

*Translation for information purposes only*

**GROUPE EUROTUNNEL SA**

A French « *société anonyme* » with a share capital of EUR 220,000,000

Registered office: 3 rue de la Boétie, 75008 Paris - France

Registered with the trade and companies register of Paris under number 483 385 142

**DRAFT TERMS OF CONVERSION OF GROUPE EUROTUNNEL SA  
INTO A EUROPEAN COMPANY (*Societas Europaea*)**

## **DRAFT TERMS OF CONVERSION OF GROUPE EUROTUNNEL SA INTO A EUROPEAN COMPANY (*Societas Europaea*)**

These draft terms have been prepared by the board of directors of Groupe Eurotunnel SA with respect of the contemplated conversion of this company into a European company (*SE*), in accordance with Section 5 of Title II of Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the statute for a European company (the *SE Regulation*), and with article L. 225-245-1 paragraph 2 of the French Commercial Code.

Pursuant to article 37§4 of the SE Regulation, the purpose of these draft terms of conversion (the *Draft Terms of Conversion*) is to explain and justify the economic and legal aspects of the conversion as well as to indicate the expected consequences of the adoption of the form of an SE on the shareholders and the employees.

### **1. DESCRIPTION OF THE CONVERSION PROJECT**

#### **1.1 Identity and main features of the company subject to conversion**

(a) Corporate form – Registered office

Groupe Eurotunnel SA (*GET SA* or the *Company*) is a French “*société anonyme*”. Its registered office is located at 3 rue de la Boétie, 75008 Paris, France.

(b) Registration and applicable law

GET SA is registered with the trade and companies register of Paris under number 483 385 142 and regulated under the laws of France and its articles of association.

(c) Purposes

The Company’s corporate objects are to:

- acquire equity interests by way of the purchase, subscription, transfer or exchange of corporate rights, shares, partnership interests or otherwise, with any co-contracting party, French or foreign, in any company whose purpose is directly or indirectly related to the operation of the Channel Tunnel between France and the United Kingdom or any other fixed links;
- participate in any manner whatsoever, directly or indirectly, in any transactions connected with its objects via the creation of new companies, the contribution, subscription or purchase of securities or corporate rights, merger or otherwise, creation, acquisition, leasing, lease management of all businesses or establishments; taking, acquiring, operating or selling any processes or patents relating to its activities; and
- generally, all industrial, commercial, financial, civil, personal or real property transactions, directly or indirectly related to any of the objects referred to above or any similar or connected objects, including in particular, any transport business.

(d) History of the Company

The Company was created in the context of the implementation of the safeguard plans (*plans de sauvegarde*) approved by judgements of the Paris commercial Court on 15 January 2007

(the **Safeguard Plan**) in order to become the new holding company of the Eurotunnel group (the **Group**).

The Group operates the Channel Tunnel through concession and its main activity is cross-Channel rail transport. Indeed, GET SA controls the two historical concessionaire companies of the Channel Tunnel between France and the UK (France Manche SA and Channel Tunnel Group Limited) as well as Europorte SAS for the rail freight transport activities and Euro-TransManche Holding SAS in relation to the maritime activity.

Before the implementation of the Safeguard Plan and the reorganization and simplification of the Group structure, TNU PLC (previously Eurotunnel PLC), whose registered office was located in the UK, and TNU SA (previously Eurotunnel SA), whose registered office was located in France, were the holding companies of the Group. These two companies were absorbed by GET SA, respectively on 31 October 2010 and 6 May 2009.

(e) Registration date and term

GET SA was incorporated on 3 August 2005.

The duration of the Company shall expire on 2 August 2104, unless anticipated dissolution or prorogation is decided pursuant to its articles of association.

(f) Share capital and securities

GET SA has a share capital of 220,000,000 euros, divided into 550,000,000 category A ordinary shares with a par value of 0.4 euro each, fully paid-up.

No security giving access to the share capital of the Company has been issued on the date hereof.

Before the vote on the Draft Terms of Conversion, the creation of a new category of securities will be proposed to the combined general meeting of the shareholders of 29 April 2014. These new securities will be preferred shares with no voting right, with a nominal value of 0,01 euro (the category B shares). They shall be convertible into category A ordinary shares after a four-year period, provided that the applicable performance conditions are met. These preferred shares may only be granted for free pursuant to article L. 225-197-1 of the French Commercial Code so that they will be issued only after a two-year period from their allocation. Thus, considering the timeframe of the events between the conversion of the Company into a European company and the issuance of the free preferred shares, the beneficiaries of such shares shall not be convened to vote on the conversion of the Company into a European company.

(g) Listing

The Company's category A ordinary shares are (i) admitted to trading on NYSE Euronext Paris and (ii) listed on the Official List of the United Kingdom Listing Authority and admitted to trading on the London Stock Exchange. Their ISIN code is FR0010533075.

## 1.2 Rationale for the conversion

As presented in article 1.1(d) of the Draft Terms of Conversion, the Group was originally and historically structured through two holding companies, having their respective registered offices in France and the UK. The reorganization of the Group put an end to this binational structure, whereas its activity and organization are still located in France and the UK and are

fundamentally European. In this context, the Company wants to adopt a new legal framework, fully representative of its double nationality and its European nature.

The SE framework has the advantage of benefitting from an homogeneous and generally recognised legal base among the EU Member States. GET SA would thus acquire a statute which would be more consistent with (i) its economic and cultural reality and (ii) its stakeholders expectations, while strengthening its international dimension.

### 1.3 Conditions of the conversion

Pursuant to the provisions of the SE Regulation, a public limited liability company incorporated under the laws of a European Union Member State and which has its registered office and central administration in the European Union, may be converted into an SE provided that:

- the amount of its subscribed share capital is at least equal to 120,000 euros; and
- it has had a subsidiary company incorporated under the laws of another Member State for a minimum of two years.

These above-mentioned conditions are fulfilled since Groupe Eurotunnel SA, a French “*société anonyme*” having its registered office and central administration in France, (i) has a share capital amounting to 220,000,000 euros and (ii) has directly held a subsidiary company located in the United Kingdom (The Channel Tunnel Group Limited) and indirectly held several subsidiary companies having their registered offices in various EU Member States, for more than two years.

### 1.4 Legal regime of the conversion

The conversion is governed by

- the SE Regulation (especially its articles 2§4 and 37 relating to the creation of a European company by way of conversion);
- articles L. 225-245-1 and R. 229-20 to R. 229-22 of the French Commercial Code; and
- articles L. 2351-1 *et seq.* of the French Labour Code, resulting from the transposition into French law of the Directive n°2001/86/EC of 8 October 2001 supplementing the statute for a European company with regard to the involvement of employees.

## **2. CONSEQUENCES OF THE CONVERSION PROJECT**

### 2.1 Legal consequences of the conversion

#### (a) Corporate name of the Company after conversion

After completion of the conversion process, the corporate name of the company shall be “Groupe Eurotunnel SE”.

#### (b) Registered office and central administration

The registered office and central administration of Groupe Eurotunnel SE shall be located in France, at the current registered office address.

(c) Articles of association (draft terms are in appendix)

The draft version of the articles of association of Groupe Eurotunnel SE which shall enter into force after completion of the conversion process, subject to their approval by the combined general meeting of the shareholders of the Company of 29 April 2014, are appended to these Draft Terms of Conversion (Appendix).

The provisions of these articles of association are compliant with the SE Regulation and with applicable provisions of French law.

(d) Legal personality

Pursuant to article 37§2 of the SE Regulation, the conversion shall not result in the winding up of the Company or in the creation of a new legal person. After completion of the conversion process and as from the date of its registration with the trade and companies register of Paris as an SE, the Company shall continue to conduct its business under the form of a European company.

(e) Shares of Groupe Eurotunnel SE

The number of shares issued by the Company and their par value shall not be modified due to the conversion of the Company into an SE. The Company's shares shall continue to be (i) admitted to trading on NYSE Euronext Paris and (ii) listed on the Official List of the United Kingdom Listing Authority and admitted to trading on the London Stock Exchange.

(f) Structure, governance and operation of the SE

Groupe Eurotunnel SE shall keep its current corporate bodies of a *société anonyme*, notably :

- a general meeting of the shareholders

The rules regarding computation of the abstention and blank votes in general meetings of an SE as provided for in the SE Regulation differ from those applicable to French *sociétés anonymes*. Indeed, whereas in a French *société anonyme*, abstention or blank votes are deemed to be votes against the resolution proposed to the ordinary or extraordinary general meeting, the calculation of the majority with respect of the resolutions proposed to a general meeting of an SE shall only include votes which have been validly cast, which do not include votes attaching to shares in respect of which the shareholder has not taken part in the vote or has abstained or has returned a blank or spoiled ballot paper.

- a one-tier system company and unchanged governance;

Eurotunnel Groupe SE shall remain organized as a one-tier system company, pursuant to articles 38b and 43 to 45 of the SE Regulation and shall thus keep being composed of a board of directors.

After completion of the conversion process, the members of the board of directors of Eurotunnel Groupe SE will remain the same as those of GET SA. The terms of the current mandates of the Company's directors shall continue under the same conditions and shall expire on the same date as prior to the conversion. For the avoidance of doubt, the combined general meeting of the shareholders of 29 April 2014 will confirm the continuation of the mandates of the current directors in the SE.

The governance organization of Eurotunnel Groupe SE, based in particular on five committees assisting the board of directors, shall remain unchanged.

The SE Regulation and article L. 229-1 *et seq.* of the French Commercial Code provide for a limited number of material rules with respect of the organization of the SE. Thus, pursuant to the SE applicable rules, the operation of Groupe Eurotunnel SE shall be governed by the provisions of the French Commercial Code relating to the management and governance of the French *sociétés anonymes* organized as one-tier structures.

However, some specific rules of the SE Regulation are directly applicable, especially the one stating that the board of directors shall meet at least every three months. Although this rule has no practical impact on the Company's governance, as the board of directors' practice is to meet 12 times per year on average, the provisions of the Company's articles of association stating that the board of directors shall meet at least three times per year will be modified in order to comply with the SE Regulation.

Pursuant to the draft version of the articles of association appended hereinafter, all the rules provided by the SE Regulation shall be applicable to Eurotunnel Groupe SE, unless the articles of association refer to the national law or to their own provisions.

#### (g) Auditors

After completion of the conversion process, the auditors of Groupe Eurotunnel SE will remain the same as those of Groupe Eurotunnel SA. The terms of the current mandates of the auditors shall continue under the same conditions and shall expire on the same date as prior to the conversion. For the avoidance of doubt, the combined general meeting of the shareholders of 29 April 2014 will confirm the continuation of the mandates of the current auditors in the SE.

### 2.2 Consequences of the conversion for the shareholders

The conversion will not affect the rights of the Company's shareholders, who will keep the same number of shares in the share capital of Groupe Eurotunnel SE as well as the same proportion in the total number of voting rights attached to the shares of the Company.

Thus, the financial commitment of each shareholder will be limited to the same extent as prior to the conversion, and the conversion will have no effect on the shareholders' right to receive a dividend, whenever distributed by the Company. The number of issued shares will neither be affected by the conversion.

As regards the ability for shareholders to request that a general meeting of shareholders be convened, article 55§1 of the SE Regulation grants the ability for one or more shareholders holding together at least 10% of the subscribed share capital to request that a general meeting of shareholders be convened and to set the agenda, without the board of directors being in default regarding the convening of such general meeting and without having to request the appointment of a representative by the Court as provided for in article L. 225-103, II-2° of the French Commercial Code.

### 2.3 Consequences of the conversion for the creditors

The conversion will not result in any change in the rights of the Company's creditors. Each third party which was a creditor of the Company prior to its conversion will retain all its rights with regards to the Company after completion of the conversion process. The creditors will also keep the benefits of any security interests which have been granted to them prior to

the conversion (except if stated otherwise in any provision of the concerned security interest agreement).

#### 2.4 Consequences for the employees – Information on the process relating to the involvement of employees

The negotiation procedure with the representatives of the employees of the companies involved in the creation of an SE is specified in the SE Directive, transposed in articles L. 2351-1 to L. 2353-32 of the French Labour Code. Pursuant to French law, GET SA which has initiated an information process with the representatives of the employees, will constitute a special negotiating body (*SNB*). The SNB shall be established in order to implement a negotiation process with the management of GET SA in order to reach a potential written agreement between the management of GET SA and the SNB on arrangements relating to the involvement of the employees in issues and decisions affecting the life of the SE.

The SNB shall be comprised of representatives of the employees of GET SA, its subsidiaries and its European establishments. The SNB members shall be appointed according to the applicable rules in each concerned country. The SNB shall be the discussion partner of the management in the context of the negotiations. It will have legal personality.

The SNB members shall meet on request of the Company's management and may be assisted by experts. Negotiations shall commence as soon as the SNB is established and may continue for six months thereafter. The parties may decide, by joint agreement, to extend such negotiations, up to a total duration of one (1) year.

However, pursuant to article L 2352-13 of the French Labour Code, the SNB can decide not to open negotiations or to terminate them and to rely on the applicable rules on information and consultation of employees in force in the Member States where the SE has employees.

Such a decision shall be taken with a two-third majority of the SNB members representing at least two thirds of the employees of the concerned companies, subsidiaries and establishments, including the votes of members representing employees employed in at least two different Member States.

Thus, the negotiations of the SNB on the involvement of the employees in the SE may lead to the subsequent situations:

- reaching of an ad hoc written agreement, setting the terms of the involvement of the employees in the SE and defining in particular the functions and the procedure for the information and consultation process of the representation body or the terms of implementation of the information and consultation process when the process thereof has been established instead of a representation body, by agreement between the parties;
- decision, taken with the above-mentioned two-third majority, not to open or to end the negotiations and to follow the applicable information and consultation rules in the Member States where the SE has employees;
- absence of agreement, in which case the subsidiary provisions of the SE Directive and the articles L. 2353-1 *et seq.* of the French Labour Code shall apply in order to set the arrangements relating to the involvement of the employees in the SE.

The employment contracts of the employees of the Company's direct and indirect subsidiaries shall not be modified in the context of the conversion of GET SA into an SE. Thus, all the

employment contracts shall continue under the same terms and conditions as prior to completion of the conversion.

## 2.5 Tax aspects of the conversion

The conversion of the Company into an SE shall not result in any specific tax impact with regards to corporate income tax (*impôt sur les sociétés*), since the conversion shall neither result in the creation of a new legal person nor in the change of the tax regime applicable to the Company (Groupe Eurotunnel SE shall be treated as a *société anonyme* under a tax perspective) or in a cross-border transfer of the registered office.

With regards to registration duties (*droits d'enregistrement*), the transaction shall be registered within thirty (30) days from its completion. Since it is not regarded as the creation of a new company, the conversion shall only be subject to the fixed fee referred to in article 680 of the French *Code Général des Impôts* (125 euros on the date hereof).

## 3. PROCEDURE

### 3.1 Conversion auditors (*commissaires à la transformation*)

Pursuant to articles 37§6 of the SE Regulation and L. 225-245-1 of the French Commercial Code, one or more conversion auditors shall be appointed by the President of the Paris commercial Court.

Pursuant to article R. 229-21 of the French Commercial Code, the conversion auditors shall be selected among the auditors registered on the list referred to in article L. 822-1 of the French Commercial Code or among the experts registered on one of the lists established by the courts.

In accordance with article 37§6 of the SE Regulation, the conversion auditors shall draft a report which will be made available to the shareholders of the Company, certifying that the Company has net assets at least equal to its share capital plus those reserves which must not be distributed under the law or the articles of association.

### 3.2 Special benefits (*avantages particuliers*)

Neither the members of the board of directors of the Company nor the auditors of the Company shall be entitled to any specific benefit in connection with the conversion of GET SA into an SE.

The conversion auditors shall be paid by the Company after completion of their mission.

### 3.3 Filing and publicity

These Draft Terms of Conversion shall be filed with the clerk of the commercial Court of Paris, the jurisdiction in which the Company is registered, and notice of the conversion project shall be published in an official legal gazette and in the *Bulletin des Annonces Légales Obligatoires (BALO)*, at least one (1) month prior to the date of the first general meeting of the shareholders convened to vote on the conversion project.

### 3.4 Approval of the conversion project and the articles of association of Groupe Eurotunnel SE



In accordance with articles 37§7 of the SE Regulation and L. 225-245-1 of the French Commercial Code, the extraordinary general meeting of the shareholders of the Company shall approve the conversion project and the articles of association of Groupe Eurotunnel SE under the quorum and majority which are required for the amendment of the articles of association of a French *société anonyme* in accordance with article L. 225-96 of the French Commercial Code.

### 3.5 Effective date

The conversion of the Company into an SE shall become effective on the date of registration of the Company as an SE with the trade and companies register of Paris. Pursuant to article 12§2 of the SE Regulation, the registration of the SE can only take place when the process relating to the involvement of the employees has been completed. To this effect, the SNB, composed of representatives of the employees of the Company, its direct and indirect subsidiaries and its European establishments is being established so that the negotiations may start as soon as possible, for a duration of six (6) months, except if such duration is reduced or extended by mutual agreement, up to a total duration of one (1) year.

As a consequence, the conversion into an SE and its registration with the trade and companies register shall be completed following the negotiations with the SNB.

In Paris, on 12 March 2014

The board of directors