



Registration of a Charge

Company name: **CREDIT SUISSE SECURITIES (EUROPE) LIMITED**

Company number: **00891554**



X5BL5TRK

Received for Electronic Filing: **19/07/2016**

Details of Charge

Date of creation: **14/07/2016**

Charge code: **0089 1554 0072**

Persons entitled: **CREDIT SUISSE AG, DUBLIN BRANCH**

Brief description: **NONE.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ASHURST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 891554

Charge code: 0089 1554 0072

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th July 2016 and created by CREDIT SUISSE SECURITIES (EUROPE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th July 2016 .

Given at Companies House, Cardiff on 20th July 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



EXECUTION VERSION

Deed of Charge

Credit Suisse AG, Dublin Branch

and

Credit Suisse Securities (Europe) Limited

14 July 2016

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THIS DEED is made on 14 July 2016

BETWEEN:

- (1) **CREDIT SUISSE AG, DUBLIN BRANCH**, with its offices at Kilmore House, Park Lane, Spencer Dock, Dublin 1, Ireland, and registered with Ireland's Companies Registration office under registration number 907656 (the "**Secured Party**"); and
- (2) **CREDIT SUISSE SECURITIES (EUROPE) LIMITED**, a limited liability company organised and existing under the laws of England and Wales with company number 00891554, with its registered office at One Cabot Square, London E14 4QJ, United Kingdom (the "**Chargor**").

RECITALS:

- (A) Pursuant to the GMSLA, the Chargor and the Secured Party have entered into, and will enter into, securities lending transactions.
- (B) Pursuant to the CACA, the Custodian has agreed to open a segregated securities account and cash account on its books and records in the name of the Chargor, to which the Chargor intends to transfer collateral in respect of its obligations under the GMSLA.
- (C) The Chargor wishes to grant security in favour of the Secured Party pursuant to the terms of this Deed.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed:

"Assigned Rights" means all rights relating to the Collateral Accounts which the Chargor may have now or in the future against the Custodian or any third party, including, without limitation, any right to delivery of a Security which arises in connection with (a) any Collateral Security being transferred to a clearance system or financial intermediary; (b) any interest in or to any Collateral Security being acquired while that Collateral Security is in a clearance system or held through a financial intermediary; (c) any terms of business applicable to the Collateral Accounts, including the CACA; or (e) any other rights that the Chargor may have now or in the future with respect to each Collateral Account;

"Business Day" means any day, other than a Saturday or a Sunday, on which commercial banks are generally open for business in both London and Dublin;

"CACA" means the control and custody agreement dated on or about the date of this Deed between the Custodian, the Secured Party and the Chargor, as amended, varied or supplemented from time to time;

"Cash Account" means each of the segregated cash accounts opened and maintained by the Custodian for the account of the Chargor pursuant to and in accordance with the CACA, and any account which replaces or substitutes any or all of such accounts;

"Collateral" means each of the Collateral Securities and the Collateral Cash;

"Collateral Account" means each of the Securities Account(s) and the Cash Account(s);

"Collateral Cash" means the debt owed by the Custodian to the Chargor represented by the credit balance(s) from time to time on the Cash Account(s);

"Collateral Rights" means all rights, powers and remedies of the Secured Party provided by this Deed or by law;

"Collateral Securities" means the Securities from time to time recorded in and represented by the Securities Account(s);

"Custodian" means JP Morgan Chase Bank, N.A., London Branch (and its permitted successors and assigns);

"Enforcement Event" means the occurrence of an Event of Default in respect of which the Chargor is the Defaulting Party (for the purposes of this definition, the terms **"Event of Default"** and **"Defaulting Party"** shall have the meaning given to them in the GMSLA). Each such event or circumstance shall constitute an "enforcement event" for the purposes of the Regulations;

"GMSLA" means the Global Master Securities Lending Agreement dated 9 July 2015 between the Secured Party and the Chargor, as amended, varied or supplemented from time to time;

"Permitted Security" means (a) any security interest created by or arising under this Deed or the CACA; and (b) any charge, lien or other encumbrance created by or arising under the operating terms or rules of any clearing system, settlement system or securities depository in which all or any part of the Collateral is held or recorded;

"Receiver" means a receiver, manager or administrative receiver as the Secured Party may specify at any time in the relevant appointment made under this Deed, which terms shall include any appointee made under a joint or several appointment by the Secured Party;

"Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) as amended;

"Related Rights" means (a) any dividend, interest or other cash or non-cash distribution paid or payable in relation to any Collateral Securities and (b) any right, money, benefits, proceeds or property in respect of or derived from, accruing or offered at any time in relation to any Collateral Securities by way of redemption, substitution, conversion, exchange, reorganisation, restructuring, takeover offer, merger, bonus or preference, under option rights or otherwise;

"Secured Obligations" means all obligations or liabilities arising from or in respect of the GMSLA, the CACA or this Deed at any time due, owing or incurred by the Chargor to the Secured Party, whether present or future, actual or contingent, and whether incurred alone or jointly, as principal or as surety or in some other capacity, together with all interest thereon;

"Securities" means bonds, debentures, notes, certificates, warrants, stocks, shares, units or other securities and all rights or property which may at any time accrue or be offered (whether by way of bonus, redemption, preference, option or otherwise) in

respect of any of the foregoing or evidencing or representing any other rights or interests therein (including, without limitation, any of the foregoing not constituted, evidenced or represented by a certificate or other document but by an entry in the books or other permanent records of the issuer, a trustee or other fiduciary thereof, any financial intermediary, custodian or sub-custodian, depository or any clearance or settlement system);

"Securities Account" means each segregated securities account opened and maintained by the Custodian for the account of the Chargor pursuant to and in accordance with the CACA, and any account which replaces or substitutes any or all of such accounts; and

"Security Interest" means any security interest created, evidenced or conferred by or under this Deed, including but not limited to the security granted in clause 3.

2. **COVENANT**

The Chargor shall on demand of the Secured Party perform and discharge each of the Secured Obligations, when due, and pay to the Secured Party, when due and payable, each sum now or hereafter owing, due or incurred by the Chargor in respect of the Secured Obligations.

3. **SECURITY**

3.1 All the security created under this Deed is created in favour of the Secured Party, as security for the payment, discharge and performance of all the Secured Obligations and is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 provided that Section 6(2) of that Act will not apply to this clause 3.

3.2 The Chargor hereby:

- (a) mortgages, charges and pledges and agrees to mortgage, charge and pledge by way of first ranking fixed charge the Collateral Securities, all Related Rights and the Collateral Cash;
- (b) assigns and agrees to assign absolutely by way of security all rights, title and interest present and future of the Chargor in the Assigned Rights; and
- (c) assigns, and agrees to assign, absolutely by way of security all rights, title and interest present and future that the Chargor has in the CACA.

3.3 The security constituted by this Deed shall be a continuing security, shall remain in full force and effect as a continuing security unless and until released or discharged by the Secured Party, and shall not be satisfied by any intermediate payment or satisfaction of the whole or any part of the obligations secured hereby but shall secure the ultimate balance thereof. The security constituted by this Deed shall be in addition to and shall not be affected by any other security now or subsequently held by the Secured Party for all of or any of the obligations secured by this Deed.

4. **DISCHARGE OF SECURITY**

4.1 Upon the Secured Party being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and there are no further actual or contingent Secured Obligations, the Secured Party shall at the written request and cost of the

Chargor release all the security granted by this Deed without recourse to, and without any representations or warranties by, the Secured Party or any of its delegates.

5. RIGHTS IN RESPECT OF THE COLLATERAL

- 5.1 All Related Rights, to the extent any amount or property is payable or receivable, or is paid or received by or for the account of the Chargor, shall be credited to the Collateral Accounts and shall be subject to the Security Interest. The Secured Party will not be under any duty to ensure that any Related Rights payable are duly and promptly paid or received by it, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) such Related Rights or to act or omit to act in any way with respect to the Collateral Accounts.
- 5.2 Other than following the occurrence of an Enforcement Event which is continuing, the Chargor shall be entitled to exercise the voting rights arising in respect of the Collateral Securities.
- 5.3 Save as otherwise permitted in this Deed, the Chargor shall not, without the prior written consent of the Secured Party (such consent not to be unreasonably withheld or delayed), by any means, permit or agree to any variation of the rights attaching to or conferred by all or any part of the Collateral.
- 5.4 The Chargor shall comply with all conditions and other obligations in respect of any Collateral, including, but not limited to, any requirement to make any payments in respect thereof under the GMSLA, the CACA, this Deed or the terms and conditions of any Collateral (including, without limitation, any payments relating to or in connection with the Chargor's exercising any rights in respect of such Collateral).
- 5.5 The Secured Party may, at any time after the occurrence of an Enforcement Event (as long as it is continuing), at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):
- (a) apply all interest, dividend and other monies arising from the Collateral as though they were the proceeds of sale under this Deed;
 - (b) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Collateral, including, for the avoidance of doubt, any voting rights or rights of election; and
 - (c) transfer the Collateral into the name of the Secured Party or such nominee of the Secured Party as the Secured Party may consider appropriate,
- in each case in such manner and on such terms as the Secured Party may think fit, and the proceeds of any such action shall form part of the Collateral.
- 5.6 None of the Secured Party or any Receiver, or any delegate under clause 9.4, appointed pursuant to this Deed shall be liable by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Collateral or (c) the taking possession or realisation of all or any part of the Collateral, except in the case of gross negligence or wilful default upon its part.

6. FURTHER ASSURANCES

- 6.1 The Chargor shall promptly and at its own cost execute all documents (including transfers) and do all things (including, but not limited to, the delivery, transfer, assignment or payment of all or part of the Collateral to the Secured Party or its nominee(s)) that the Secured Party may specify for the purpose of (a) exercising or enforcing the Collateral Rights pursuant to this Deed, (b) creating, securing or perfecting its security over or title to all or any part of the Collateral, or (c) enabling the Secured Party to vest all or part of the Collateral in its name or in the name of any nominee, agent or purchaser.
- 6.2 Without prejudice to clause 6.1, the Chargor shall from time to time, whensoever requested by the Secured Party and at the Chargor's cost, execute in favour of the Secured Party, or as it may direct, such further or other legal assignments, transfers, mortgages, legal or other charges or securities as in each such case the Secured Party shall reasonably stipulate over the Chargor's estate or interest in any property or assets (such assets or property to become part of the Collateral Securities) of whatsoever nature or tenure and wheresoever situate for the purpose of more effectively providing sufficient security to the Secured Party for the payment or discharge of the Secured Obligations. Without prejudice to the generality of the foregoing, such assignments, transfers, mortgages, legal or other charges, or securities shall be in such form as shall be prepared on behalf of the Secured Party and may contain provisions such as are herein contained or provisions to the like effect and/or such other provisions of whatsoever kind as the Secured Party shall consider requisite for the improvement or perfection of the Security Interest constituted by or pursuant to this Deed. The Chargor hereby agrees to deliver to the Collateral Account whenever called for by the Secured Party such additional Securities of a market value satisfactory to the Secured Party, so that there will, at all times, be held in the Collateral Account a margin of security for the payment of all Secured Obligations which shall be satisfactory to the Secured Party.

7. EFFECTIVENESS OF COLLATERAL

- 7.1 All rights of the Secured Party hereunder, the grant of the security interests in the Collateral and the proceeds thereof, and all obligations of the Chargor hereunder, shall be absolute and unconditional irrespective of, and shall not be affected by, any act, omission, matter or thing which, but for this section, would reduce, release or prejudice any of such rights, interests or obligations, whether or not known to the Chargor or the Secured Party, including:
- (a) any lack of validity or enforceability of any obligation of any person under any agreement under which the Secured Obligations arise, any agreement with respect to any of the Secured Obligations or any other agreement or instrument relating to any of the foregoing;
 - (b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from any agreement under which the Secured Obligations arise or any other agreement or instrument relating to any of the foregoing;
 - (c) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to or departure from any guarantee, for all or any of the Secured Obligations;

- (d) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor;
 - (e) any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of, the Chargor or any other person; or
 - (f) any other circumstance that might otherwise constitute a defence available to, or a discharge of, the Chargor in respect of the Secured Obligations or in respect of this Deed (other than the indefeasible payment or performance in full of all the Secured Obligations).
- 7.2 If any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) or arrangement is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored upon insolvency, liquidation, administration or otherwise without limitation, the liability of the Chargor under this Deed will continue or be reinstated as if the discharge or arrangement had not occurred.
- 7.3 The Security Interest constituted by this Deed and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Secured Party may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Secured Party over the whole or any part of the Collateral shall merge into the Security Interest constituted by this Deed.
- 7.4 No failure to exercise, nor any delay in exercising, on the part of the Secured Party, any Collateral Right shall operate as a waiver, nor shall any single or partial exercise of a Collateral Right prevent any further or other exercise of that or any other Collateral Right.
- 7.5 The Chargor waives any right it may have of first requiring the Secured Party to proceed or enforce any other rights or security interest against, or claim payment from, any person before claiming from the Chargor under this Deed and the Security Interest. This waiver applies irrespective of any law or any provision of this Deed to the contrary.
- 7.6 If the Secured Party at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Collateral, all payments made by the Chargor, or in respect of the Related Rights, to the Secured Party after that time shall be treated as having been credited to a separate account of the Chargor with the Secured Party and not as having been applied in reduction of the Secured Obligations as at the time when the Secured Party received notice.
- 7.7 All monies received, recovered or realised by the Secured Party under this Deed (including the proceeds of any conversion of currency) may in its discretion be credited to and held in any suspense or impersonal account pending their application from time to time in or towards the discharge of any of the Secured Obligations.
- 7.8 No purchaser from, or other person dealing with, the Secured Party or any Receiver (or their agents) shall be obliged or concerned to enquire whether:
- (a) the right of the Secured Party or any Receiver to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or

- (b) any of the Secured Obligations remain outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters,

and the protection to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925, Section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Secured Party or any Receiver.

- 7.9 The receipt of the Secured Party or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see the application of any moneys paid to or at the direction of the Secured Party or any Receiver.

8. SUBSTITUTION AND WITHDRAWAL OF COLLATERAL

- 8.1 The Chargor shall be entitled, without notice to the Secured Party, to instruct the Custodian to transfer Collateral from the Collateral Accounts pursuant to, and in accordance with the terms of, paragraphs 2(b) and (f) of Schedule 3 to the CACA.

- 8.2 Both parties agree that any Collateral released pursuant to paragraph 2(b) of Schedule 3 to the CACA and clause 8.1 is "excess financial collateral" for the purposes of the Regulations and any Collateral released pursuant to paragraph 2(f) of Schedule 3 to the CACA and clause 8.1 is a substitution of financial collateral of the same or greater value for the purposes of the Regulations.

- 8.3 Any Collateral withdrawn from the Collateral Accounts in accordance with clause 8.1 shall be deemed to be released from the Security Interest created pursuant to this Deed upon such withdrawal occurring, and the Secured Party hereby consents to such release.

9. RIGHTS OF ENFORCEMENT

- 9.1 If at any time an Enforcement Event has occurred and is continuing, the Secured Party shall be entitled, unless the Chargor has fully and finally discharged all of the Secured Obligations, without notice to the Chargor or prior authorisation from any other person:

- (a) to exercise all rights and remedies available to a secured party under applicable law with respect to the Collateral held by the Secured Party;
- (b) to sell, dispose of or otherwise realise all or any part of the Collateral (at the times, in the manner and on the terms it thinks fit);
- (c) to appropriate all or any part of the Collateral;
- (d) whether or not it has appointed a Receiver, to exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on chargees and by this Deed on any Receiver or otherwise conferred by law on chargees or Receivers; and

- 9.2 At any time after the occurrence of an Enforcement Event, in respect of any cash credited to the Collateral Account (including, for the avoidance of doubt, any proceeds from the sale, disposal or realisation of the Collateral or any of the Assigned Rights), the Secured Party may:

- (a) apply all such cash in accordance with clause 10; and
- (b) set-off all or any part of any amounts payable by the Chargor to the Secured Party with respect to the Secured Obligations against any obligation of the Secured Party to repay any amount to the Chargor regardless of the place of payment, booking branch or currency of the obligation, including, without limitation any obligation in respect of the Collateral or pursuant to the GMSLA and the CACA. If any payment obligations are in different currencies, the Secured Party shall be entitled to convert one currency into another at the spot rate of conversion for such currencies as determined by the Secured Party acting in a commercially reasonable manner.

9.3 Where, upon appropriation or set off under this clause 9 or otherwise, it is necessary to determine the value of the Collateral or any part of it, the parties agree that the value of the Collateral shall be the value as determined by the Secured Party by reference to a reputable independent pricing source selected in good faith by the Secured Party (such determination to be made at the close of the relevant exchange in the case of exchange-traded securities); and the parties further agree that, in all the circumstances, such method of valuation constitutes a commercially reasonable method of valuation for the purposes of the Regulations. Where the Secured Party exercises its rights of appropriation and the value of the Collateral appropriated differs from the amount of the Secured Obligations then either (i) the Secured Party must account to the Chargor for the amount by which the value of the Collateral appropriated exceeds the Secured Obligations or (ii) the Chargor will remain liable to the Secured Party for any amount by which the value of the Collateral appropriated is less than the Secured Obligations. On exercise of the right of appropriation the Secured Party shall give notice to the Chargor in any manner permitted under clause 14.

9.4 The Chargor, by way of security, irrevocably appoints the Secured Party and any Receiver severally to be its attorney and in its name, on its behalf and as its attorney and as its act and deed to execute, deliver and perfect all documents (including any instruments of transfer) and do all things that the Secured Party may consider to be necessary or desirable for (a) carrying out any obligation imposed on the Chargor under this Deed; (b) carrying out any of the Chargor's obligations in respect of the Secured Obligations; or (c) enabling the Secured Party or any Receiver to exercise, or delegate the exercise of, respectively, any of the Collateral Rights or any of the rights, powers and authorities conferred on the Receiver by or pursuant to this Deed or by law (including, after the security constituted hereby has become enforceable, the exercise of any right of a legal or a beneficial owner of the Collateral), provided that, other than when an Enforcement Event has occurred and is continuing, any attorney so appointed shall only act in respect of any such obligation which the Chargor has failed to comply with. The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise of all or any of its powers.

9.5 In respect of the power of sale exercisable in accordance with this clause 9:

- (a) the power of sale or other disposal conferred on the Secured Party and any Receiver shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925, and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on delivery of the Collateral to the Secured Party for the purposes of this Deed. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Deed or to any exercise by the

Secured Party of its right to consolidate all or any of the Security with any other security in existence at any time, or to its power of sale;

- (b) a certificate in writing by an officer or agent of the Secured Party that any power of sale or other disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any part of the Collateral;
- (c) neither the Secured Party nor any Receiver shall be liable to account as mortgagee or mortgagee in possession in respect of the Collateral Securities or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Collateral Securities for which a mortgagee or mortgagee in possession might as such be liable, unless any such loss is caused by the Secured Party or the Receiver acting with gross negligence or wilful misconduct;
- (d) for the purposes of Section 99 of the Law of Property Act 1925, the expression "**Mortgagor**" shall include any encumbrancer deriving title under the Chargor and subsection (18) of Section 99 of the Law of Property Act 1925 shall not apply;
- (e) the powers conferred by this Deed on the Secured Party are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Deed the terms of this Deed shall prevail.

10. **APPLICATION OF PROCEEDS**

10.1 All moneys received by the Secured Party or any Receiver appointed under this Deed shall be applied in the following order:

- (a) in payment of the costs and losses incurred, and payments made, by the Secured Party and/or any Receiver (including the payment of preferential debts);
- (b) in payment of remuneration to the Receiver at such market rates as may be agreed between the Receiver and the Secured Party at or any time after the Receiver's appointment;
- (c) in or towards satisfaction of the Secured Obligations; and
- (d) the surplus (if any) shall be paid to the Chargor or other persons entitled to it.

10.2 Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

10.3 Any moneys received or realised by the Secured Party from the Chargor or a Receiver under this Deed may be applied by the Secured Party to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Secured Party may determine.

11. RECEIVER

- 11.1 At any time after an Enforcement Event has occurred, the Secured Party may by writing (acting through an authorised officer of the Secured Party) without notice to the Chargor appoint one or more persons to be Receiver of the whole or any part of the Collateral (each such person being (a) entitled to act individually as well as jointly and (b) for all purposes deemed to be the agent of the Chargor), appoint one or more Receivers of separate parts of the Collateral, remove (so far as it is lawfully able) any Receiver so appointed, and appoint another person as an additional or replacement Receiver.
- 11.2 In addition to the powers of sale conferred upon the Secured Party by clause 9, each person appointed pursuant to this clause 11 shall have, in relation to the part of the Collateral in respect of which he was appointed, all the powers (a) conferred by the Law of Property Act 1925 on a receiver appointed under that Act, (b) of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not such a person is an administrative receiver) and (c) (if such person is an administrative receiver) all the other powers exercisable by an administrative receiver in relation to the Chargor by virtue of the Insolvency Act 1986.
- 11.3 Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed.

12. CHARGOR'S REPRESENTATIONS, UNDERTAKINGS AND COVENANTS

- 12.1 The Chargor hereby represents and warrants to the Secured Party on a continuing basis while any of the Secured Obligations remain outstanding that:
- (a) it (and any person on whose behalf it may act as agent or otherwise in a representative capacity) has and will continue to have full capacity and authority to enter into this Deed and to carry out all the transactions contemplated herein, and has taken and will continue to take all action (including, without limitation, the obtaining of all necessary governmental consents in any applicable jurisdiction) to authorise the execution, delivery and performance of this Deed;
 - (b) it is duly organised and validly existing under the laws of its jurisdiction of incorporation;
 - (c) all necessary authorisations (including the resolutions of its board of directors or other managing body) authorising the execution, delivery and performance of this Deed have been obtained, and that these remain and will continue to remain in full force and effect as of the date hereof and during the term of this Deed without revocation or amendment;
 - (d) this Deed constitutes its legal, valid and binding obligation;
 - (e) it is, and will be, the sole beneficial owner of the Collateral free from any security interest except for any Permitted Security; and
 - (f) it has not sold or disposed of, or granted any security interest in respect of, the benefit of all or any of its rights, title and interest in the Collateral except for any Permitted Security.
- 12.2 The Chargor hereby undertakes to the Secured Party that:

- (a) save as permitted by clause 8.1 or the CACA, it will not instruct the Custodian to transfer Collateral from the Collateral Accounts without the prior written consent of the Secured Party; and
 - (b) it will not send to the Custodian a Notice of Secured Party Default (as defined in the CACA) prior to the Secured Obligations being irrevocably paid or discharged in full and the Chargor having no further actual or contingent obligations in respect of the GMSLA.
- 12.3 Except with the Secured Party's prior written consent, the Chargor shall not be entitled to receive, withdraw or otherwise transfer all or any part of any assets credited to a Collateral Account, and shall not:
- (a) assign or dispose of all or any part of the Collateral;
 - (b) create, grant, extend or permit to exist any mortgage other fixed security, floating charge, pledge, hypothecation, lien or other security interest of any kind over, or any restriction on the ability to transfer or realise, all or any part of the Collateral except for any Permitted Security;
 - (c) transfer any of the Collateral other than as expressly contemplated in, and permitted by, the terms of this Deed; or
 - (d) amend or waive any term of, or terminate, the CACA, or purport to do so, or take any action which could be reasonably expected to jeopardise the existence or enforceability of the CACA.
- 12.4 The parties acknowledge and agree that (i) the Collateral constitutes "financial collateral" as defined in, and for the purposes of, the Regulations; (ii) this Deed and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" as defined in, and for the purposes of, the Regulations; and (iv) the right to appropriate pursuant to clause 9.1(c) and 9.3 is in accordance with Regulation 17 of the Regulations.

13. **TAXES AND CHARGES**

Without prejudice to any of its liabilities and obligations under this Deed, the Chargor agrees to hold the Secured Party harmless from any liability, loss or withholding, resulting from any taxes or other governmental charges, and any expenses related thereto, which may be imposed, or assessed in connection with or arising out of this Deed.

14. **NOTICES**

- 14.1 All notices under this Deed shall be in writing in the English language and shall be delivered to the addressee in person, or sent to the addressee by courier or by first class post (airmail if overseas) to the address set out in clause 14.2 and marked for the attention of the department or person specified in clause 14.2, or to such other address, or marked for the attention of such other person or department, as a party may from time to time designate by notice duly given in accordance with this clause 14. A notice shall be deemed to have been received:

- (a) If delivered by post, on the fifth Business Day after the date of posting; or
- (b) If delivered in person or by courier, on the date it is delivered,

provided that a notice or communication given after 5.00 p.m. on a Business Day or on a day that is not a Business Day shall be deemed to have been given at 9.00 a.m. on the next following Business Day.

- 14.2 The addresses of the parties for the purposes of clause 14.1 are:

Address for notices or communications to the Secured Party:

Addressee: Credit Suisse AG, Dublin Branch

Address: Kilmore House
Park Lane
Spencer Dock
Dublin 1
Ireland

Attention: Head of Operations

Address for notices or communications to the Chargor:

Addressee: Credit Suisse Securities (Europe) Limited

Address: One Cabot Square
London E14 4QJ
United Kingdom

Attention: Head of Legal, Prime Services

15. **SEVERABILITY**

In the event any one or more of the provisions contained in this Deed should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction).

16. **AMENDMENTS**

No variation to the terms of this Deed shall be valid unless it is in writing and signed by or on behalf of each of the parties to it. The expression "variation" shall include any variation, amendment, supplement, deletion or replacement however effected.

17. **ENTIRE AGREEMENT**

This Deed constitutes the entire agreement and understanding of the parties hereto with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto.

18. **THIRD PARTIES**

- 18.1 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

- 18.2 The parties do not require the consent of any third party to rescind or vary or terminate this Deed.

19. **NOTICE OF SECURITY INTEREST TO CUSTODIAN**

The Chargor and the Secured Party hereby agree that execution by the Chargor, the Secured Party and the Custodian of the CACA shall constitute notice in writing to the Custodian of the Security Interests referred to in clause 3.

20. **ASSIGNMENT**

The rights and obligations of the parties pursuant to this Deed may not be assigned to any other person without the consent of the other party, except that the Secured Party may assign any of its rights or interest under this Deed to any third party to whom the Secured Party is entitled to assign, and does assign, all of its rights in respect of the Secured Obligations.

21. **COUNTERPARTS**

This Deed may be executed in counterparts and such counterparts shall be treated as if they were a single copy of this Deed.

22. **PROCESS AGENT**

Without prejudice to any other mode of service allowed under any relevant law, the Secured Party irrevocably appoints Credit Suisse AG, One Cabot Square, London, E14 4QJ, United Kingdom as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed and agrees that failure by a process agent to notify the Secured Party of the process will not invalidate the proceedings concerned.

23. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

24. **JURISDICTION**

- 24.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 24.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly no party will argue to the contrary.

IN WITNESS WHEREOF, this Deed has been duly executed and delivered as a deed on the date first above written.

SIGNATURES

THE SECURED PARTY

Executed as a deed by **CREDIT SUISSE**
AG, DUBLIN BRANCH acting by two
authorised signatories:

)
)
)
)



Authorised Signatory

Authorised Signatory

THE CHARGOR

Executed as a deed by **CREDIT SUISSE**
SECURITIES (EUROPE) LIMITED
acting by two authorised signatories:

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)
)
)



Authorised Signatory

Authorised Signatory