



Registration of a Charge

Company name: **CONNECT PLUS (M25) LIMITED**

Company number: **06683845**



X7BF4UGQ

Received for Electronic Filing: **01/08/2018**

Details of Charge

Date of creation: **31/07/2018**

Charge code: **0668 3845 0006**

Persons entitled: **EUROPEAN INVESTMENT BANK**

Brief description: **FIXED CHARGE OVER ALL SUMS OF MONEY NOW OR AT ANY TIME IN THE FUTURE STANDING TO THE CREDIT OF THE EIB DEBT SERVICE RESERVE ACCOUNT (AS DESCRIBED IN THE INSTRUMENT) AND ASSIGNMENT OF ALL RIGHTS AND BENEFITS ACCRUING TO OR ARISING IN CONNECTION WITH SUCH BALANCES AND THE EIB DEBT SERVICE RESERVE ACCOUNT.**

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:

ANDREW GALLAGHER



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6683845

Charge code: 0668 3845 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st July 2018 and created by CONNECT PLUS (M25) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st August 2018 .

Given at Companies House, Cardiff on 3rd August 2018

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

DATED

Execution version
31 JULY 2018

CONNECT PLUS (M25) LIMITED
(AS CHARGOR)

And

EUROPEAN INVESTMENT BANK

SECURITY OVER THE EIB DEBT SERVICE RESERVE ACCOUNT

This Deed is entered into with the benefit of and subject to the terms of
the STID (as defined herein)

Save for material redacted pursuant to s859G of the
Companies Act 2006, I certify that this is a true and
complete copy of the composite original seen by me

Name: ANDREW GALLAGHER
Title: Solicitor

Date: 01/08/2018

Hogan Lovells International LLP (Ref: 1M0186.000504)
Atlantic House, Holborn Viaduct, London EC1A 2FG



Matter ref: 1M0186/000504
F3B/SUBHERWE/6117229

Hogan Lovells International LLP
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[illegible]

DATED

31 JULY 2018

PARTIES:

- (1) **Connect Plus (M25) Limited**, a company incorporated with limited liability in England and Wales (registered in England no. 06683845) (the "**Chargor**"); and
- (2) **European Investment Bank** (the "**Secured Party**").

BACKGROUND:

WHEREAS:

- A. The Chargor has entered into the Amended and Restated EIB Finance Contract with, inter alios, the Secured Party in connection with a refinancing of commercial debt originally provided to fund part of the cost of the M25 Orbital Motorway road widening project (the "**Project**").
- B. The Chargor and the Secured Party have entered into the Common Terms Agreement, under which the Chargor has undertaken to maintain certain accounts with the Account Bank, including, inter alia, the EIB Debt Service Reserve Account.
- C. As further security for performance of the Chargor's obligations under the Amended and Restated EIB Finance Contract, the Chargor has agreed to assign and charge all of its rights under and in respect of the EIB Debt Service Reserve Account and in respect of all sums standing to the credit of such accounts to the Secured Party.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"Account Bank" means Lloyds Bank plc.

"Account Bank Agreement" has the meaning ascribed to it in the Common Terms Agreement.

"Account Investment" means any investment made by the Account Bank pursuant to paragraph (a) or (f) of clause 7.2 of the Account Bank Agreement.

"Account Investment Proceeds" means any cash, income, other proceeds, securities or investments deriving from any Account Investment, its disposal or realisation or from rights attaching to any Account Investment.

"Amended and Restated EIB Finance Contract" means the finance contract originally dated 20 May 2009 and amended and restated on or about the date of this Deed and made between the Chargor, the Secured Party, Connect Plus (M25) Holdings Limited and Connect Plus (M25) Intermediate Limited.

"Balances" means all sums of money now or at any time in future standing to the credit of the EIB Debt Service Reserve Account, including:

- (a) the value of all Account Investments made in relation to the EIB Debt Service Reserve Account; and
- (b) the value of all Account Investment Proceeds in respect of the EIB Debt Service Reserve Account.

"Business Day" has the meaning ascribed to it in the Common Terms Agreement.

"Common Terms Agreement" means the agreement in relation to the refinancing of the Project, entered into by, *inter alios* (1) Connect Plus (M25) Limited, (2) Connect Plus (M25) Holdings Limited, (3) Connect Plus (M25) Intermediate Limited, and (4) the European Investment Bank on or about the date of this Deed.

"Concession Agreement" has the meaning specified by the Common Terms Agreement.

"Costs and Expenses" means costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any taxes thereon.

"Dissolution" of a person includes the amalgamation, reconstruction (other than as part of a solvent reconstruction or amalgamation the terms of which have been approved by the Secured Party), reorganisation, administration, administrative or other receivership or dissolution or liquidation of that person or the entry by that person into a voluntary arrangement or composition or similar arrangement with any of its creditors, and any equivalent or analogous proceeding or arrangement in any jurisdiction by whatever name known and any step taken (including, without limitation, the giving or filing of notice in relation to the appointment of an administrator or the making of an application or formal request or the presentation of a petition or the passing of a resolution or the making of an order or any other measures as may be competent) for or with a view to any of the foregoing.

"EIB Debt Service Reserve Account" means the account opened by the Chargor with the Account Bank pursuant to Clause 9 (*Project Accounts*) of the Common Terms Agreement and designated as the EIB Debt Reserve Service Account and includes any additional or substitute account in the future opened with the Account Bank for the holding of all or part of the Balances, in each case as any such account may be redesignated and/or renumbered from time to time.

"EIB Debt Service Reserve Amount" has the meaning given to that expression in the Common Terms Agreement.

"Finance Document" has the meaning given to that expression in the Common Terms Agreement.

"Proceedings" means any proceeding, suit or action arising out of or in connection with this Deed.

"Project" has the meaning ascribed to it in Recital A.

"Receiver" means any receiver appointed under Clause 9 (*Appointment of a Receiver*) including (where the context requires or permits) any substituted receiver.

"Secured Liabilities" means all present and future obligations and liabilities of the Chargor (whether actual or contingent and whether owed jointly or severally or in any other capacity whatever) which are or are expressed to be, or may become, due, owing or payable to the Secured Party under or in connection with the Amended and Restated EIB Finance Contract or this Deed, together with all costs, charges and expenses incurred by the Secured Party which are, or are expressed to be, or may become due, owing or payable by the Chargor under or in connection with the Amended and Restated EIB Finance Contract or this Deed.

"STID" has the meaning given to that expression in the Common Terms Agreement.

1.2 Definitions in the Amended and Restated EIB Finance Contract

Unless a contrary indication appears, a term used or incorporated in the Amended and Restated EIB Finance Contract has the same meaning when used in this Deed.

1.3 Construction of particular terms

In this Deed, unless otherwise specified, any reference to:

- (a) **"assets"** includes properties, revenues and rights of every kind, present, future and contingent, and whether tangible or intangible;
- (b) **"authorisation"** or **"consent"** shall be construed as including, without limitation, any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;
- (c) a **"company"** includes any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) **"this Deed"** or any other agreement or instrument is a reference to this Deed or other agreement or instrument as it may have been amended, supplemented, restated, replaced or novated from time to time and includes a reference to any document which amends, supplements, replaces, restates, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Deed or, as the case may be, the relevant deed, agreement or instrument;
- (e) **"including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing";
- (f) **"law"** includes any present or future common or customary law, principles of equity and any constitution, decree, judgment, decision, legislation, statute, order, ordinance, regulation, bye-law or other legislative measure in any jurisdiction or any present or future official directive, regulation, guideline, request, rule, code of practice, treaty or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of a person to whom the directive, regulation, guideline, request, rule, code of practice, treaty or requirement is intended to apply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (g) a **"person"** includes any person, firm, company, government, state or agency of a state, any local or municipal authority, trust or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (h) **"rights"** includes all rights, title, benefits, powers, privileges, interests, claims, authorities, discretions, remedies, liberties, easements, quasi-easements and appurtenances (in each case, of every kind, present, future and contingent); and
- (i) **"security"** or **"security interest"** includes any mortgage, charge, pledge, lien, security assignment, hypothecation or trust arrangement for the purpose of providing security and any other encumbrance or security interest of any kind having the effect of securing any obligation of any person (including, without limitation, the deposit of moneys or property with a person with the intention of affording such person a right of lien, set-off, combination or counter-claim) and any other agreement or any other type of arrangement having a similar effect (including, without limitation, any "flawed asset" or "hold back" arrangement).

1.4 Interpretation of this Deed

- (a) Words importing the singular shall include the plural and vice versa.

- (b) A reference to any party or person shall be construed as including its and any subsequent successors in title, permitted transferees and permitted assigns, in each case in accordance with their respective interests.
- (c) A reference to a time of day shall be construed as referring to London time.
- (d) Clause and Schedule headings are for ease of reference only and shall be ignored in construing this Deed.
- (e) References to any provision of any law are to be construed as referring to that provision as it may have been, or may from time to time be, amended or re-enacted, and as referring to all bye-laws, instruments, orders, decrees, ordinances and regulations for the time being made under or deriving validity from that provision.
- (f) A Default is "**continuing**" if it has not been remedied or waived.

1.5 Third Party Rights

The parties do not intend that any term of this Deed should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Deed.

2. CREATION OF SECURITY

2.1 As continuing security for the full and punctual payment, performance and discharge of all Secured Liabilities, the Chargor, with full title guarantee and free from any other security interest:

- (a) charges to the Secured Party by way of fixed charge the Balances; and
- (b) assigns and agrees to assign absolutely (subject to Clause 6 (*Release and reassignment*)) to the Secured Party all its rights and benefits accruing to or arising in connection with the Balances and the EIB Debt Service Reserve Account, including all interest from time to time accruing but unpaid on the Balances.

3. PERFECTION OF SECURITY

3.1 Notice of assignment

Immediately after execution of this Deed, the Chargor shall give notice (in or substantially in the form of Schedule 1 (*Notice of Assignment*)), duly completed, to the Account Bank, and shall procure that the Account Bank records that the EIB Debt Service Reserve Account and the Balances have been assigned to the Secured Party and that the Account Bank promptly acknowledges receipt of that notice in writing to the Secured Party in or substantially in the form of Schedule 2 (*Form of Acknowledgement*).

3.2 Further assurances

The Chargor shall, at the request of the Secured Party but at its own cost, promptly take whatever action the Secured Party may from time to time reasonably consider necessary or desirable to:

- (a) ensure that the security constituted by this Deed is and remains valid, legally binding and enforceable;
- (b) perfect, preserve or protect the security constituted by this Deed and the priority of such security; and

- (c) facilitate the exercise of any and all of the rights, powers and discretions vested or intended to be vested in the Secured Party by or pursuant to this Deed and to facilitate the realisation of the Balances,

and for such purposes it shall in particular, but without limitation, execute all such documents, transfers, conveyances, assignments and assurances in respect of the EIB Debt Service Reserve Account or the Balances, and give all such notices, orders, instructions and directions as the Secured Party or any receiver may reasonably consider necessary or desirable. The obligations of the Chargor under this Clause 3.2 shall be in addition to and not in substitution for the covenants for further assurance deemed to be included in this Deed by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

4. WITHDRAWALS AND ENFORCEMENT

4.1 EIB Debt Service Reserve Account

- (a) Subject to the terms of the Common Terms Agreement, the Chargor shall ensure that on and from the date hereof, the balance standing to the credit of the EIB Debt Service Reserve Account shall not be less than the then-applicable EIB Debt Service Reserve Amount.
- (b) The Chargor shall not be entitled to withdraw or otherwise direct the application of any Balance standing to the credit of the EIB Debt Service Reserve Account at any time, except with the consent of the Secured Party or in the circumstances envisaged in Clause 9.8 (*EIB Debt Service Reserve Account*) of the Common Terms Agreement.

4.2 Powers exercisable by the Secured Party in relation to the EIB Debt Service Reserve Account

- (a) Subject to the terms of the STID, at any time and from time to time after the occurrence of an Event of Default which is continuing, the Secured Party, the Receiver, its nominee or any manager, officer or agent of the Secured Party:
 - (i) may enforce this security (or any part of it) or exercise in its absolute discretion any of the rights conferred on it by this Deed or by law as it sees fit; and
 - (ii) shall be entitled, and is hereby irrevocably and unconditionally authorised, without giving prior notice to the Chargor or obtaining the consent of the Chargor but at the cost of the Chargor, to:
 - (1) direct that the whole or any part of the Balances be applied in or towards satisfaction of the Secured Liabilities or any part thereof in such manner as the Secured Party shall determine;
 - (2) give instructions to the Account Bank for the withdrawal of all or any part of the Balance(s) (whether on or before or after the expiry of any fixed or minimum period for which all or any part of the Balance(s) may have been deposited); and
 - (3) receive all money and interest subject to this security and give effective discharge for it.
- (b) All proceeds of enforcement payable by the Chargor to the Secured Party pursuant to Clause 4.2(a) above and subject to the terms of the STID, shall be paid to such account as is notified by the Secured Party to the Chargor.

- (c) The Secured Party shall not be liable for any loss sustained by the Chargor in consequence of the exercise of the Secured Party's rights under this Deed, including (without limitation) any loss of interest caused by the determination before maturity of the EIB Debt Service Reserve Account or by the fluctuation in any exchange rate at which currency may be bought or sold by the Secured Party, except to the extent caused by its own gross negligence, fraud or wilful misconduct.
- (d) Section 103 of the Law of Property Act 1925 shall not apply to this Deed, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Deed. However, the Secured Party shall not exercise such power of sale until this Deed has become enforceable.

4.3 Covenant to pay

The Chargor shall, on the Secured Party's written demand, pay and discharge all Secured Liabilities at the time or times when, in the manner in which, and in the currencies in which, they are expressed to be due and payable under the Amended and Restated EIB Finance Contract or, as the case may be, this Deed.

4.4 Demands

- (a) The making of one demand shall not preclude the Secured Party from making any further demands.
- (b) Any third party dealing with the Secured Party or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Deed.

5. NATURE AND PROTECTION OF SECURITY

5.1 Negative pledge

The Chargor shall not, without the prior written consent of the Secured Party and except as specifically permitted by the Common Terms Agreement, create, or agree or attempt to create, or permit or subsist, any security or any trust over any of its rights and interests in or to the EIB Debt Service Reserve Account or Balances.

5.2 Continuing security

The security effected by this Deed shall be a continuing security for the Secured Party and will extend to the ultimate balance of all the Secured Liabilities regardless of any intermediate discharge or payment in whole or in part.

5.3 Additional security

The security effected by this Deed and the rights given to the Secured Party under this Deed shall be in addition to and shall not prejudice, or be prejudiced by, any other security or guarantee or any other right which the Secured Party has in respect of or in connection with any or all of the Secured Liabilities. All such rights may be exercised from time to time as often as the Secured Party may deem expedient.

5.4 Immediate recourse

The Secured Party need not, before exercising any of the rights, title, benefit and interest conferred upon it by this Deed or by law (i) take action or obtain judgment against the Chargor or any other person in any court, (ii) make or file any claim or proof in the liquidation of the Chargor or any other person or (iii) enforce or seek to enforce the recovery of the moneys and liabilities hereby secured or enforce or seek to enforce any other security interest or guarantee.

5.5 Waiver of defences

Without prejudice to the other provisions of this Clause 5, neither this Deed nor the security constituted by this Deed nor the liability of the Chargor for the Secured Liabilities shall be prejudiced, released, reduced or otherwise affected by:

- (a) any time, waiver or consent granted, or any other indulgence or concession granted, by the Secured Party to the Chargor or any other person; or
- (b) the taking, holding, variation, compromise, exchange, renewal, realisation or release by the Secured Party or any other person of any rights under or in connection with a Finance Document, any other security, guarantee, indemnity or other document; or
- (c) the refusal or failure to take up, hold, perfect or enforce by the Secured Party or any other person any rights under or in connection with a Finance Document, any other security, guarantee, indemnity or other document (including, without limitation, any failure to comply with any formality or other requirement or any failure to realise the full value of any security); or
- (d) the existence of any claim, set-off or other right which the Chargor may have at any time against the Secured Party or any other person; or
- (e) the making or absence of any demand for payment or discharge of any Secured Liabilities on the Chargor or any other person, whether by the Secured Party or any other person; or
- (f) any amalgamation, merger or reconstruction that may be effected by the Secured Party with any other person, including any reconstruction by the Secured Party involving the formation of a new company and the transfer of all or any of its assets to that company, or any sale or transfer of the whole or any part of the undertaking and assets of the Secured Party to any other person; or
- (g) any arrangement or compromise entered into by the Secured Party with the Chargor or any other person; or
- (h) the Dissolution of the Chargor or any other person; or
- (i) any incapacity, lack of power, authority or legal personality of the Chargor or any other person; or
- (j) any variation, amendment, waiver, release, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature) or replacement of any Finance Document, or any other security, guarantee, indemnity or other document; or
- (k) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other security, guarantee, indemnity or other document; or
- (l) any other thing done or omitted or neglected to be done by the Secured Party or any other person or any other dealing, fact, matter or thing which, but for this provision and whether or not known to the relevant person, might operate to prejudice, reduce, release or otherwise affect any of the security interests created under this Deed or the liability of the Chargor for the Secured Liabilities.

Without prejudice to the generality of this Clause 5.5 the Chargor expressly confirms that it intends that its liability for the Secured Liabilities and its obligations under this Deed shall

extend from time to time to any variation, increase, extension, addition or replacement (however fundamental) of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents (in the form existing at the date of this document or as amended from time to time) for any purpose.

5.6 New account

At any time after the Secured Party receives, or is deemed to be affected by, notice (either actual or constructive) of any subsequent security interest or any disposition affecting the EIB Debt Service Reserve Account or the Balances, or part thereof or interest therein; or the commencement of the Dissolution of the Chargor, the Secured Party may open a new account in the name of the Chargor (whether or not it permits any existing account to continue). If the Secured Party does not open such a new account, it shall nevertheless be treated as if it had done so at the time when the notice was received or was deemed to have been received or, as the case may be, the Dissolution commenced. As from that time, all payments made by the Chargor to the Secured Party for deposit in the EIB Debt Service Reserve Account shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Deed at that time.

5.7 Further advances

The security created by this Deed is intended to secure further advances.

5.8 Financial Collateral Regulations

- (a) To the extent that the EIB Debt Service Reserve Account and the Balances, this Deed and the rights and obligations of the parties under this Deed constitute a "financial collateral arrangement" (as defined in and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3326) (the "**Regulations**")), the Secured Party shall have the benefit of all of the rights of a collateral taker conferred upon it by the Regulations, including, without limitation, the right to appropriate all or any part of the financial collateral (as defined in the Regulations) in or towards discharge of the Secured Liabilities in such order set out in the Finance Documents in such manner as the Secured Party shall (in its absolute discretion) determine.
- (b) The parties agree that the value of the financial collateral (as defined in the Regulations) so appropriated shall be the amount standing to the credit of the EIB Debt Service Reserve Account (or any new account opened pursuant to Clause 5.6 (New account)), together with any accrued interest which has not been deposited into the EIB Debt Service Reserve Account (or any such new account, if applicable), at the time the right of appropriation is exercised. The parties agree that the method of valuation provided for in this Deed is a commercially reasonable method of valuation for the purposes of the Regulations.

5.9 Section 93 Law of Property Act 1925

The restriction on the right of consolidation contained in Section 93 of the Law of Property Act 1925 shall not apply to this Deed.

5.10 Suspense account

The Secured Party may, for as long as any of the Secured Liabilities for which any other person may be liable as principal debtor or as co-surety with the Chargor have not been paid or discharged in full, at its sole discretion, place and retain on a suspense account, for as long as it considers fit, any moneys received, recovered or realised under or in connection with this Deed to the extent of such Secured Liabilities without any obligation

on the part of the Secured Party to apply the same in or towards the discharge of such Secured Liabilities.

6. RELEASE AND REASSIGNMENT

6.1 Full release and reassignment of EIB Debt Service Reserve Account and Balances

If the Secured Party is satisfied that all Secured Liabilities have been unconditionally and irrevocably paid or discharged in full and the Secured Party does not have any further liability or obligation to advance any funds under any Finance Document then, subject to the remainder of this Clause 6 and to the rights of any person for the time being entitled thereto in priority to the Chargor, the Secured Party shall, at the request and cost of the Chargor, execute and do all such reasonable acts as may be necessary to:

- (a) release the EIB Debt Service Reserve Account and Balances from the security constituted by this Deed; and
- (b) to reassign to the Chargor the said rights, title and interest in and to the EIB Debt Service Reserve Account and in and to so much of the Balances as has not been applied by the Secured Party as required by Clause 4 (*Withdrawals and enforcement*).

6.2 Notice of reassignment

Upon effecting a reassignment pursuant to Clause 6.1(b) (*Full release and reassignment of EIB Debt Service Reserve Account and Balances*), the Secured Party shall deliver to the Account Bank a notice of such reassignment.

6.3 Reinstatement

- (a) Any reassignment, release, settlement, repayment or discharge (whether in respect of any of the Secured Liabilities or any security for those liabilities or otherwise) shall be conditional upon no payment to, or security provided to, the Secured Party in respect of the relevant Secured Liabilities being avoided, invalidated or reduced or required to be restored or paid away by virtue of any requirement having the force of law.
- (b) Where any such reassignment, release, settlement repayment or discharge is made in whole or in part on the faith of any payment, guarantee, security or other disposition, transaction or arrangement which is or is required to be repaid, restored or otherwise avoided, invalidated or reduced by virtue of any requirement having the force of law, any such reassignment, release, settlement or discharge of, or other arrangement in connection with, the Deposit shall ipso facto be treated as null and void and shall for all purposes be deemed not to have occurred, and the Secured Party shall be entitled to recover the value or amount of any such payment, guarantee, security or other disposition and the relevant Secured Liability shall continue as if the reassignment, release, settlement or discharge had not occurred.

7. COSTS AND EXPENSES

7.1 Transaction expenses

The Chargor shall indemnify the Secured Party within five Business Days of demand against all Costs and Expenses reasonably expended, paid, incurred or debited on account by the Secured Party in connection with the negotiation, preparation, execution, stamping, filing, registration and perfection of this Deed.

7.2 **Amendment costs**

The Chargor shall indemnify the Secured Party within five Business Days of demand against all Costs and Expenses reasonably expended, paid, incurred or debited on account by the Secured Party in connection with:

- (a) any waiver, consent or authorisation sought by the Chargor in relation to this Deed and/or any other document referred to in this Deed; and
- (b) any variation, amendment, extension or modification of, or supplement to, this Deed and/or any other document referred to in this Deed.

7.3 **Enforcement costs**

The Chargor shall indemnify the Secured Party within three Business Days of demand against all Costs and Expenses reasonably expended, paid, incurred or debited on account by the Secured Party:

- (a) in connection with enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the Secured Party's rights under this Deed and/or any other document referred to in this Deed; and
- (b) in connection with or contemplation of any Proceedings or the recovery or attempted recovery of any of the Secured Liabilities.

8. **CERTIFICATES AND DETERMINATIONS**

For all purposes, including any Proceedings:

- (a) a determination by the Secured Party; or
- (b) a copy of a certificate signed by an officer of the Secured Party,

of the amount of any indebtedness comprised in the Secured Liabilities or the amount standing to the credit of the EIB Debt Service Reserve Account for the time being or at any time shall, in the absence of manifest error, be conclusive evidence against the Chargor as to the amount thereof.

9. **APPOINTMENT OF A RECEIVER**

- 9.1 **Appointment:** At any time after this security has become enforceable, the Secured Party may (unless precluded by law), in its absolute discretion, appoint in writing any person or persons to be a receiver (or receivers) of all or any part of the assets of the Chargor subject to this security.
- 9.2 **Power to act separately:** Where more than one Receiver is appointed, the appointees shall have power to act separately unless the Secured Party shall specify to the contrary.
- 9.3 **Receiver's remuneration:** The Secured Party may from time to time determine the remuneration of a Receiver.
- 9.4 **Removal of Receiver:** The Secured Party may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Assets of which he is the Receiver.
- 9.5 **Further appointments of a Receiver:** Such an appointment of a Receiver shall not preclude:

- (a) the Secured Party from making any subsequent appointment of a Receiver over all or any of the assets of the Chargor subject to this security over which a Receiver has not previously been appointed or has ceased to act; or
- (b) the appointment of an additional Receiver to act while the first Receiver continues to act.

9.6 **Receiver's agency:** The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Secured Party.

10. **POWERS OF A RECEIVER**

The Receiver may, in relation to the Chargor, with or without the concurrence of others, exercise all the powers, rights and discretions of an absolute owner, and do all such acts and things as an absolute owner could do, in each case in the management of the Deposit(s) and the EIB Debt Service Reserve Account, including the ability to:

- (a) take possession of, collect and get in the assets of the Chargor subject to this security and, for that purpose, to take such proceedings as may seem to him expedient;
- (b) sell or otherwise dispose of the assets of the Chargor subject to this security;
- (c) appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions;
- (d) bring or defend any action or other legal proceedings relating to the assets of the Chargor subject to this security in the name and on behalf of the Chargor;
- (e) do all acts and to execute in the name and on behalf of the Chargor (including using the common seal of the Chargor) any deed, receipt or other document in connection with the assets of the Chargor subject to this security or the realisation or management of such assets;
- (f) do all such things as may be necessary for the realisation of the assets of the Chargor subject to this security;
- (g) make any payment which is necessary or incidental to the performance of his functions under this Deed;
- (h) appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent
- (i) make any arrangement or compromise with the Secured Party or others as he shall think fit;
- (j) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (k) pay the proper administrative charges of the Secured Party in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Chargor; and
- (l) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise

incidental or conducive to the preservation, improvement or realisation of the assets of the Chargor subject to this security.

11. POWER OF ATTORNEY

11.1 Appointment

The Chargor appoints, irrevocably (within the meaning of section 4 of the Powers of Attorney Act 1971) and by way of security for the performance of its obligations under this Deed, the Secured Party and any person nominated in writing by the Secured Party and/or any Receiver as attorney of the Chargor, severally to be the attorney of the Chargor (with full powers of substitution and delegation), on its behalf and in its name or otherwise and as its act and deed, at such time and in such manner as the attorney may think fit:

- (a) to take any action which it is obliged to take under this Deed but has not taken promptly following a request to do so from the Secured Party; and
- (b) to take whatever action may be required for enabling the Secured Party to exercise all or any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Deed or by law,

and the taking of action by the attorney or attorneys shall (as between it and any third party) be conclusive evidence of its right to take such action.

11.2 Ratification

The Chargor undertakes to ratify and confirm everything that any attorney does or purports to do in the exercise or purported exercise of the power of attorney in Clause 11.1 (Appointment).

11.3 Sums recoverable

All sums expended by any attorney under this Clause 11 shall be recoverable from the Chargor under the terms of Clause 12 (*Charges and Expenses*) of the Amended and Restated EIB Finance Contract.

12. ASSIGNMENT AND TRANSFER

12.1 Transfer by the Secured Party

The Secured Party may at any time, without the consent of the Chargor, assign or transfer any of its rights and obligations under this Deed and/or in respect of the Balances to any person to whom its rights under the Amended and Restated EIB Finance Contract are assigned or transferred.

12.2 Assignment by the Chargor

The rights, interests and obligations of the Chargor under this Deed are personal to it. Accordingly, they are not capable of being assigned, transferred or delegated in any manner. The Chargor undertakes that it shall not at any time assign or transfer, or attempt to assign or transfer, any of its rights, interests or obligations under or in respect of this Deed to any person.

13. AMENDMENTS

This Deed may not be amended, modified or waived in any respect whatsoever, without the prior written consent of the Secured Party.

14. NOTICES

Each notice and communication hereunder shall be made in accordance with the terms of Clause 16.2 (*Giving of Notices*) of the Amended and Restated EIB Finance Contract.

15. REMEDIES AND WAIVERS

No delay or omission on the part of the Secured Party in exercising any right provided by law or under this Deed shall impair, affect or operate as a waiver thereof or of any other right. The single or partial exercise by the Secured Party of any right shall not unless otherwise expressly stated preclude or prejudice any other or further exercise of that, or the exercise of any other, right. The rights of the Secured Party under this Deed are in addition to and do not affect any other rights available to it by law.

16. PARTIAL INVALIDITY

- (a) If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither:
 - (i) the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction or any other jurisdiction; nor
 - (ii) the legality, validity or enforceability of such provision under the law of any other jurisdiction,will in any way be affected or impaired.
- (b) The parties shall enter into good faith negotiations, but without any liability whatsoever in the event of no agreement being reached, to replace any illegal, invalid or unenforceable provision with a view to obtaining the same commercial effect as this Deed would have had if such provision had been legal, valid and enforceable.

17. EXECUTION

This Deed has been executed by the Chargor as a deed and signed by the Secured Party and it has been delivered and shall take effect on the date stated at the beginning of this document.

18. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by the parties to this Deed on separate counterparts, but will not be effective until each such party has executed at least one counterpart. Each counterpart shall constitute an original of this Deed, but all the counterparts will together constitute one and the same instrument.

19. GOVERNING LAW AND JURISDICTION

19.1 This Deed is governed by and construed in accordance with the laws of England.

19.2 The parties hereto submit to the jurisdiction of the Courts of England. The Secured Party hereby appoints The Securities Management Trust Limited whose present address is 8 Lothbury, London EC2 7HH to be its agent for the purpose of accepting service of legal process in England on its behalf.

IN WITNESS of which this document has been executed as a deed and delivered on the date stated at the beginning of this Deed.

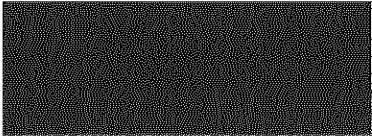
Signed as a Deed by
Connect Plus (M25) Limited
acting by

a Director ~~an Attorney~~
in the presence of

Name JACK BURNETT
Address Ashurst LLP
Broadwalk House
5 Appold Street
Occupation London EC2A 2HA
TRAINEE SOLICITOR

Signed as a Deed for and on behalf of)

EUROPEAN INVESTMENT BANK)



Name: *Ignacio Lacortana*
Position: *Head of Division*



Name: *Vincent Sauvagezain*
Position: *Transaction Management Officer*

SCHEDULE 1

Notice of Assignment

[LETTERHEAD OF CHARGOR]

To: [Account Bank]
[Address]

[Date]

Dear Sirs,

NOTICE OF ASSIGNMENT

We refer to our EIB Debt Service Reserve Account (number [] designated "EIB Debt Service Reserve Account") with you.

We give you notice that we have assigned to the European Investment Bank (the "**Secured Party**") absolutely all our rights and benefits accruing to or arising in connection with the EIB Debt Service Reserve Account and (without limitation to the generality of the foregoing) all sums of money now or at any time in future standing to the credit of the EIB Debt Service Reserve Account (the "**Balances**") and created a first fixed charge over the Balances.

We request that you redesignate the EIB Debt Service Reserve Account in the name of the Secured Party and acknowledge that you are now bound to act in relation to the Balances and the EIB Debt Service Reserve Account in accordance with the instructions of the Secured Party to the exclusion of us.

This letter is governed by English law.

Please acknowledge receipt of this notice and confirm your agreement to it by executing and returning an original copy of the Form of Acknowledgement attached to this notice to the Secured Party at [address] with a copy to us.

Yours faithfully,

.....
For and on behalf of
Connect Plus (M25) Limited

SCHEDULE 2

Form of Acknowledgement

[LETTERHEAD OF ACCOUNT BANK]

To: [European Investment Bank]
(the "**Secured Party**")
[100 Boulevard Konrad Adenauer
L-2950 Luxembourg-Kirchberg
Grand Duchy of Luxembourg]

With a copy to: [Chargor]
(the "**Chargor**")
[Address]

[Date]

Dear Sirs,

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

We acknowledge receipt of a notice dated (the "**Notice**") (a copy of which is attached to this letter) entered into in connection with an agreement constituting security over the EIB Debt Service Reserve Account made between Connect Plus (M25) Limited and the European Investment Bank (the "**Security over the EIB Debt Service Reserve Account**") and the Common Terms Agreement (as defined in the Security over the EIB Debt Service Reserve Account). Words and expressions defined in the Notice shall have the same meanings in this letter.

In consideration of the Secured Party agreeing to provide finance and financial support pursuant to the Finance Documents (as defined in the Common Terms Agreement), we represent and undertake to the Secured Party in the terms set out in this letter.

- (a) We will act in accordance and comply with the terms of the Notice and in particular (without limitation) will act in relation to the Balances and the EIB Debt Service Reserve Account in accordance with the Secured Party's instructions to the exclusion of the Chargor.
- (b) No mortgage, charge, pledge, lien, security assignment, hypothecation or trust arrangement for the purpose of providing security or any other encumbrance or security interest of any kind having the effect of securing any obligation of any person (including, without limitation, the deposit of moneys or property with a person with the intention of affording such person a right of lien, set-off, combination or counter-claim), or any other agreement or any other type of arrangement having a similar effect (including, without limitation, any "flawed asset" or "hold back" arrangement) exists in our favour on, over or with respect to the EIB Debt Service Reserve Account or the Balances or any part thereof.
- (c) No rights of counter-claim, rights of set-off or combination of accounts or any other equities whatsoever have arisen in our favour against the Chargor in respect of the EIB Debt Service Reserve Account or the Balances or any part thereof, and we shall not assert or seek to exercise any such rights or equities.
- (d) We have not, as at the date hereof, received any notice that any third party has or will have any right or interest whatsoever in, or has made or will be making any claim or demand or taking any action whatsoever against, the EIB Debt Service Reserve Account or the Balances or any part thereof, and if, after the date hereof, we receive any such notice, we shall immediately give written notice thereof to the Secured Party.

We have made the representations and given the undertakings set out in this letter in the knowledge that they are required by the Secured Party in connection with the assignment made by the Chargor in favour of the Secured Party as referred to in the Notice.

This letter is for the benefit of the Secured Party and is governed by English law.

Yours faithfully,

.....
Signed for and on behalf of
[Account Bank]

By _____
(Print Name)