend to go beyond its legal obligation to update such forward-looking statements or to conform them to future events or developments.

Pursuant to applicable laws, the Issuer is obliged to prepare and publish a supplement to this Base Prospectus if important new circumstances arise or material inaccuracies in the information contained in this Base Prospectus become known which could influence the assessment of the Issuer's shares and which occur or are determined after the approval of this Base Prospectus and before the final closing of the public offering.

## **7. REFERENCE TO SOURCES OF MARKET INFORMATION AND TECHNICAL TERMS**

The Issuer has not verified information contained in this Base Prospectus from third-party studies on the market environment, market developments, growth rates, market trends and the competitive situation. The Issuer has accurately reproduced this information from third parties and, to the Issuer's knowledge and as far as it could infer from the published information, no facts have been misappropriated which would render the reproduced information incorrect or misleading.

Furthermore, information on the market environment, market developments, growth rates, market trends and the competitive situation in the areas in which the Issuer is active is based on estimates made by the Issuer.

Information derived therefrom which has not been obtained from independent sources may therefore differ from the estimates of the Issuer's competitors or from future surveys by independent sources.

## **8. NOTE ON FINANCIAL AND NUMERICAL DATA**

The financial data contained in this Base Prospectus (including such incorporated by reference), which are the subject of the Issuer's financial statements, are primarily derived from the Issuer's HGB annual financial statements as of December 31, 2018.

This Base Prospectus contains currency information in Euro. Currency information in euros was indicated with "EUR", and currency information in thousand euros was indicated with "TEUR" before the amount and abbreviated. Individual figures (including percentages) in this Base Prospectus have been rounded according to commercial practice. In tables, such commercially rounded figures may not add up exactly to the totals contained in the table.

## **9. POST-ISSUANCE TRANSACTION INFORMATION**

The Issuer does not intend to provide any post-issuance transaction information in relation to the issue of the Notes, except if required by any applicable laws and regulations.

## **10. ISSUER'S WEBSITE**

The website of the Issuer is "www.estream-energy.com". The information on such website does not form part of this Base Prospectus, except where that information has been incorporated by reference into this Base Prospectus.

## **11. SUPPLEMENTS TO THE BASE PROSPECTUS AND SUCCESSOR BASE PROSPECTUSES**

This Base Prospectus will be effective for 12 months from its approval. If this Base Prospectus is updated at a later pursuant to the provisions of the Prospectus Regulation, this Base Prospectus will from the date of publication of the relevant supplement be deemed to apply as amended. The supplements will become parts of this Base Prospectus. The supplements will be published and made available in the same manner as this Base Prospectus.

When the Base Prospectus ceases to be effective, the offer may be continued in accordance with the relevant Final Terms and on the basis of a Successor Base Prospectus. Publication of a Successor Prospectus shall be made in accordance with the details set out in the relevant Final Terms.

In the case of a public offering of Notes under this base prospectus (at the same time the **Original Base Prospectus**) the relevant Final Terms may provide for a succession of the public offering of the Notes after the validity of this Base Prospectus, if a successor prospectus is published.

In the event of a public offering being continued under a Successor Base Prospectus, the relevant Final Terms, including the relevant summary, if any, shall be read in conjunction with the Successor Base

Prospectus, which means that, in such case, each reference to the Base Prospectus made in the relevant Final Terms shall be deemed to constitute a reference to the relevant Successor Base Prospectus, with the exception of the security-specific terms and conditions of the relevant issue which will continue to be governed by the Original Base Prospectus. **Successor Base Prospectus** means the most current applicable base prospectus, specifying the Notes to be included in the continued public offering and incorporating by reference those parts of the Original Base Prospectus which are required for the relevant issue of Notes.

Signed on behalf of E-Stream Energy GmbH & Co KG, represented by its General Partner E-Stream Energy Management GmbH:

By: Mr Thomas Kraemer

Duly authorised

A handwritten signature in blue ink, appearing to read 'Thomas Kraemer', enclosed within a blue oval scribble.