

***Case No COMP/M.4963 -
REXEL / HAGEMEYER***

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**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(2) NON-OPPOSITION
Date: 22/02/2008

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22-II-2008
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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION IN
CONJUNCTION WITH
ARTICLE 6(2)

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.4963 - REXEL / HAGEMEYER
Notification of 4 January 2008 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 4 January 2008, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Rexel SA ("Rexel", France), acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control of the activities of the undertaking Hagemeyer N.V. ("Hagemeyer", The Netherlands) in the following EEA Member States: Belgium, the Czech Republic, Germany (except for six branches), Estonia, Finland, Ireland, Latvia, Lithuania, the Netherlands, Norway, Poland, Spain and the United Kingdom, as well as in Russia, and the worldwide Agencies and Consumer Electronics Business ("ACE Business") of Hagemeyer.
2. On 1 February 2008, the Notifying Party submitted undertakings designed to eliminate the serious doubts identified by the Commission, in accordance with Article 6(2) of the Merger Regulation. After examination of the notification and in the light of these undertakings, the Commission has concluded that the operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

¹ OJ L 24, 29.1.2004 p. 1.

I. THE PARTIES

3. **Rexel** is mainly active in the wholesale distribution of electrical products (electrical installation equipment, conduits and cables, lighting, security products, communication products and tools) and also sells a small proportion of non-electrical products (heating, ventilation and air-conditioning products ("HVAC"), white and brown goods and personal protection items. Rexel worldwide sales in 2006 amounted to EUR 9.3 billion, out of which EUR [4-6] billion were achieved in the EEA and EUR [2-4] billion in France.
4. The **Hagemeyer assets** that Rexel proposes to acquire through the planned transaction are the whole activity of Hagemeyer in Belgium, the Czech Republic, Germany (except for six branches), Estonia, Finland, Ireland, Latvia, Lithuania, the Netherlands, Norway, Poland, Spain and the United Kingdom, as well as in Russia, and the worldwide Agencies and Consumer Electronics Business ("ACE Business"). Hagemeyer is a Dutch company also active in the wholesale distribution of installation and more particularly of electrical equipment. The Hagemeyer assets subject to the transaction achieved a global turnover of EUR 3.5 billion out of which EUR [1.5-3.5] billion were achieved in the EEA.

II. THE OPERATION AND CONCENTRATION

5. On 23 October 2007, Rexel entered into an agreement ("the Agreement") with Sonepar SA ("Sonepar"), pursuant to which Rexel would launch a public takeover bid over Hagemeyer and – subject to a successful outcome of this takeover bid – Rexel would transfer parts of Hagemeyer to Sonepar. Sonepar and Rexel thereby agreed that Sonepar would acquire from Rexel Hagemeyer's activities in Austria, Sweden, a small part of its activity in Germany², as well as Hagemeyer activities outside the EU³.
6. The Agreement between Sonepar and Rexel covers the details of the break-up of the Hagemeyer assets, as well as the day-to-day management of the assets during the transitional period after closing of the public offer until the date when the legal transfer of ownership of the relevant assets to Sonepar will have been completed.
7. In this regard, the Commission finds that there is no lasting acquisition of control by Rexel over those Hagemeyer assets which will ultimately be transferred to Sonepar, since this transfer has been agreed in a legally binding way.⁴

² The six Hagemeyer branches located in Stäbelow (near Rostock), Barbüttel, Glinde, Kiel, Bremen and Gütersloh.

³ United States, Mexico, Canada, Australia, China, South-East Asia (Singapore, Malaysia, Thailand) and Switzerland

⁴ Cf. para. 31 of the Consolidated Jurisdictional Notice and the case M.4949 – Sonepar/Hagemeyer. It should be noted that on the basis of the information available to date it cannot be excluded that – despite the fact that Rexel, Sonepar and Hagemeyer agreed to provide their best efforts to make the necessary legal arrangements for the assets in Sweden, Austria and the six German branches to be transferred to Sonepar within 12 months – (i) it could take more than 12 months to transfer those assets, or (ii) that some entities destined for Sonepar would finally not be transferred. Rexel has explicitly recognized in the notification to the Commission that it will have to re-notify the entire transaction should one or more of Hagemeyer's activities destined to Sonepar not have been transferred to the latter within 12 months after the closing of the public takeover bid. Consequently the present decision, as it concerns the assets as described above, will no longer be effective.

8. Moreover, by a side-letter to this Agreement of the same date, Sonepar and Rexel agreed that they would sell to each other certain of their own activities, subject to the successful outcome of Rexel's takeover bid for Hagemeyer. Among others, they agreed that Rexel would transfer all of its activities in Germany and Luxembourg (Rexel Germany) to Sonepar⁵.
9. Since Rexel will gain sole control on a lasting basis over the Hagemeyer assets destined for them, the transaction constitutes a concentration within the meaning of Article 3 (1) EC Merger Regulation.

III. COMMUNITY DIMENSION

10. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion⁶ (Rexel, EUR 9.3 billion; Hagemeyer assets, EUR 3.5 billion). Each of them have a Community-wide turnover in excess of EUR 250 million (Rexel, EUR [4-6] billion; Hagemeyer assets, EUR [1.5-3.5] billion), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

IV. COMPETITIVE ASSESSMENT

11. The proposed transaction concerns the wholesale distribution of electrical products to professionals. More specifically, wholesalers such as the parties buy these products from manufacturers and resell them to operators which either integrate them within a specific building or industrial project or install them for their own customer or directly resell them.
12. The main part of the parties' revenues is generated by the wholesale of electrical products including i) electrical installation equipment (panels, automation and transformers), ii) cables, iii) lighting sources and equipment and iv) communication and security products (detection, surveillance, access control, voice and data transmission equipment). In Germany, the parties distribute also HVAC products (heating, ventilation and air conditioning products), household and consumer electronic goods (white and brown products).

A. Relevant product markets

13. The activities of the parties in terms of product market approach can be addressed from two perspectives: downstream markets (sales of electrical products by wholesalers to their clients) and upstream markets (procurement of electrical products by wholesalers from suppliers).

⁵ Cf. the parallel case COMP/M.5029 – Sonepar/Hagemeyer.

⁶ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25).

Downstream markets

14. In previous cases, the Commission considered that the wholesale distribution to professionals could be distinguished from other forms of distribution and in particular retail distribution such as DIY stores⁷. Indeed, whilst retailers may carry the basic range, they do not compete with wholesalers for immediate access to a wide range of electrical products and do not provide a high level of expertise or facilitated payment conditions.
15. The notifying party considers that retailers, DIY stores and other less specialized distributors exercise a strong competitive pressure and could be included in the relevant product market. During the market investigation, the vast majority of customers indicated that they never purchased electrical products from retailers and only few submitted that they would only occasionally resort to retailers in case of emergency need.
16. As regards a possible further delineation of the products sold at the wholesale level, the parties consider that it is not relevant. They submit that wholesalers have to respond to the demand of customers which need to cover several stages of the installation process and provide a one-stop shopping facility. Therefore each wholesaler carries a broad product range sourced from a large number of manufacturers. This is in line with previous findings in *Hagemeyer/WF Electrical* and confirmed by the findings of the market investigation which show that customers are expecting the wholesaler to offer a wide range of electrical products.
17. However, the parties and their competitors do not always distribute the same range of products in all EEA countries. In the Czech Republic, the parties are only active in the wholesale distribution of electrical products but other wholesalers may distribute additional products. Therefore the notifying party submits that it may be more appropriate to define a market for the wholesale distribution of installation products, including in addition to electrical products, heating, plumbing and sanitary products. In any case the exact definition of the relevant product market in the Czech Republic can be left open, since even adopting the narrowest possible product market definition, effective competition would not be significantly impeded.
18. In its notification, although the notifying party notes that direct sales exert a competitive constraint on wholesalers, in particular for large volume sales, it does not include sales made directly by manufacturers in the market data on the basis of which the competitive impact of the transaction is assessed.
19. This approach is in line with Commission's case law and has been confirmed by the market investigation in the case at stake. In *Hagemeyer/WF Electrical*, the Commission already expressed doubts regarding the argument that direct sales by manufacturers should be included in the same market as sales by wholesalers since wholesalers offer a wide range of products from different manufacturers whereas manufacturers sell only their own products.

⁷ Decisions IV/M.990 *Hagemeyer/ABB Asea Skandia* of 7 October 1997 and COMP/M.2034 *Hagemeyer/WF Electrical* of 17 July 2000.

20. While manufacturers may have some competitive advantages such as offering specialised and qualified technical support, the market investigation confirmed that they are not competing with wholesalers for the same customers and/or for the same supply of electrical products. Some customers indeed explained in their response to the market investigation that they sometimes need to purchase from manufacturers in order to get specific products. However, as regards more standardized products, they can in fact not consider buying from manufacturers, since most manufacturers require a certain amount of minimum order and are often not as flexible as wholesalers in terms of coverage of the country and delivery times.
21. In particular, customers see differences between wholesalers and manufacturers as regards the limited portfolio of products and brands that is available, prices and financial conditions (credit lines for customers). Only if they need specific, highly technical products or material for large construction projects (for example public outdoor lighting, lighting for large office buildings, hot water tanks, electrical storage heaters) they consider buying directly from manufacturers. They also indicated that there is a minimum order amount for direct sales from manufacturers. Large industrial customers sometimes have a framework agreement with manufacturers for electrical products they often need, but nevertheless indicated that they source standard products or small quantities from wholesalers. Moreover, the smaller the customer, the less it is likely that it can source certain products directly from a manufacturer. These indications have broadly been confirmed by manufacturers; some of them also stated that it has been their strategic commercial decision to sell only through wholesalers.
22. In the light of the above, the Commission therefore considers that the supply of electrical products by wholesalers constitutes a distinct product market (not including direct sales by manufacturers or retailers).

Upstream markets

23. Upstream markets concern the procurement of electrical products by wholesalers from manufacturers. The notifying party submits that the markets for procurement include the sales of such electrical products to a variety of customers including wholesalers but also DIY retailers. This is in line with past Commission decisions concerning the area of wholesale distribution⁸.
24. The Commission's practice has been to delimit procurement markets by distinguishing product families or ranges⁹. This is due to the fact that suppliers generally manufacture a limited number of categories of products which are subject to very different competitive conditions. Hence the parties provided estimates of their shares in the five main categories of electrical products that they distribute, namely cables, lighting, installation materials, HVAC and communication and security products. The Commission considers that this distinction is appropriate, given that manufacturers are often specialized in one category whereas distributors, including wholesalers, purchase different categories of products in order to fulfil their needs.

⁸ See for example decision COMP/M.3184 Wolseley/Pinault bois et matériaux of 3 July 2003.

⁹ Decision COM/M.3184 Wolseley/Pinault bois et matériaux.

B. Relevant geographic markets

Downstream markets

25. The notifying party considers the wholesale markets of electrical products to be national in scope. Indeed, they submit that a definition of national markets is particularly appropriate for the wholesale distribution of electrical products given the importance of on-site deliveries (to the customers' premises or a worksite they designate) as opposed to "Over The Counter" (OTC) sales where customers have to travel to the local branch. Rexel puts forward that in Europe, only 5 to 30% of sales are made with customers physically coming to the branch, ordering and leaving the counter with their product as they would have done in a retail store.
26. Furthermore, the notifying party indicates that in the Member States where the parties' activities overlap, competition factors such as pricing policies, product selection, marketing and business strategies and purchasing policies are decided at national levels. Moreover, even if one were to look at these markets at a local level in these Member States, typical customer catchment areas overlap, thus creating a continuous offer on the national scale.
27. These considerations were broadly confirmed by market participants in Member States where the transaction leads to affected markets, i.e. Belgium, Czech Republic, Ireland, the Netherlands and United Kingdom¹⁰. The market investigation has not indicated that competition conditions may differ in certain regions within these Member States from the rest of the country and no market participants expressed any competition concerns as regards specific local or regional areas. In light of the above, the Commission will assess the transaction on the basis of national markets for wholesale distribution of electrical products with respect to those Member States.

Upstream markets

28. According to the notifying party, the characteristics taken into account by the Commission in its decision in the case *COMP/M.2283 Schneider/Legrand*, such as national negotiation level, product and demand differences and national price setting and price differences between Member States, still apply and speak for a national scope of the procurement markets.
29. In the course of the market investigation, some suppliers pointed out to the existence of pan-European schemes for rebates on the basis of total sales which would exist with some of the largest wholesalers, including the parties, which may speak in favour of a larger than national market definition. However this element does not alter the conclusion that the procurement markets are still national, as the market investigation has also confirmed the notifying party's submission as regards the above mentioned considerations. Suppliers

¹⁰ The parties' activities overlap also in the following Member States which do not constitute affected markets: Germany (Rexel: [0-5%], Hagemeyer: [0-5%]) where Rexel's business will be transferred to Sonepar (see Case COMP/M.5029 Sonepar/Rexel Germany), Poland (Rexel: [0-5%], Hagemeyer: [0-5%]) and Spain (Rexel: [0-5%], Hagemeyer: [5-10%]).

of the parties have indicated that commercial negotiations were also carried out on a national basis, with discounts and rebates discussed on a country-by-country basis.

C. Competitive assessment

30. The proposed transaction will lead to affected markets in the wholesale distribution of electrical products in Belgium, United Kingdom, Ireland and the Netherlands. In Czech Republic, the markets for the wholesale distribution of electrical products and installation products will be affected. It will also affect the procurement market for certain product categories (see paragraph 24) in Belgium, UK, Ireland and the Netherlands.

Belgium

Downstream markets

31. The table below shows the parties' and their main competitors' market shares on the Belgian market for the wholesale distribution of electrical products.

Belgian market for the wholesale distribution of electrical products 2006*			
Company	Sales (M€)	Market share	Number of outlets
Rexel	[100-200]	[10-20%]	[20-30]
Hagemeyer (Breva)	[0-100]	[0-5%]	[0-10]
Combined	[200-300]	[20-30%]	[30-40]
Sonepar (Cebeo)	[200-300]	[20-30%]	[30-40]
Centrale des Lampes	[0-100]	[10-20%]	[10-20]
Cheyns	[0-100]	[0-10%]	[0-10]
Claessen	[0-100]	[0-10%]	[10-20]
La Grange	[0-100]	[0-10%]	[0-10]
Others	[200-300]	[20-30%]	
Market	923.2		

* Market data based on parties' best estimates.

32. Post merger, Rexel will remain the second market player, increasing its current market share of [10-20%] by [0-5%] to [20-30%]. Sonepar/Cebeo would still remain the market leader ([20-30%]) and other competitors include national players such as Centrale des Lampes ([10-20%]), Cheyns ([0-10%]), Claessen ([0-10%]) and La Grange ([0-10%]). These competitors broadly offer a range of products which is similar to that of the parties, with an average number of different references ranging between [10.000-20.000] (La Grange) and [50.000-60.000] (Centrale des Lampes), whereas Rexel and Hagemeyer would stock respectively [30.000-40.000] and [30.000-40.000] references.
33. A large majority of respondents (customers and competitors) did not express concerns as regards the competitive impact of the transaction in Belgium. They indicated that the closest competitor of Rexel in Belgium is Sonepar/Cebeo and that the transaction would not restrain the choice of alternative wholesalers in Belgium. They submitted that the geographic coverage of Hagemeyer in Belgium is limited to the Flanders region with only one branch in Wallonia whereas Rexel and Sonepar/Cebeo cover the whole country.

34. Despite the fact that market shares suggest *prima facie* a symmetrical duopoly consisting of the new entity and Sonepar-Cebeo, it is unlikely that the proposed concentration would give rise to coordinated effects in Belgium: indeed the concentration levels are not particularly high (the HHI pre and post-merger are respectively [<1500]) and the increase in concentration brought about by the merger is limited. Furthermore there remains a number of alternative independent wholesalers (altogether more than 50% of the market) which should effectively disrupt any coordination attempt
35. In the light of the above, considering the small change brought about by the proposed transaction and the existence of several alternative wholesalers, the transaction does not raise serious doubts as to its compatibility with the common market as regards the supply of electrical products by wholesalers in Belgium.

Upstream markets

36. None of the upstream procurement markets in Belgium will be affected except the market for procurement of cables, where the new entity would hold a market share of [10-20%] (Rexel: [10-20%], Hagemeyer: [0-5%]). In view of the limited position of the new entity on this market and the small increment brought about by the proposed transaction, it can be concluded that the concentration does not raise serious doubts as to its compatibility with the common market as regards the procurement markets of electrical products in Belgium.

Czech Republic

37. The table below shows the parties' and their main competitors' market shares on the Czech market for the wholesale distribution of installation products (including electrical products). As regards electrical products, the notifying party submits that they are not in a position to submit market shares information on competitors in view of the absence of public information on the allocation of sales between electrical and other installation products¹¹.

¹¹ As the parties' shares will not exceed [0-10%] on any upstream markets for procurement, these markets will not be discussed any further.

Czech Republic 2006*	Wholesale distribution of installation products		Wholesale distribution of electrical products		Number of outlets
	Sales (M€)	Market share	Sales (M€)	Market share	
Rexel	[50-150]	[10-20%]	[50-150]	[20-30%]	[15-25]
Hagemeyer	[0-100]	[0-5%]	[0-100]	[0-5%]	[0-10]
Combined	[50-150]	[10-20%]	[50-150]	[20-30%]	[20-30]
Argos	[0-100]	[0-10%]	n.a.	n.a.	[0-10]
Jakub	[0-100]	[0-10%]	n.a.	n.a.	[10-20]
K&V	[0-100]	[0-10%]	n.a.	n.a.	[0-10]
Würth (Elfetex)	[0-100]	[0-10%]	n.a.	n.a.	[10-20]
Sonepar	[0-100]	[0-10%]	n.a.	n.a.	[10-20]
Others	[300-400]	[50-60%]	n.a.	n.a.	
Market	631.8		315.9		

* Market data based on parties' best estimates.

38. Hagemeyer is a small player in Czech Republic with only two branches. However, by acquiring Hagemeyer, Rexel will increase its leading market position from [10-20%] to [10-20%] as regards installation products and from [20-30%] to [20-30%] as regards electrical products. Competitors include national players such as Argos ([0-10%] on installation products), Jakub ([0-10%] on installation products) and K&V ([0-10%] on installation products) as well as subsidiaries of Würth ([0-10%]) and Sonepar ([0-10%]). These competitors broadly offer a range of products similar to that of the parties with an average number of different references amounting to 25.000 (compared to [20.000-35.000] for Rexel).
39. Respondents in the market investigation have confirmed that these players are also active in the wholesale market for electrical products with market shares between [10-20%] for Argos and Jakub and between [0-10%] for K&V, Würth and Sonepar. Among these players, Jakub and Sonepar have also a strong national coverage with [10-20] outlets each. No customers or competitors expressed concerns as regards the competitive impact of the transaction in the Czech market for supply of electrical products by wholesalers. Therefore the transaction does not raise serious doubts as to its compatibility with the common market concerning the supply of electrical products or installation products by wholesalers in the Czech Republic.

United Kingdom

Downstream markets

40. The table below shows the parties' and their main competitors' market shares on the UK market for the wholesale distribution of electrical products.

UK market for the wholesale distribution of electrical products 2006*			
Company	Sales (M€)	Market share	Number of outlets
Rexel	[0-500]	[0-10%]	[150-200]
Hagemeyer	[900-1400]	[20-30%]	[250-300]
Combined	[1000-1500]	[20-30%]	[420-470]
Edmundson	[1000-1500]	[20-30%]	[250-300]
City Electrical Factors	[0-1000]	[10-20%]	[350-400]
Wolseley (Electric Center)	[0-1000]	[0-10%]	[50-100]
Wilts	[0-1000]	[0-10%]	[50-100]
Eyre & Elliston	[0-1000]	[0-10%]	n.a.
Others	[1000-1500]	[20-30%]	
Market	4,698		

* Market data based on parties' best estimates.

41. With the acquisition of Hagemeyer, currently the second market player, Rexel will become the leading wholesaler of electrical products in UK, increasing its current market share of [20-30%] by [5-10%] to [20-30%].
42. The new entity will face competition from a close competitor, Edmundson, with a market share of [20-30%] and from other smaller competitors, including City Electrical Factors and Wolseley, each holding a market share of [10-20%] and [0-10%] respectively. These companies offer a product range which is roughly comparable to the range offered by the parties since the number of references stocked per outlet is on average between [2000-5000] (Wolseley) and [3000-5000] (Edmundson) whereas Rexel keeps on average [3000-5000] references per outlet¹².
43. Data collected during the market investigation shows that Edmundson and City Electrical Factors have complete country coverage with a network of outlets that is comparable to those of Rexel or Hagemeyer. Wolseley, which owns today [50-100] branches, is planning to open a large number of outlets in the near future¹³.
44. In response to the market investigation, customers indicated that there was no unavoidable electrical wholesaler in the UK. Furthermore, Edmundson, City Electrical Factors and - to a lesser extent - Wolseley were named as credible alternative competitors, with Edmundson being mentioned by a majority of customers as the closest competitor to Hagemeyer. No customers or competitors expressed any concerns as regards the competitive impact of the transaction in the UK, since they consider there remain a sufficient number of alternative wholesalers.
45. Despite the fact that market shares suggest *prima facie* a symmetrical duopoly consisting of the new entity and Edmundson, it is unlikely that the proposed concentration would give rise to coordinated effects in the UK for the following reasons. First, alternative

¹² Hagemeyer cannot provide an average count by location due to the existence of three different structures (Newey & Eyre, WF, Parker & Ireland) [...]. Overall Hagemeyer has counted 89.000 references for items in stock. The market investigation has shown that the main market players in the UK stock on average 3.000-5.000 references per outlet and 70.000-90.000 overall (Responses to Questions 2 and 23 of the "Questionnaire for competitors" sent on 8.01.2008).

¹³ Source <http://www.electric-center.co.uk/>. In October 2007, 4 new outlets have been opened in Hamilton, Penge, Woking and York.

wholesalers such as Wilts or City Electrical Factors as well as most customers indicated during the investigation that the UK wholesale market for electrical products is one of the most competitive in Europe and should remain so after the merger. Second, the recent entry and expansion of Wolseley¹⁴, which has the potential to provide a one-stop-shop for the full range of building-related products and has aggressive branch opening schedules, added to the presence of significant well-established market players such as City Electrical Factors and Wilts as well as the existence of a large number of independent wholesalers (altogether [20-30%] of the market), should effectively disrupt any coordination attempt.

46. In the light of the above, the transaction does not raise serious doubts as to its compatibility with the common market for what regards the supply of electrical products by wholesalers in the United Kingdom.

Upstream markets

47. As regards the upstream procurement markets in the UK, the notifying party submits that the proposed transaction leads to affected markets as shown in the table below.

Electrical procurement markets in the UK - 2006*	Market size	Rexel		Hagemeyer		Combined
	M€	Purchases (M€)	Market share (%)	Purchases (M€)	Market share (%)	Market share (%)
All electrical products	5.680	[0-500]	[0-5%]	[500-1000]	[10-20%]	[10-20%]
Cables	1.192	[0-100]	[0-5%]	[200-300]	[20-30%]	[20-30%]
Lighting	1.156	[0-100]	[0-5%]	[200-300]	[10-20%]	[20-30%]

* Market data based on parties' best estimates.

48. As shown in the table above, post merger the market position of the new entity in the procurement markets will remain limited, not exceeding [20-30%] under any alternative product market definition, with a small increment (at most [0-5%] for lighting).
49. On the supply side, it appears that Rexel and Hagemeyer have to face large suppliers that would prevent the new entity from exerting any buyer power. Rexel submitted¹⁵ that its five main suppliers represent [40-80%] of its purchases of cables and [20-60%] of its purchases of lighting products in the United Kingdom. Furthermore, several joint-buying organisations are active in the UK, the largest of them being the Associated National Electrical Wholesalers which represent 37 independent member companies with an overall [10-20%] share of purchases of electrical products in the UK. Other joint-buying organisations are Associated Independent Electrical Wholesalers (AIEW) and Fegime UK.

¹⁴ Wolseley, the largest building merchant in the UK, entered the market for the wholesale distribution of electrical products through the acquisition of three independent companies, AC Electrical, William Wilson and T&R Electrical (the latest in July 2007).

¹⁵ Form CO, annex 8-1-1.

50. In view of the above, the Commission concludes that the proposed transaction does not raise serious doubts as to its compatibility with the common market as regards the British markets for the procurement of electrical products.

Ireland

Downstream markets

51. The table below shows the parties' and their main competitors' market shares on the Irish market for the wholesale distribution of electrical products:

Irish market for the wholesale distribution of electrical products			
2006*			
Company	Sales (M€)	Market share	Number of outlets
Rexel	[80-130]	[20-30%]	[20-30]
Hagemeyer	[0-50]	[5-10%]	[10-20]
Combined	[130-180]	[30-40%]	[40-50]
Edmundson	[0-100]	[10-20%]	[10-20]
City Electrical Factors	[0-100]	[0-10%]	[10-20]
Meteor	[0-100]	[0-10%]	[0-10]
Others	[160-210]	[40-50%]	
Market	420		

* Market data based on parties' best estimates.

52. Since the acquisition of GE Supply in 2006, Rexel enjoys the leading position in the wholesale of electrical products in Ireland with a market share of [20-30%]. Through the transaction, Rexel would reinforce its market position, as its combined market share would amount to [30-40%].

53. Other market participants include two UK based companies: Edmundson, with [10-20%] market share, and City Electrical Factors ([0-10%]), which offer a range of products similar to that of the parties. Meteor ([0-10%]) has developed a specific business model with only one distribution centre (in Northern Ireland) and distant sales through call centres and on-site deliveries. The Irish market is very fragmented, with a high number of small wholesalers accounting for more than [40-50%] of the sales.

54. The market investigation showed that this new market structure triggers strong concerns from suppliers, competitors and customers. These respondents considered that the new entity will become an unavoidable trading partner for customers. All respondents but one underlined that Rexel and Hagemeyer are the closest competitors in the wholesale market for electrical products in Ireland. The transaction would therefore eliminate a strong alternative in Ireland.

55. Customers indicated that only Rexel and Hagemeyer enjoy a complete national coverage whereas Edmundson and City Electrical Factors ("CEF") are more focused on certain regions of Ireland. Data collected during the market investigation show that the new entity will be active in 19 counties out of 26 in the Republic of Ireland¹⁶ whereas Edmundson and CEF have outlets in respectively 6 and 10 counties. As a result,

¹⁶ Donegal, Sligo, Mayo, Cavan, Roscommon, Louth, Meath, Dublin, Kildare, Galway, Clare, Limerick, Kerry, Cork, Laois, Kilkenny, Waterford, Wexford and Westmeath.

Edmundson and CEF are considered as second-tier competitors by some customers who highlighted that competition on the wholesale market for electrical products in Ireland was spurred by the rivalry between Rexel and Hagemeyer.

56. Moreover, as regards the number of references of electrical products, according to the figures submitted by the notifying party Edmundson and City Electrical Factors, the parties' most important competitors on the Irish market, hold a more limited product range per outlet than the parties¹⁷. Smaller competitors who have responded to the market investigation are concerned of being forced to exit the market, due to the increasing purchasing power of the new entity that these independent family-owned businesses would not be able to match.
57. The notifying party submitted that Wolseley, already active through 80 branches in the trading of plumbing and building products in Ireland and already active in UK and the Netherlands in the wholesale of electrical products, entered the Irish market for the wholesale of electrical products in 2007. However, Wolseley entered through the acquisition of a pre-existing business, Conlon Quinn, which is only active in the North-Eastern part of the Republic of Ireland (counties of Cavan, Monaghan, Lough and Meath). At this point in time, and due to this limited geographic coverage, market participants do not see Wolseley as a credible alternative to the new entity and some customers even indicated that Wolseley will find it difficult to get established in the Irish market.
58. In the light of the above, the transaction raises serious doubts as to its compatibility with the common market as regards the supply of electrical products by wholesalers in Ireland.

Upstream markets

59. As regards the upstream procurement markets in Ireland, the notifying party submits that the proposed transaction leads to affected markets as shown in the table below.

Electrical procurement markets in Ireland 2006*	Market size	Rexel		Hagemeyer		Combined
	M€	Purchases (M€)	Market share (%)	Purchases (M€)	Market share (%)	Market share (%)
All electrical products	526	[100-150]	[20-30%]	[0-50]	[0-5%]	[20-30%]
Cables	169,6	[35-50]	[20-30%]	[0-15]	[5-10%]	[30-40%]
Installation material	101,5	[20-30]	[20-30%]	[0-10]	[5-10%]	[30-40%]
Lighting	84,9	[15-25]	[20-30%]	[0-10]	[0-5%]	[20-30%]

* Market data based on parties' best estimates

60. The parties have not been able to provide estimates of shares of purchase of their main competitors in Ireland. They submitted that some of them are members of joint-buying organisations (such as Fegime Ireland) and as such are able to obtain supply conditions as

¹⁷ Edmundson has approximately [3000-5000] references on stock per outlet, City Electrical Factors [3000-5000], whereas the parties have [5000-8000] (Hagemeyer) and [7000-10.000] (Rexel).

favourable as Rexel's. Furthermore, according to the parties, suppliers are large, powerful manufacturers that would prevent the new entity from exerting any buyer power.

61. As regards the main products where the purchasing activities of the parties overlap in Ireland (cables, installation material and lighting products), it appears that wholesalers of electrical products represent the overwhelming majority of the purchases (94% for cables and lighting products and 99% for installation materials). The situation in Ireland differs from the one prevailing in other countries where DIY stores, building merchants and direct purchases from end-users account for a significant percentage of the manufacturers' sales¹⁸. Consequently market shares at the downstream level can be used as an acceptable proxy to estimate the share of purchases of the parties' main competitors in Ireland. As regards joint-buying organisations, the strongest is Fegime Ireland whose share of purchases for all electrical products is estimated around [10-20%].
62. Therefore, the transaction also raises serious doubts as regards the procurement of electrical products by wholesalers in Ireland.

The Netherlands

Downstream markets

63. The table below shows the parties' and their main competitors' market shares on the Dutch market for the wholesale distribution of electrical products.

Dutch market for the wholesale distribution of electrical products			
2006*			
Company	Sales (M€)	Market share	Number of outlets
Rexel	[0-150]	[5-10%]	[15-25]
Hagemeyer	[150-300]	[10-20%]	[15-25]
Combined	[300-450]	[20-30%]	[32-42]
Sonepar	[400-500]	[20-30%]	[30-40]
Nordisk Solar	[100-200]	[10-20%]	[10-20]
Ehrbecker-Schiefelbusch	[100-200]	[0-10%]	[10-20]
Oosterberg	[0-100]	[0-10%]	[10-20]
Edmundson-Conelgro	[0-100]	[0-10%]	[10-20]
City Electrical Factors	[0-100]	[0-10%]	[0-10]
Others	[150-300]	[10-20%]	
Market	1,490		

* Market data based on parties' best estimates.

64. Post merger, Rexel will remain the second market player, increasing its current market share of [10-20%] by [5-10%] to [20-30%].
65. Sonepar would still remain the market leader ([20-30%]) and other competitors include international players such as Nordisk Solar ([10-20%]), Edmundson ([0-10%]) and City Electrical Factors ([0-10%]) as well as national competitors such as Ehrbecker-Schiefelbusch ([0-10%]) and Oosterberg ([0-10%]). In terms of product offering, the proposed transaction will not increase Rexel's product portfolio, as Rexel, as well as its

¹⁸ For example in Belgium wholesalers represent 53% of the purchases in cables, 54% in installation materials and 52% in lighting products

competitor Sonepar, are already both offering the widest range with [30.000-50.000] and [30.000-50.000] products respectively, the other competitors offering a range of [15.000-30.000] ([20.000-40.000] for Hagemeyer).

66. In the course of the market investigation, some customers described Hagemeyer as an aggressive price-oriented company and expressed some concerns as regards the impact of the transaction in the Netherlands. However, generally, customers indicated that the planned transaction would not result in any anti-competitive effects on the Dutch market. A few customers mentioned possible pro-competitive effects, indicating for example that the transaction would enable the new entity to offer better services or prices to its customers.
67. On the other hand, two competitors put forward that the transaction would likely lead to the emergence of coordinated effects in the Dutch market. In particular, one of these competitors underlined that the transaction would make coordination between the leading four incumbent wholesalers of electrotechnical equipment easier. This competitor pointed out that the Commission should take into account all available relevant information on the characteristics of the markets concerned; including both structural features and the past behaviour of firms¹⁹, in particular that these four wholesalers have a history of cartel participation in the Netherlands.²⁰
68. This competitor (cf. para. 67) submitted that through the proposed acquisition of Hagemeyer, the number of players in the Dutch market for electrotechnical equipments would be reduced from five to four and the new entity and Sonepar would be the two largest remaining wholesalers, with a combined market share of above 50%. Moreover, according to this competitor, market shares have remained stable and, in terms of innovation, the market has been static. Finally, it argued that there has not been new entry or expansion on the Dutch market for a long time, and there was no indication that new entry was likely to occur anytime soon.
69. The Commission has carefully reviewed this submission and found that, in view of the market characteristics, the proposed transaction was unlikely to lead to the emergence of coordinated effects.
70. First of all, the Commission notes that the concentration levels are not particularly high on the Dutch market (the HHI pre and post-merger are respectively <1500 and <1700) and that the increase in concentration brought about by the merger is limited.²¹

¹⁹ Cf. Paragraph 43 of the Horizontal Merger guidelines

²⁰ In 1999, the Commission fined Sonepar and the Dutch association of electrotechnical equipment wholesalers, the FEG, for having operated a collective exclusive dealing arrangement and interfered, if not fixed, the pricing policy of other wholesalers. This decision was upheld by the CFI and the ECJ successively in 2003 and 2006, Judgment of the Court (First Chamber) of 21 September 2006 - *Nederlandse Federatieve Vereniging voor de Groothandel op Elektrotechnisch Gebied v Technische Unie BV, Commission of the European Communities, CEF City Electrical Factors BV, CEF Holdings Ltd* Case C-105/04 P; Judgment of the Court of First Instance (First Chamber), 16 December 2003, joined Cases T-5/00 and T-6/00.

²¹ HHIs were calculated under the assumption that each competitor in the "Others" group has 1% market share.

Information submitted by the parties²² suggests that there remains a number of fringe players, which have expanded in recent years to the expense of the top three wholesalers²³ (Sonepar, Hagemeyer and Rexel), the market share of which has fallen consistently.

71. Besides, the market investigation does not indicate that Hagemeyer is a particularly aggressive player (i.e. a maverick) and that, by removing it, the merger would significantly change the market conditions. The parties submitted a margin and price analysis, comparing margins and prices of the parties and Sonepar for eight products all of which are distributed to small contractors.²⁴ They submit that these products are among the most sold products in their respective product groups. The analysis indicates that Hagemeyer is not systematically the lowest pricer.²⁵ According to the information submitted by the parties, price setting varies considerably among wholesalers and most transactions are done through individual price negotiations, resulting in highly dispersed prices and margins.
72. As most transactions are done through individual price negotiations, prices vary significantly among wholesalers and amongst customers. The Parties also submitted information showing that for the leading products in twelve different subcategories, prices were significantly dispersed within each of the main customer segments.²⁶ Net prices per transaction exhibited significant deviations from the average net price within customer categories.
73. Moreover, the Dutch market would remain quite asymmetric after the merger. Not only is there a lack of symmetry in market shares among competitors, but there are also significant differences between the players in terms of number of references (see above), business models (for example, Hagemeyer concentrates on large industrial customers whilst Rexel focuses on small installers; some wholesalers, such as Hagemeyer, sell their own brand while others do not) or product mix (Sonepar stocks HVAC product but not Rexel). These differences in the respective profiles of the wholesalers in the Netherlands result in different incentives, thereby rendering coordinated effects between wholesalers unlikely to be sustainable.
74. Finally, it follows from the information provided by the parties that, in the absence of explicit arrangements, monitoring the terms of coordination between wholesalers would be difficult due to the limited transparency in the market. The information submitted by

²² Report submitted by the parties (prepared by the economic consulting firm LECG based on data by the parties and Sonepar) on 7 February 2008, hereafter the "LECG Report".

²³ In the LECG Report, the parties' economic advisor state that the Dutch market has been growing by approximately [50-80%] between 1999 and 2007. The parties and Sonepar have expanded their sales but lost market share. This suggests that smaller competitors have been able to grow during this period (and this was actually confirmed by the market investigation).

²⁴ See the LECG Report, Annex 3.

²⁵ The parties note, however, that it is very difficult to find a meaningful way to compare prices because the parties operate different rebate and discount schemes, which are non-transparent to other players. This highlights, in their view, the lack of price transparency characterizing the market.

²⁶ See the LECG Report, Annex 1.

the parties²⁷ suggests that customers usually request quotes from (usually three) different wholesalers but that they do not disclose the actual prices offered by each of them.

75. More generally, a merger in a concentrated market may significantly impede effective competition because it increases the likelihood that firms are able to coordinate their behaviour or because it makes coordination easier, more stable or more effective for firms that were already coordinating before the merger, either by making the coordination more robust or by permitting firms to coordinate on even higher prices.²⁸ According to the parties' submissions such coordinated effects can be excluded. In the present case, the Commission hence was able to conclude that the concentration is unlikely to produce such coordinated effects.
76. In the light of the above, the transaction does not raise serious doubts as to its compatibility with the common market concerning the supply of electrical products by wholesalers in The Netherlands.

Upstream markets

77. None of the upstream procurement markets in the Netherlands will be affected except the market for procurement of cables, where the new entity would hold a market share of [10-20%] (Rexel: [0-10%], Hagemeyer: [10-20%]). In view of the limited position of the new entity on this market and the small increment brought about by the proposed transaction, it can be concluded that the concentration does not raise serious doubts as to its compatibility with the common market concerning the procurement markets of electrical products in the Netherlands.

V. PROPOSED REMEDIES

78. On 1 February 2008, in order to render the concentration compatible with the common market, Rexel has modified the notified concentration by entering into the following commitments, which are annexed to this decision and form an integral part thereof.
79. Rexel commits to divest all of the assets dedicated to Hagemeyer's current electrical product wholesale business in Ireland ("The Divestment Business")²⁹, which is operated under the "*Eastern Electrical*" brand name from twelve local branches³⁰.
80. The Divestment Business includes:

²⁷ See the LECG Report.

²⁸ Paragraph 39 of the Horizontal Merger guidelines.

²⁹ In addition, Hagemeyer operates in Ireland a separate industrial business under the "*Hagemeyer Industrial*" brand name (the "Hagemeyer Industrial Business"). The Hagemeyer Industrial Business is a specialized industrial distribution business, composed of a personal protection equipment distribution activity and (ii) a MRO Product supply activity. While the Hagemeyer Industrial Business includes minor sales of electrical products, amounting to approximately €[500.000-1.000.000] in 2007 (approximately [0-10%] of the total Hagemeyer Industrial Business' turnover), these limited supplies are separate from and unrelated to the Divestment Business.

³⁰ The difference with the figure mentioned in the market share table in the competitive assessment section (13 branches) is explained by the fact that the branch located in Tume has recently been shut down.

- a. all tangible and intangible assets (including intellectual property rights), which contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business, in particular the “*Eastern Electrical*” trademark and business name;
- b. all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;
- c. all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business;
- d. the Personnel, amounting to approximately [100-150] full-time equivalent employees; and
- e. the benefit, for a transitional period of up to six months after Closing and on terms and conditions equivalent to those at present afforded to the Divestment Business, of all current arrangements under which Hagemeyer or Affiliated Undertakings supply products or services to the Divestment Business, as detailed in the Schedule, unless otherwise agreed with the Purchaser. This includes services to be provided by Hagemeyer (UK) Ltd (management of accounts payable, IT-related services, data services, legal and property management services, and human resource management services), services, to be provided by the Hagemeyer Industrial Business retained by Rexel (accounting services, and the supply of monthly payroll data) and a sub-lease to the parts of the premises located at Hagemeyer Business Centre, Eastway Business Park, Ballysimon Road, Limerick, which are currently occupied by the Limerick branch of the Divestment Business.

81. Rexel considers that the proposed Commitment meets each of the conditions of the Draft Commission Notice on remedies³¹. First, the commitment removes any addition of market shares in the markets for the wholesale distribution of electrical products and for the procurement of electrical products by wholesalers in Ireland and the market share of Rexel in such market would remain unchanged post-transaction. Second, the Divestment Business is a viable and competitive business as it includes all of Hagemeyer’s current electrical product wholesale business, which is a well established company in Ireland. Finally, the Divestment Business can be operated on a stand-alone basis, independently of the Parties as, from an operational point of view, it already constitutes an independent business division within the Hagemeyer Group and the structural links with other entities of the Hagemeyer Group are limited, the Divestment Business having its own management and staff and operating internally and individually most of the support functions that are necessary to carry out its activities.

82. In addition the undertakings concerned have entered into related commitments, inter alia regarding the separation of the divestment business from their retained businesses, the preservation of the viability, marketability and competitiveness of the divestment business, including the appointment of a monitoring trustee and, if necessary, a divestiture trustee.

³¹ Draft Commission Notice on remedies acceptable under Council Regulation (EEC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (“Draft Commission Notice”).

VI. ASSESSMENT OF THE PROPOSED REMEDIES

83. As explained in the Draft Commission notice on remedies, under the Merger Regulation, the Commission assesses the compatibility of a notified concentration with the common market. Where a concentration raises competition concerns as it could lead to a significant impediment of effective competition, the parties may seek to modify the concentration in order to resolve the competition concerns raised by the Commission and thereby gain clearance of the merger. In assessing whether or not the commitment will restore effective competition, the Commission considers the type, scale and scope of the commitments by reference to the structure of and particular characteristics of the market in which competition concerns arise.
84. Where a proposed concentration threatens to significantly impede effective competition, creating the conditions for the emergence of a new competitive entity or the strengthening of existing competitors via divestiture may be an effective way to restore effective competition. The divested activities must consist of a viable business that, if operated by a suitable purchaser, can compete with Rexel on a lasting basis.
85. Whenever the notifying parties submit commitments, the Commission has thus to assess whether the commitments will lead to the restoration of effective competition on the relevant markets. In so doing, the Commission has to assess both (i) the effectiveness of the proposed commitment in eliminating the competition concerns, and (ii) the independence, the viability and the competitiveness of the divested business on the long term. In order to carry out this assessment, the Commission may seek the views of competitors, customers and suppliers on the relevant markets.
86. The Commission's assessment concluded that the proposed commitments address all concerns identified during the course of the procedure. The proposed commitments would, thus, be effective in removing all competition concerns brought about by the proposed transaction.

1) Suitability for removing the serious doubts

87. The proposed commitment would remove entirely the overlaps brought about by the planned transaction in the upstream and downstream markets in Ireland as it consists of the divestment of all of Hagemeyer' activities in the wholesale distribution of electrical products in Ireland.
88. The proposed commitment was market tested and questionnaires were sent to a number of customers in Ireland, as well as competitors and suppliers. The feedback from the market test is largely positive. Customers unanimously responded that they would keep on purchasing electrical products from *Eastern Electrical* following its change of ownership. As regards competitors, a vast majority confirmed that the commitment would eliminate potential competition concerns.

2) Viability

89. The Commission's investigation has confirmed that the Divestment Business would constitute an independent and viable business. Indeed, the market investigation has

confirmed that *Eastern Electrical* is a well established electrical wholesaler in Ireland and that its divestment to a new owner would not affect its viability.

90. As regards the exclusion of the Hagemeyer Industrial Business from the commitment, only one competitor stated that it should be included but all other respondents unanimously considered that it would not hinder the viability of the Divestment Business.
91. As regards the services that Rexel (through Hagemeyer UK) commits to continue supplying for a transitory period, all respondents to the market test but one indicated that, in view of the limited scope and time-frame, this provision would not affect the independence of the Divestment Business.
92. Furthermore some competitors indicated that they would be potential acquirers of the Divestment Business. Therefore, the Commission estimates that the Divestment Business will be in position to compete effectively with Rexel on the markets for the wholesale distribution of electrical products and for the procurement of electrical products by wholesalers in Ireland.

3) Conclusion on the commitments

93. For the reasons outlined above, the commitments entered into by the undertakings concerned are sufficient to eliminate the serious doubts as to the compatibility of the transaction with the common market.
94. The commitments in sections B to D of the Annex constitute conditions attached to this decision, as only through full compliance therewith the structural changes in the relevant markets can be achieved. The other commitments set out in the Annex constitute obligations, as they concern the implementing steps which are necessary to achieve the modifications sought in a manner compatible with the common market.

VII. CONCLUSION

95. For the above reasons, the Commission has decided not to oppose the notified operation as modified by the commitments and to declare it compatible with the common market and with the functioning of the EEA Agreement, subject to full compliance with the conditions in sections B to D of the commitments annexed to the present decision and with the obligations contained in the other sections of the said commitments. This decision is adopted in application of Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation (EC) No 139/2004.

For the Commission
(signed)
Neelie KROES
Member of the Commission

By hand and by fax: 00 32 2 296 4301

February 1, 2008

European Commission – Merger Task Force
DG Competition
Rue Joseph II 70
B-1000 Brussels

Case M. 4963 – Rexel/Hagemeyer

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EEC) No. 4064/89 as amended (the “*Merger Regulation*”), Rexel hereby provides the following Commitments (the “*Commitments*”) in order to enable the European Commission (the “*Commission*”) to declare the acquisition by Rexel of certain businesses of Hagemeyer compatible with the common market and the EEA Agreement by its decision pursuant to Article 6(1)(b) of the Merger Regulation (the “*Decision*”).

The Commitments shall take effect upon the date of adoption of the Decision.

This text shall be interpreted in the light of the Decision to the extent that the Commitments are attached as conditions and obligations, in the general framework of Community law, in particular in the light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EEC) No 4064/89 and under Commission Regulation (EC) No 447/98.

A. DEFINITIONS

For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 Merger Regulation and in the light of the Commission Notice on the concept of concentration under Council Regulation (EEC) No 4064/89.

Closing: the transfer of the legal title of the Divestment Business to the Purchaser.

Divestment Business: the business or businesses as defined in Section B and the Schedule that Rexel commits to divest.

Divestiture Trustee: one or more natural or legal person(s), independent from the Parties, who is approved by the Commission and appointed by Rexel and who has received from Rexel the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser [...].

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of [...] from the Effective Date.

Hagemeyer: Hagemeyer N.V., incorporated under the laws of the Netherlands, with its registered office at Amsterdam, the Netherlands and its principal office at Rijksweg 69, 1411 GE Naarden, the Netherlands.

Hagemeyer Industrial Business: Hagemeyer's personal protection equipment distribution and MRO supply activities in Ireland.

Hold Separate Manager: the person appointed by Rexel for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Ireland: the territory of the Republic of Ireland.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of the Divestment Business, as listed in the Schedule.

Monitoring Trustee: one or more natural or legal person(s), independent from the Parties, who is approved by the Commission and appointed by Rexel, and who has the duty to monitor the Parties' compliance with the conditions and obligations attached to the Decision.

Parties: Rexel and Hagemeyer.

Personnel: all personnel currently employed by the Divestment Business, including Key Personnel, staff seconded to the Divestment Business, shared personnel and the additional personnel listed in the Schedule.

Purchaser: the entity approved by the Commission as acquirer of the Divestment Business in accordance with the criteria set out in Section D.

Trustee(s): the Monitoring Trustee and the Divestiture Trustee.

Trustee Divestiture Period: the period of [...] from the end of the First Divestiture Period.

Rexel: Rexel S.A., incorporated under the laws of France, with its registered office at 189-193 boulevard Malesherbes, 75017 Paris, France and registered with the Commercial/Company Register (*Registre du Commerce et des Sociétés*) at Paris under number 479 973 513.

B. THE DIVESTMENT BUSINESS

Commitment to divest

1. In order to restore effective competition, Rexel commits to divest, or procure the divestiture of the Divestment Business by the end of the Trustee Divestiture Period as a going concern to a purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 15. To carry out the divestiture, Rexel commits to find a purchaser and to enter into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestiture Period. If Rexel has not entered into such an agreement at the end of the First Divestiture Period, Rexel shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 24 in the Trustee Divestiture Period.
2. Rexel shall be deemed to have complied with this commitment if, by the end of the Trustee Divestiture Period, Rexel has entered into a final binding sale and purchase agreement, if the Commission approves the Purchaser and the terms in accordance with the procedure described in paragraph 15 and if the closing of the sale of the Divestment Business takes place within a period not exceeding [...] after the approval of the purchaser and the terms of sale by the Commission.
3. In order to maintain the structural effect of the Commitments, Rexel shall, for a period of [...] after the Effective Date, not acquire direct or indirect influence over the whole or part of the Divestment Business, unless the Commission has previously found that the structure of the market has changed to such an extent that the absence of influence over the Divestment Business is no longer necessary to render the proposed concentration compatible with the common market.

Structure and definition of the Divestment Business

4. The Divestment Business consists of the Hagemeyer businesses that are currently dedicated to the distribution of electrical products in Ireland. The present legal and functional structure of the Divestment Business as operated to date is described in the Schedule. The Divestment Business, described in more detail in the Schedule, includes
 - (a) all tangible and intangible assets (including intellectual property rights), which contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business;
 - (b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Business;
 - (c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business (items referred to under (a)-(c) hereinafter collectively referred to as “*Assets*”);
 - (d) the Personnel; and
 - (e) the benefit, for a transitional period of up to six months after Closing and on terms and conditions equivalent to those at present afforded to the Divestment Business, of all current arrangements under which Hagemeyer or Affiliated

Undertakings supply products or services to the Divestment Business, as detailed in the Schedule, unless otherwise agreed with the Purchaser.

The Divestment Business shall be transferred to the Purchaser under one of the following options, to be chosen at Rexel's discretion:

- (i) separate transfers of each of the assets included in the Divestment Business;
- (ii) the transfer of the shares of the legal entity (100%-owned, directly or indirectly, by Rexel), to which all the assets included in the Divestment Business will have been previously transferred; or
- (iii) the transfer of the shares of Eastern Electrical Limited, following the transfer of the assets which are not included in the Divestment Business and are currently owned by Eastern Electrical Limited to another legal entity (100%-owned, directly or indirectly, by Rexel);

it being understood that, under any of these three options, the Purchaser will be transferred the entire Divestment Business.

C. RELATED COMMITMENTS

Preservation of Viability, Marketability and Competitiveness

5. From the Effective Date until Closing, Rexel shall preserve the economic viability, marketability and competitiveness of the Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business. In particular Rexel undertakes:
 - (a) not to carry out any act upon its own authority that might have a significant adverse impact on the value, management or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business;
 - (b) to make available sufficient resources for the development of the Divestment Business, on the basis and continuation of the existing business plans
 - c) to take all reasonable steps, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Business.

Hold-separate obligations of Rexel

6. Rexel commits, from the Effective Date until Closing, to keep the Divestment Business separate from the businesses it is retaining and to ensure that Key Personnel of the Divestment Business – including the Hold Separate Manager – have no involvement in any business retained and vice versa. Rexel shall also ensure that the Personnel does not report to any individual outside the Divestment Business.

7. Until Closing, Rexel shall assist the Monitoring Trustee in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the businesses retained by Rexel. Rexel shall appoint a Hold Separate Manager who shall be responsible for the management of the Divestment Business, under the supervision of the Monitoring Trustee. The Hold Separate Manager shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by Rexel.
8. To ensure that the Divestment Business is held and managed as a separate entity, the Monitoring Trustee shall exercise Rexel's rights as shareholder in the Divestment Business (except for its rights for dividends that are due before Closing), with the aim of acting in the best interest of the business, determined on a stand-alone basis, as an independent financial investor, and with a view to fulfilling Rexel's obligations under the Commitments. Furthermore, the Monitoring Trustee shall have the power to replace members of the supervisory board or non-executive directors of the board of directors, who have been appointed on behalf of Rexel. Upon request of the Monitoring Trustee, Rexel shall resign as member of the boards or shall cause such members of the boards to resign.

Ring-fencing

9. Rexel shall implement all necessary measures to ensure that it does not after the Effective Date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business. In particular, the participation of the Divestment Business in a central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. Rexel may obtain information relating to the Divestment Business which is reasonably necessary for the divestiture of the Divestment Business or whose disclosure to Rexel is required by law.

Non-solicitation clause

10. Rexel undertakes, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Business for a period of two years after Closing.

Due Diligence

11. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, Rexel shall, subject to customary confidentiality assurances and dependent on the stage of the divestiture process:
 - (a) provide to potential purchasers sufficient information as regards the Divestment Business;
 - (b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

12. Rexel shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Commission's request).
13. Rexel shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of an information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

D. THE PURCHASER

14. In order to ensure the immediate restoration of effective competition, the Purchaser, in order to be approved by the Commission, must:
 - (a) be independent of and unconnected to the Parties;
 - (b) have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with Rexel and other competitors;
 - (c) neither be likely to create, in the light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed, and must, in particular, reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business (the before-mentioned criteria for the purchaser hereafter the "***Purchaser Requirements***").
15. The final binding sale and purchase agreement shall be conditional on the Commission's approval. When Rexel has reached an agreement with a purchaser, it shall submit a fully documented and reasoned proposal, including a copy of the final agreement(s), to the Commission and the Monitoring Trustee. Rexel must be able to demonstrate to the Commission that the purchaser meets the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. For the approval, the Commission shall verify that the purchaser fulfils the Purchaser Requirements and that the Divestment Business is being sold in a manner consistent with the Commitments. The Commission may approve the sale of the Divestment Business without one or more Assets or parts of the Personnel, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

E. TRUSTEE

I. Appointment Procedure

16. Rexel shall appoint a Monitoring Trustee to carry out the functions specified in the Commitments for a Monitoring Trustee. If Rexel has not entered into a binding sales and purchase agreement one month before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by Rexel at that time or thereafter, Rexel shall appoint a Divestiture Trustee to carry out the functions specified in the Commitments for a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestment Period.
17. The Trustee shall be independent of the Parties, possess the necessary qualifications to carry out its mandate, for example as an investment bank or consultant or auditor, and shall neither have nor become exposed to a conflict of interest. The Trustee shall be remunerated by Rexel in a way that does not impede the independent and effective fulfillment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, the fee shall also be linked to a divestiture within the Trustee Divestiture Period.

Proposal by Rexel

18. No later than one week after the Effective Date, Rexel shall submit a list of one or more persons whom Rexel proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period, Rexel shall submit a list of one or more persons whom Rexel proposes to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the proposed Trustee fulfils the requirements set out in paragraph 17 and shall include:
 - (a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;
 - (b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks;
 - (c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

19. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfill its obligations. If only one name is approved, Rexel shall appoint or cause to be appointed, the individual or institution concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, Rexel shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by Rexel

20. If all the proposed Trustees are rejected, Rexel shall submit the names of at least two more individuals or institutions within one week of being informed of the rejection, in accordance with the requirements and the procedure set out in paragraphs 16 and 19.

Trustee nominated by the Commission

21. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom Rexel shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

22. The Trustee shall assume its specified duties in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or Rexel, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

23. The Monitoring Trustee shall:
- (i) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision.
 - (ii) oversee the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by Rexel with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:
 - (a) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of the Divestment Business from the business retained by Rexel, in accordance with paragraphs 5 and 6 of the Commitments;
 - (b) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraph 7 of the Commitments;
 - (c) (i) in consultation with Rexel, determine all necessary measures to ensure that Rexel does not after the effective date obtain any business secrets, know-how, commercial information, or any other information of a confidential or proprietary nature relating to the Divestment Business, in particular strive for the severing of the Divestment Business' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business, and (ii) decide whether such information may be disclosed to Rexel as the disclosure is reasonably necessary to allow Rexel to carry out the divestiture or as the disclosure is required by law;
 - (d) monitor the splitting of assets and the allocation of Personnel between the Divestment Business and Rexel or Affiliated Undertakings;

- (iii) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision;
- (iv) propose to Rexel such measures as the Monitoring Trustee considers necessary to ensure Rexel's compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of the Divestment Business and the non-disclosure of competitively sensitive information;
- (v) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process, (a) potential purchasers receive sufficient information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and (b) potential purchasers are granted reasonable access to the Personnel;
- (vi) provide to the Commission, sending Rexel a non-confidential copy at the same time, a written report within 15 days after the end of every month. The report shall cover the operation and management of the Divestment Business so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers. In addition to these reports, the Monitoring Trustee shall promptly report in writing to the Commission, sending Rexel a non-confidential copy at the same time, if it concludes on reasonable grounds that Rexel is failing to comply with these Commitments;
- (vii) within one week after receipt of the documented proposal referred to in paragraph 15, submit to the Commission a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Business after the Sale and as to whether the Divestment Business is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser.

Duties and obligations of the Divestiture Trustee

24. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Business to a purchaser, provided that the Commission has approved both the purchaser and the final binding sale and purchase agreement in accordance with the procedure laid down in paragraph 15. The Divestiture Trustee shall include in the sale and purchase agreement such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the

legitimate financial interests of Rexel, subject to Rexel's unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.

25. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to Rexel.

III. Duties and obligations of Rexel

26. Rexel shall provide and shall cause its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of Rexel's or the Divestment Business' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and Rexel and the Divestment Business shall provide the Trustee upon request with copies of any document. Rexel and the Divestment Business shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.
27. Rexel shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. Rexel shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. Rexel shall inform the Monitoring Trustee on possible purchasers, submit a list of potential purchasers, and keep the Monitoring Trustee informed of all developments in the divestiture process.
28. Rexel shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale, the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, Rexel shall cause the documents required for effecting the sale and the Closing to be duly executed.
29. Rexel shall indemnify the Trustee and its employees and agents (each an "**Indemnified Party**") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Rexel for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.
30. At the expense of Rexel, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to Rexel's approval (this approval not to be

unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the Mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should Rexel refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard Rexel. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 29 shall apply mutates mutandis. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served Rexel during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

IV. Replacement, discharge and reappointment of the Trustee

31. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a conflict of interest:
- (a) the Commission may, after hearing the Trustee, require Rexel to replace the Trustee; or
 - (b) Rexel, with the prior approval of the Commission, may replace the Trustee.
32. If the Trustee is removed according to paragraph 31, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 16-21.
33. Beside the removal according to paragraph 31, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

F. THE REVIEW CLAUSE

34. The Commission may, where appropriate, in response to a request from Rexel showing good cause and accompanied by a report from the Monitoring Trustee:
- (i) Grant an extension of the time periods foreseen in the Commitments, or
 - (ii) Waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments.

Where Rexel seeks an extension of a time period, it shall submit a request to the Commission no later than one month before the expiry of that period, showing good cause. Only in exceptional circumstances shall Rexel be entitled to request an extension within the last month of any period.

.....

duly authorised for and on behalf of Rexel

Jean-Charles Pauze

President of the Management Board of Rexel S.A.

SCHEDULE

1. The Divestment Business as operated to date has the following legal and functional structure:

The Divestment Business corresponds to Hagemeyer's current electrical product wholesale business in Ireland ("**C&I Business**"), which is operated under the "*Eastern Electrical*" brand name. The C&I Business is operated from (but not necessarily limited to) the following branches:

- Athlone,
- Ballinasloe,
- Cork,
- Cork City,
- Drogheda,
- Dublin,
- Dublin City,
- Dundalk,
- Galway,
- Limerick,
- Mullingar, and
- Portlaoise.

In addition, the Divestment Business includes the right to benefit from the services listed under item (h) of Section 2 of this Schedule for a transitory period and in exchange for a consideration to be determined based on the internal costs currently incurred for such services within the Hagemeyer Group.

2. Following paragraph 4 of these Commitments, the Divestment Business includes, but is not limited to:

- (a) the following main tangible assets:

See Annex 1;

- (b) the following main intangible assets:

- the "*Eastern Electrical*" trademark, registered with the Companies Registration Office in Dublin under No 36772;
- the "*Eastern Electrical*" business name, registered with the Registrar of Business Names under the Registration of Business Names Act of 1963 under No 339556;

- (c) the following main licences, permits and authorisations:

- the WEEE registration obtained in accordance with the EU legislation on waste electrical and electronic equipments under No 00227;

(d) the following main contracts, agreements, leases, commitments and understandings:

- the leases to the commercial premises mentioned in the table below [...]
- the contracts entered into with customers located in Ireland for the distribution of electrical products, other than those entered into with the Hagemeyer Industrial Business;
- the contracts entered into with suppliers for the procurement of electrical products to be resold in Ireland, other than those entered into for the needs of the Hagemeyer Industrial Business;

(e) the following customer, credit and other records:

- the list of Hagemeyer's customers for electrical products located in Ireland, as well as any information related to the relationship between such customers and Hagemeyer (including, but not limited to, credit records, order and invoice history, etc.);
- the list of Hagemeyer's suppliers for electrical products to be resold in Ireland, as well as any information related to the relationship between such suppliers and Hagemeyer (including, but not limited to, credit records, order and invoice history, etc.);

(f) the following Personnel:

The employees dedicated to the Divestment Business, amounting to approximately [100-150] full-time equivalent employees and including, *inter alia*, the following functions: management; buying; logistics; sales; branch administration and credit control.

(g) the following Key Personnel:

- [...]

and

(h) the arrangements for the supply with the following products or services by Rexel or Affiliated Undertakings for a transitional period of up to six months after Closing:

- (i) The following services, to be provided by Hagemeyer (UK) Ltd to the Divestment Business in exchange for a consideration to be determined

based on the internal costs currently incurred for such services within the Hagemeyer Group: management of accounts payable; IT-related services; data services; legal and property management services; and human resource management services (it being understood that such services will only be provided at the request of the Purchaser and subject to the ring-fencing measures to be implemented by Rexel under Section C of the present Commitments);

- (ii) Provided the relevant personnel is not transferred to the Purchaser, the following services, to be provided by the Hagemeyer Industrial Business retained by Rexel to the Divestment Business in exchange for a consideration to be determined based on the internal costs currently incurred for such services within the Hagemeyer Group: accounting services (including the preparation of financial and management accounts); and the supply of monthly payroll data (it being understood that such services will only be provided at the request of the Purchaser and subject to the ring-fencing measures to be implemented by Rexel under Section C of the present Commitments);

and

- (iii) a sub-lease to the parts of the premises located at Hagemeyer Business Centre, Eastway Business Park, Ballysimon Road, Limerick, which are currently occupied by the Limerick branch of the C&I Business; at the request of the Purchaser, the period of up to six months mentioned above may be extended with regard to this sub-lease;

It being understood that, for services listed under items (i), (ii) and (iii) above, the personnel in charge of the procurement of such services within the Rexel Group shall enter into a confidentiality agreement and commit to refrain from using any sensitive or commercial data related to the Divestment Business for any purpose other than the operation of the Divestment Business;

and

3. The Divestment Business shall not include:

- (i) the Hagemeyer Industrial Business, as defined in Section A “Definitions”; and
- (ii) the lease to the premises located at Hagemeyer Business Centre, Eastway Business Park, Ballysimon Road, Limerick, it being understood that, as mentioned above, the Purchaser will be granted a sub-lease to the parts of these premises that are currently occupied by the Limerick branch of the C&I Business for a maximum period of six months after Closing, which may be extended at the request of the Purchaser.

Annex 1

List of tangible assets included in the Divestment Business

[...]