



Treasury terms and conditions

Important notice to customers

By Transfer Order made by the High Court under Section 34 of the Credit Institutions (Stabilisation) Act 2010, certain assets and liabilities of Irish Bank Resolution Corporation Limited including certain deposits were transferred to Allied Irish Banks. p.l.c. on and with effect from 24 February 2011.

The within documentation shall now be construed as follows:

Where either (a) your deposit transferred under the Transfer Order or (b) you are applying for a new deposit account from 25 February 2011 onwards, and where the context so admits, all references to Irish Bank Resolution Corporation Limited, IBRC, the Bank, "we" and "our" or any other word referring to Irish Bank Resolution Corporation Limited, shall be construed as references to Allied Irish Banks, p.l.c. ("AIB").

Irish Bank Resolution Corporation Limited (the "Bank")
Treasury Terms and Conditions (the "Conditions")

These conditions are applicable to:

- deposits placed by a Customer with the Bank;
- foreign exchange contracts and interest rate contracts between the Bank and a Customer; and
- the purchase, sale of, or other dealings in, commercial or government paper, bonds, certificates of deposit and other securities by the Bank on behalf of a Customer.

Further details of the Bank's deposit, foreign exchange, interest rate products and dealings in commercial and government paper and other securities can be found on the Bank's website (www.ibrc.ie) and in the Bank's product brochures which are obtainable from any branch of the Bank.

Conditions common to deposits, foreign exchange and interest rate contracts and dealings in commercial and government paper and other securities

1 General

1.1 Definitions

In these Conditions, unless the context requires otherwise:

(a) **"Account"** means an account of the Customer with the Bank;

"Authorised Signatory" means each person appointed by the Customer in a Mandate to be an Authorised Signatory;

"Banking Channels" means the methods by which the Bank may from time to time make available the Services to the Customer;

"Business Day" means a day on which the Bank is open for business generally;

"Certificate" means a digital certificate issued by the Bank, at its sole discretion, to a Subscriber for the purposes of authenticating the Subscriber to the Bank and ensuring the integrity and non-repudiation of information submitted by the Subscriber through the Services;

"Conditions" means these terms and conditions as amended, extended or replaced by the Bank from time to time;

"Customer" means a customer of the Bank;

"Devices" means any device or equipment approved by the Bank to access and use the Services including, but not limited to, telephone, personal computer, kiosk, mobile telephone, palm top or any other such device or equipment;

"Enabled Account" means an Account that the Bank has agreed may be accessed by that Customer by means of the Services (details of the accounts that may be accessed by a Customer at any time can be obtained by the Customer on request from the Bank);

"Event of Default" means any of the events specified in the Schedule hereto;

"Finance Documents" means the Conditions and any document securing or collateralising the Customer's obligations under the Conditions;

"Foreign Exchange Contract" means a foreign exchange contract between the Bank and the Customer and includes currency swaps, currency options, forward foreign exchange contracts and such other contracts as are similar to or derived from any of the foregoing;

"Interest Rate Contract" means an interest rate contract between the Customer and the Bank and includes interest rate swaps, interest rate options, forward rate agreements, caps, collars, floors and such other contracts as are similar to or derived from any of the foregoing;

"Internet Password" means a password created by a Subscriber in accordance with the Operating Instructions for use by that Subscriber for internet access to the Services;

"Limits" means the maximum amounts which can be transferred daily in respect of Transactions as altered by the Bank from time to time at its absolute discretion;

"Mandate" means a mandate for the time being in force and given by the Customer to the Bank;

"Nominated Subscriber" means an individual, being a Customer or an authorised representative of a Customer nominated on the Mandate for the purpose of utilising the Services;

"Operating Instructions" means the instructions issued from time to time by the Bank governing the use and operation of the Services as set out on the Website;

"Potential Event of Default" means any event which with the lapse of time, the giving of notice or the satisfaction of any condition would constitute an Event of Default;

“Services” means those services from time to time provided by the Bank which may be accessed and utilised through the Website (details of the Services available at any time can be obtained on request from the Bank);

“Subscriber” means a Nominated Subscriber who has executed a Subscriber Agreement and to whom a Certificate has been issued;

“Subscriber Agreement” means an agreement between the Bank and a Subscriber relating to the issue and use of the Certificate in such form and on such terms as the Bank shall from time to time specify;

“Transactions” means those banking transactions in respect of which a Subscriber is authorised to use the Services pursuant to the Mandate. The term “Transactions” shall, for the avoidance of doubt, include “read only” authorisations;

“Treasury Transactions” means Deposit Transactions, Foreign Exchange Contracts, Interest Rate Contracts and purchases of, and sales and other dealings in, Commercial or Government Paper, Bonds, Certificates of Deposit and other Securities; and

“Website” means IBRC’s website(s) or URL(s) from which the Services can be accessed from time to time.

- (b) paragraph headings are inserted for convenience only and shall not affect the construction of these Conditions and all references to paragraphs and schedules are to paragraphs of, and Schedules to, these Conditions unless otherwise indicated;
- (c) words denoting the singular number shall include the plural and vice versa;
- (d) references to a person includes references to an individual, firm, company, corporation, unincorporated body of persons or any state or government or any instrumentality, agency or political subdivision of it;
- (e) references to any document are to be construed to be a reference to the document as amended, modified or supplemented from time to time;
- (f) references to any statute shall include re-enactments, amendments and extensions thereof, whether by statute, regulation or otherwise; and
- (g) terms defined in the Mandate shall have the same meaning in these Conditions unless the context otherwise requires or specifies.

1.2 Telephone Recording

The Customer consents to the recording of telephone conversations between the Bank and the Customer and their respective employees, servants and agents and all Authorised Signatories in connection with these Conditions or any potential Treasury Transaction and agrees to obtain any necessary consent of, and give notice of such recording to, all relevant employees, servants and agents and all Authorised Signatories. Any such recordings or transcripts thereof may be used in evidence in any dispute and shall be conclusive evidence of the contents thereof.

1.3 The Criminal Justice (Money Laundering & Terrorist Finance Act), 1994

By the Customer’s acceptance of these Conditions the Customer is acknowledging that the Bank has obligations under the anti-money laundering provisions of the Criminal Justice Act, 1994 and the Customer hereby agrees to provide the Bank with any and all information which it deems necessary in order for it to comply with its obligations under this Act.

1.4 Lost/Stolen Payments

The Customer hereby indemnifies and agrees to keep indemnified and hold harmless the Bank from and against any and all actions, demands, liabilities, damages, costs (including legal fees on a full indemnity basis), proceedings, claims, charges and expenses (“Claims”) whatsoever and howsoever arising which the Bank may suffer or incur as a result of any payment made by the Bank to or on behalf of the Customer (whether by the way of bank draft or otherwise) being misapplied, lost, stolen or otherwise interfered with or due to any delay in receipt by the beneficiary of such payments.

1.5 Confidentiality

Subject to paragraph 4.14 below, the Bank shall at all times keep confidential particulars of its dealings with the Customer unless exempted from so doing by the Customer, by court order or otherwise by the operation of the law or unless it has any reason to believe that possible criminal or fraudulent activity may have occurred or is being investigated or may be about to occur or be investigated or unless it is obliged by law to make disclosures or unless it is, in all the circumstances, in the Bank’s interest to make such disclosures. In the event that any such disclosures are made by the Bank pursuant to the provisions of this paragraph, the Bank shall not be liable, provided always that the Bank has acted in good faith.

1.6 Fraud

If the Bank has any reason to believe that funds have been deposited with it in fraudulent or criminal circumstances or with some fraudulent or criminal intent then the Bank shall be entitled, in order to facilitate reasonable enquiry, to freeze such funds together with all interest thereon without notice to the Customer and without being liable for any loss howsoever incurred thereby.

1.7 Change of Address

It shall be the Customer’s sole responsibility to advise the Bank of any change of address to which correspondence statements and/or any other documents and/or papers are to be sent and the Bank shall have no responsibility for any consequences of loss or damage which may arise directly or indirectly from the Customer’s failure to supply full and adequate information in this respect.

1.8 Fees and Charges

The Bank shall be entitled to charge transaction fees and other charges to Customers in connection with transactions entered into pursuant to the Mandate and

these Conditions and from time to time to alter such fees and charges. The Bank shall advise the Customer of any increases in charges, or the introduction of any new charges, not less than 30 days before the change takes effect. Full details of all fees and charges from time to time payable by the Customer are available at any branch of the Bank or on the website. The Bank may debit the relevant Account with any fees and charges payable by the Customer. The Bank shall be entitled to payment on a full indemnity basis by the Customer (by way of deduction by the Bank from any funds held on deposit or otherwise) in respect of all charges, costs, disbursements and/or liabilities of whatever nature and howsoever incurred by the Bank regarding its dealing with or concerning the Customer in the normal course of business or otherwise including all costs and expenses incurred by the Bank in preserving or enforcing (or attempting to preserve or enforce) its rights against the Customer.

1.9 Transfer Charges

The Customer recognises the possibility that, when transferring funds, situations may arise which may result in charges, costs or disbursements being incurred. The Customer accepts that no liability will attach to the Bank or its servants or agents in respect of any such charges, costs or disbursements where the Bank has taken all reasonable steps to comply with the instructions given.

1.10 Set-Off

In addition to any other right of set off or similar right to which the Bank may be entitled the Customer hereby irrevocably authorises the Bank (but without any obligation on the part of the Bank) and agrees that the Bank may at any time and from time to time, whether before or after the occurrence of an Event of Default, and without the necessity to provide prior notice to the Customer:-

- (a) combine, consolidate or merge all or any of the Accounts wherever located and in whatever currency denominated and whether any such Account is a current or deposit account or otherwise and whether or not the credit balance on any such Account represents a time deposit which has or has not yet matured;
- (b) set off and apply any credit balance in any currency standing to the credit of any Account against any or all liabilities of the Customer to the Bank whatsoever or howsoever incurred and whether actual or contingent; and/or
- (c) set off and apply any sum payable by the Bank to the Customer (whether on the termination of a Transaction or howsoever otherwise) against any amount payable by the Customer to the Bank (whether at such time or in the future or upon the occurrence of a contingency and whether in respect of a Treasury Transaction or howsoever otherwise).

If, in pursuance of any of its rights referred to in this paragraph, the Bank finds it necessary to convert funds from one currency to another such conversion shall occur

at the Bank's then current prevailing rate of exchange and any commissions, costs or disbursements incurred by reason of such conversion shall be for the account of the Customer. If any liability of the customer is unliquidated or unascertained, the Bank may set off an amount estimated by it in good faith in accordance with commercially reasonable standards to be the amount of that liability.

1.11 Additional Interest

If the Customer fails to pay any sum payable under these Conditions on its due date, the Customer will pay to the Bank interest on such sum from the date of such failure to the date of actual payment (as well after as before judgment) at 2 per cent per annum over the cost of funds to the Bank, as determined by the Bank and which are available upon request, for such period as the Bank may in its discretion determine. Such interest shall be payable at any time on demand. Notwithstanding the foregoing, these Conditions, the Finance Documents and the Treasury Transactions are expressly limited so that in no contingency or event whatsoever shall the amount paid or agreed to be paid to the Bank as interest, fees or charges exceed the maximum permissible under applicable law. If from any circumstances the Bank should receive such an excessive amount, the same shall be applied to the reduction of any sums payable to the Bank by the Customer.

1.12 Instructions

- (a) The Customer hereby authorises the Bank to act on the instructions or purported instructions of any of the Authorised Signatories however given or originated including by fax, telex, telephone, electronic mail or by any electronic system or communications network used by the Bank from time to time, whether such instructions include instructions to pay money or otherwise to debit or credit any Account with any amount, close or otherwise amend an Account, or relate to the disposition of any money, or purport to bind the Customer to any agreement with the Bank or with any other person or commit the Customer to any other type of transaction or arrangement whatsoever. Any transactions so done and instructions so communicated shall be unconditionally binding on the Customer. The Bank may also at its sole discretion require at any time the instructions of all Authorised Signatories to operate the Account.
- (b) No written confirmation shall be required before or after the Bank shall act on instructions howsoever sent including by telephone, telex, facsimile, via the internet, electronic mail or any electronic system or communications network used by the Bank from time to time. The Bank may provide the Customer with written confirmation of a transaction but any such confirmation shall not in itself constitute a contract and shall be subject to the exclusion of any errors and omissions.
- (c) The Customer shall be bound by the terms of any instruction made by telephone, telex, facsimile, via the internet, or any electronic system or communications

network used by the Bank from time to time and the non-receipt for whatever reason by the Customer of written confirmation thereof shall in no respect release the Customer from any of its obligations.

- (d) The Bank is hereby authorised but is not obliged to rely upon and to act in accordance with any communication which may from time to time be or purport to be given by telephone, telex, facsimile, via the internet, or any electronic system or communications network used by the Bank from time to time by the Customer without enquiry on the Bank's part as to the authority or identity of the person making or purporting to make such communication.
- (e) The Customer shall at all times accept the debit or credit of the Bank on any of its Account in respect of any such transaction as conclusive evidence of any such instructions and/or the amount involved.
- (f) The Bank may at its sole discretion at the request of an Authorised Signatory grant access to nominated employees or agents of the Customer who are not persons authorised pursuant to the Mandate to information relating to the Accounts on a "read-only" basis by any means including by telephone, telex, facsimile, via the internet or any electronic system or communications network used by the Bank from time to time. To the fullest extent permissible by law, the Bank shall have no liability or responsibility for any use to which such information is put or for any actions taken by any such person in consequence of the receipt of such information.
- (g) To the fullest extent permissible by law the Bank assumes no liability or responsibility for consequences arising out of the interruption of, delay and/or loss in transit of any messages, letters or documents or for any delay, mutilation or other errors arising in transmission or any instructions sent by telephone, telex, facsimile, via the internet, electronic mail and/or any electronic system and/or communications network used by the Bank from time to time or for errors in the translation of and/ or interpretation of technical terms and the Bank assumes no liability or responsibility for consequences arising out of the interpretation of instructions.
- (h) To the fullest extent permissible by law the Bank assumes no liability or responsibility for consequences arising out of the interruption of the Bank's business due to failure of power supplies, telecommunications or electronic communications systems or networks, riots, civil commotions, insurrections, wars, acts of God or any other causes beyond the Bank's control.
- (i) In consideration of the Bank acting in accordance with the terms of this clause 1.12, the Customer undertakes to indemnify the Bank and to keep the Bank indemnified (on a full indemnity basis) against all losses, claims, actions proceedings, demands, damages, costs and expenses ("Claims") incurred or sustained by the Bank of whatever nature and howsoever arising out of or in connection with such communications provided only that the Bank acts in

good faith and is not negligent in dealing with such communications. The Bank may debit the Account or any of them with the amount of any such Claims.

2 Deposits

- 2.1 The Bank reserves the right to (a) decline to open a deposit account; and (b) having accounted to the Customer for the principal sum therein and any interest which may have accrued, to close an existing account for any reason, without being responsible for any loss or damages howsoever incurred thereby.
- 2.2 The Bank hereby reserves the right to refuse to accept instructions concerning the operation of a deposit account if the Mandate and/or other documentation has not been furnished in full.
- 2.3 Unless a specific interest rate is first agreed with the Customer in writing in respect of a deposit, the rate shall be that generally paid by the Bank for sums equivalent to the deposit amount held by the Bank on similar terms to the relevant deposit. The rate in respect of sums held on demand deposit may be revised by the Bank on a daily basis and the Bank shall not be obliged to inform the Customer of such revisions. The rate in respect of sums held on fixed term deposit however will not be altered during such term.
- 2.4 Interest shall be calculated on cleared balances on a daily basis. The Bank may in its sole discretion calculate interest based on any day count convention considered by the Bank to be appropriate, including on an actual 365-day year or on an actual 360-day year. Interest on demand deposits shall be paid on an annual basis or more or less frequently as agreed by the Bank, or on the closing of an account. Interest on fixed term deposits shall be paid on the maturity of the deposit or on the closing of an account or more frequently as agreed by the Bank. In the event that a Customer wishes to close a fixed term deposit account before its maturity date, the Bank will as soon as reasonably practicable give consideration to such an application. Should the Bank agree to the request of the Customer then the Bank may at its discretion charge such a sum to the Customer as shall compensate the Bank for any costs and/or expenses which may be incurred in complying with the Customer's request. The Bank reserves the right to charge a fee and/or such interest as the Bank shall deem appropriate for the breakage of a fixed term deposit account.
- 2.5 Interest on deposits shall be paid subject to Irish laws and regulations concerning deduction of tax from interest paid or credited, as may vary from time to time. It shall be the sole responsibility of the Customer to obtain all necessary tax advice and, as may be required by law, to make all relevant tax payments and returns and/or other necessary disclosures to the requisite authorities.
- 2.6 If the Customer fails to give adequate instructions to the Bank on or prior to the maturity of a fixed term deposit then the Bank may at its sole discretion and without being liable for loss, re-place on deposit the principal together with credited interest for such period and on such terms as it may decide.

- 2.7** Neither the Bank nor its servants or agents shall be responsible, to the fullest extent permissible by law, for any unauthorised withdrawals from an Account unless there has been previously reported to the Bank by the Customer the loss of some relevant account record or similar item as a result of which the Bank is alerted to the possibility of such withdrawals. The Customer agrees to examine all statements supplied by the Bank, setting out transactions on any Account and agrees that unless the Customer objects in writing to any of the matters contained in any such statement within fourteen days of the date of such statements, the Customer shall be deemed conclusively to have accepted all the matters contained in any such statement as being true and accurate in all respects.
- 2.8** The Bank shall be entitled but not obliged to make payments from balances held on deposit to parties other than account holders, whether or not properly completed written instructions in accordance with the relevant mandate have been received in advance of such payments being made. Such payments shall be made at the Customer's sole risk.
- 2.9** Where the Customer wishes to lodge a cheque, draft or other negotiable instrument to a deposit account and such cheque, draft or other negotiable instrument is made payable to someone other than the Customer, then the Customer recognises the Bank's right without being liable for loss to refuse such a request and further agrees to indemnify the Bank on a full indemnity basis for any loss or damage which may directly or indirectly accrue to the Bank by reason of the processing of the said cheque, draft or negotiable instrument.
- 2.10** (a) In the event that the Bank shall receive in one currency any amount to be credited to the Customer's account in another currency, the rate of conversion by the Bank into that other currency shall be the relevant exchange rate applicable on the date of the arrival of the cleared funds at the Bank and any commissions, costs or disbursements incurred by reason of such conversion shall be for the account of the Customer.
- (b) Where the Bank shall receive in one currency an amount to be credited to the Customer's account in another currency, the date upon which the Bank shall give value with regard to such amount shall be at the date of arrival of the cleared funds at the Bank but only if the Bank shall have received from the remitting bank adequate notice of the value date on which the transfer was to have been effected. In the event that the Bank shall not have received such adequate notice the Bank shall give value on the first subsequent date on which the Bank shall be in a position to use the cleared funds on the relevant currency market.
- (c) For the avoidance of doubt, the Bank shall not be required to convert in the absence of express written instructions.

3 Foreign exchange contracts & interest rate contracts

3.1 Interpretation and Application of these Conditions

- (a) All the terms stated in this Section 3 relate to Foreign Exchange Contracts and Interest Rate Contracts only and are independent of arrangements made in respect of any other facilities made or to be made available to the Customer by the Bank. These Conditions shall, subject to paragraph 3.1(c) below, apply to every Foreign Exchange Contract and every Interest Rate Contract made or to be made by the Bank with a Customer unless expressly excluded or varied by the Customer and the Bank. If the Customer is an individual person or persons and not a corporate entity or other legal person these Conditions, or such of them as can have any application to an individual person, shall apply mutatis mutandis.
- (b) At the Customer's request and in accordance with the Customer's instructions the Bank may have entered into Foreign Exchange Contracts and Interest Rate Contracts prior to the date of acceptance of these Conditions. The Customer acknowledges and agrees that all such Foreign Exchange Contracts and Interest Rate Contracts shall be deemed to have been entered into and are governed by these Conditions. These Conditions replace any terms and conditions or other agreement relating to Foreign Exchange Contracts and Interest Rate Contracts previously entered into between the Customer and the Bank.
- (c) If the Customer and the Bank have entered into an ISDA Master Agreement then, unless otherwise specifically agreed, that ISDA agreement shall apply to and govern all Foreign Exchange Contracts and Interest Rate Contracts between the Customer and the Bank and to the extent that there is any conflict between that ISDA agreement and these Conditions that ISDA agreement shall prevail.
- (d) If a particular contract is a hybrid between a Foreign Exchange Contract and an Interest Rate Contract then the Bank shall in its absolute discretion determine whether the provisions of these Conditions applicable to Foreign Exchange Contracts or the provisions of these Conditions applicable to Interest Rate Contracts shall apply to that contract.

3.2 Conditions Precedent

No Foreign Exchange Contract or Interest Rate Contract may be entered into unless the Bank shall have received:-

- (a) evidence satisfactory to the Bank of compliance with exchange control requirements (if applicable) and the requirements of any other regulatory authorities;
- (b) evidence satisfactory to the Bank that no event has occurred in relation to the Customer or its business which would or, with the lapse of time or the happening of any other event, might prejudice the ability of the Customer to comply with its obligations under these Conditions;

- (c) evidence satisfactory to the Bank that there have been no developments between the date of these conditions and the date or dates on which Foreign Exchange Contracts and/or Interest Rate Contracts are entered into which would be likely in the sole opinion of the Bank to have an adverse effect on the Customer;
- (d) any security specified by the Bank is provided in form and substance satisfactory to the Bank together with all necessary filings, registrations, stamp duty and registration fees;
- (e) evidence satisfactory to the Bank that no Event of Default or Potential Event of Default has occurred; and
- (f) a duly completed and signed Mandate from the Customer, Provided however that where reference is made to evidence, there is no onus on the Bank to seek such evidence rather it may be sought.

The Customer warrants and represents that no such evidence is required.

3.3 Availability and Purpose

Subject to satisfaction of any and all conditions precedent to these Conditions, the Customer may request the Bank to enter into Foreign Exchange Contracts and Interest Rate Contracts under these Conditions. The Bank may at its absolute discretion agree or refuse to enter into Foreign Exchange Contracts and Interest Rate Contracts and the Bank shall not be obliged to account to the Customer for its decision. The Customer shall give the Bank instructions to execute Foreign Exchange Contracts and Interest Rate Contracts on the Customer's behalf. All such instructions shall be in accordance with the Mandate. Any such instructions from the Customer shall be irrevocable and the Bank shall be entitled to act on any instructions given to it.

3.4 Confirmations

- (a) The parties intend that they shall be legally bound by the terms of each Foreign Exchange Contract and each Interest Rate Contract from the moment they agree to those terms (whether orally or otherwise). In determining whether a Customer has agreed to terms, the Bank shall be entitled to rely on instructions received in accordance with the Mandate or, at the sole discretion of the Bank, from such persons as the Customer shall specify from time to time as being authorised to give such instructions.
- (b) A confirmation will be sent by the Bank to the Customer in respect of each Foreign Exchange Contract and each Interest Rate Contract by post (or by such other method as the Bank may select). The Customer agrees to examine all such confirmations and agrees that unless the Customer notifies the Bank in writing of any errors contained in any such confirmation within five Business Days of the date of such confirmation, the Customer shall be deemed conclusively to have accepted all the matters

contained in all such confirmations as being true and accurate in all respects. Some confirmations may be generated automatically and may not be signed on behalf of the Bank. The failure by the Bank to issue a confirmation shall not affect the efficacy, validity or enforceability of the relevant Foreign Exchange Contract and each Interest Rate Contract.

3.5 Settlement of Foreign Exchange Contracts/Gains/Losses

- (a) On or before the maturity date of each Foreign Exchange Contract, the Customer shall pay to the Bank in immediately available funds the amount payable by the Customer in the agreed currency (the "Customer Payment"). The Bank shall not be obliged to pay to the Customer the amount payable by the Bank under the relevant Foreign Exchange Contract unless and until it has received the Customer Payment. The Bank may, from time to time in its entire discretion, pay the Bank's currency obligation to the Customer prior to receipt of the Customer Payment. However, if the Bank does so at any particular time, this will not imply that the Bank will do so at any other time.
- (b) If on any date in respect of a particular currency the Customer has an obligation to pay that currency to the Bank and the Bank has a corresponding obligation to pay an amount of that currency to the Customer, then these respective payment obligations for that date and currency will be netted and set off against each other and only the net amount will be delivered by the relevant party. This shall not affect the parties respective obligations in relation to any other currency or in relation to the same currency on any other date.
- (c) If the Customer requests the Bank to liquidate a Foreign Exchange Contract on the due date for payment of currency under it (the "Maturity Date") and if the Bank (at its sole discretion) shall agree to such request, the following procedure will be applied unless otherwise agreed:
 - (i) the Bank will select one of the currencies payable under the relevant Foreign Exchange Contract as the "Base Currency" and calculate the amount that would be produced (the "Netting Amount") by converting the amount of the other currency (the "Currency Amount") payable under the Foreign Exchange Contract into the Base Currency at the prevailing spot rate of exchange of the Bank;
 - (ii) the Bank will net and set off the Netting Amount and the amount payable under the Foreign Exchange Contract in the Base Currency to produce a net amount (the "Settlement Amount") payable in the Base Currency by whichever party has the larger obligation (when calculated in the Base Currency) under the Foreign Exchange Contract; and
 - (iii) the parties respective liabilities to make delivery of the gross amounts of currency agreed to be bought and sold under the Foreign Exchange Contract shall

be replaced by the obligation to make immediate payment of the Settlement Amount for whichever of the parties is liable.

- (d) The Bank shall (without limitation to its other remedies) also be entitled (but shall not be obliged) to liquidate any Foreign Exchange Contract in accordance with paragraph 3.5(c) above in the event that it does not receive the Customer Payment for that Foreign Exchange Contract by 11 a.m. Dublin time on its maturity date.
- (e) In certain circumstances the Customer may request the Bank to extend a Foreign Exchange Contract (in whole or in part) beyond its original maturity date. The Bank is under no obligation to comply with any such request. In the event that the Bank does agree to extend the maturity date of a Foreign Exchange Contract, the terms of that extension shall be agreed specifically following such request.

3.6 Early liquidation of Foreign Exchange Contracts

The Customer may request the Bank to liquidate a Foreign Exchange Contract ahead of its scheduled Maturity Date. If the Bank (in its sole discretion) agrees to any such request, the early liquidation shall terminate the Customer's and the Bank's obligations under the relevant Foreign Exchange Contract but the following provisions of this paragraph 3.6 shall apply unless otherwise agreed:

- (a) The Bank shall calculate the net amount that would be due from the Bank to the Customer or from the Customer to the Bank if the particular Foreign Exchange Contract were liquidated in accordance with the procedure in paragraph 3.7 below.
- (b) In the event that the calculation in paragraph 3.6(a) above produces an amount due from the Customer to the Bank, the Customer must pay the relevant amount to the Bank immediately upon the early liquidation taking effect.
- (c) In the event that the calculation in paragraph 3.6(a) above produces an amount due from the Bank to the Customer, the Bank may agree to an early liquidation request only on the basis that such amount will be payable by the Bank at the original Maturity Date of the relevant Foreign Exchange Contract (but so that, in this case, the amount of the relevant payment will not be discounted as set out in paragraph 3.7(c)).

3.7 Default under Foreign Exchange Contracts

At any time after the occurrence of any Event of Default, the Bank may liquidate all of the then outstanding Foreign Exchange Contracts in the manner set out below. Where the Bank does this, all liabilities of the Bank to the Customer and of the Customer to the Bank in respect of the relevant Foreign Exchange Contracts shall be terminated and the Bank shall, on the date of such termination (the "Close-Out Date") calculate a net amount due from one party to the other as follows:

- (a) in respect of each relevant Foreign Exchange Contract, converting each amount of currency to be bought from, or sold to, the Bank by the Customer (the "Currency of Obligation") into euro or such other currency as the Bank may at its discretion deem to be appropriate (the "Close-Out Currency"). Such conversion shall be effected at the rate of exchange at which the Bank could, on the Close-Out Date, buy or sell, as appropriate, the Close-Out Currency with or against the Currency of Obligation for delivery on the Maturity Date of the relevant Foreign Exchange Contract (the "Value Date") in accordance with its normal practices in the relevant foreign exchange market;
- (b) for each Value Date, aggregating the amounts of the Close-Out Currency referred to in paragraph 3.7(a) above payable by the Customer to the Bank and by the Bank to the Customer as the case may be and deducting one such aggregate from the other to produce a net amount due from the Customer to the Bank or vice versa;
- (c) for each Value Date, adjusting the net amount determined under paragraph 3.7(b) above to present value by discounting it to net present value at the Bank's relevant interest rate for the Close-Out Currency in respect of the period between the Close-Out Date and the relevant Value Date (or at such other interest rate as may be prescribed by law); and
- (d) aggregating and setting off all of the amounts calculated pursuant to paragraphs 3.7(a) to 3.7(b) above for all Value Dates to produce a single net amount, payable by the Customer to the Bank or vice versa.
- (e) any amount payable by the Customer under the preceding sub-paragraphs shall be paid to the Bank forthwith on demand. Any amount payable by the Bank under the preceding sub-paragraphs shall be payable promptly following its being calculated. The Bank shall be entitled to rely on all security (if any) held by it in respect of the Customer's obligations, and to put into force all other remedies it may have, to recover any amount payable to the Bank by the Customer.

3.8 Settlement of Interest Rate Contracts

- (a) On each settlement date the Customer has an obligation to pay an amount to the Bank and the Bank has a corresponding obligation to pay an amount in the same currency to the Customer, then these respective payment obligations for that date and currency (unless the Bank determines otherwise) shall be netted and set off against each other and only the net amount will be delivered by the relevant party. This shall not affect the parties respective obligations in relation to any other payments.

- (b) If on or before the maturity date of each Interest Rate Contract the Bank has determined that the payments due on that day will not be netted, the Customer shall pay to the Bank in immediately available funds the amount payable by the Customer (the "Customer Payment"). The Bank shall not be obliged to pay to the Customer the amount payable by the Bank under the relevant Interest Rate Contract unless and until it has received the Customer Payment. The Bank may, from time to time in its entire discretion, pay the amount payable by the Bank to the Customer prior to receipt of the Customer Payment. However, if the Bank does so at any particular time, this will not imply that the Bank will do so at any other time.
- (c) In certain circumstances the Customer may request the Bank to extend an Interest Rate Contract (in whole or in part) beyond its original maturity date. The Bank is under no obligation to comply with any such request. In the event that the Bank does agree to extend the maturity date of a Interest Rate Contract, the terms of that extension shall be agreed specifically following such request.

3.9 Early liquidation of Interest Rate Contracts

The Customer may request the Bank to liquidate a Interest Rate Contract ahead of its scheduled Maturity Date. If the Bank (in its sole discretion) agrees to any such request, the early liquidation shall terminate the Customer's and the Bank's obligations under the relevant Interest Rate Contract and the Customer will pay to the Bank all costs, expenses and losses, if any, as the bank shall certify as incurred by the Bank as a result of such early liquidation and termination.

3.10 Default

At any time after the occurrence of any Event of Default, the Bank may liquidate all of the then outstanding Interest Rate Contracts in the manner set out below. Where the Bank does this, all liabilities of the Bank to the Customer and of the Customer to the Bank in respect of the relevant Interest Rate Contracts shall be terminated and the Bank shall, on the date of such termination (the "Close-Out Date") calculate a net amount due from one party to the other as follows:

- (a) the Bank will calculate in good faith on a reasonable commercial basis the loss or, as the case may be, gain to it of terminating each Interest Rate Contract;
- (b) the Bank will aggregate all losses calculated in accordance with clause 3.10(a) above and aggregate all gains calculated in accordance with clause 3.10(a) above and by deducting one such aggregate amount from the other produce a single net amount, payable by the Customer to the Bank or vice versa; and
- (c) any amount payable by the Customer under the preceding sub-paragraphs shall be paid to the Bank forthwith on demand. Any amount payable by the Bank under the preceding sub-paragraphs shall be

payable promptly following its being calculated. The Bank shall be entitled to rely on all security (if any) held by it in respect of the Customer's obligations, and to put into force all other remedies it may have, to recover any amount payable to the Bank by the Customer.

3.11 The Account

The Customer acknowledges that all payments to be made to the Customer by the Bank and by the Customer to the Bank under these Conditions will be debited or credited as the case may be to the relevant Account. This may require the entry into by the Bank on behalf of the Customer of further Foreign Exchange Contracts in the event that the relevant payment amount is in a different currency than the currency of the Account and the Customer hereby acknowledges and agrees that the Bank shall be entitled to conclude such further Foreign Exchange Contracts on its behalf. The Bank may at the Customer's direction pay or receive amounts due under Foreign Exchange Contracts to or from third parties on the Customer's behalf and any such payment shall be debited or credited as the case may be to the Account.

3.12 Further Assurance

The Customer shall from time to time execute such further deeds, documents and assurances and do such things and afford to the Bank such assistance as the Bank may require for the purpose of vesting in the Bank the full benefit of any assets, rights and benefits to be granted to the Bank under the Finance Documents (including the benefit of any rights accruing against third parties, whether such rights have or have not accrued or become enforceable at the date of execution of the Finance Documents) including the registration and perfection thereof.

3.13 Finance Documents

The Customer shall pay to the Bank on demand all costs, fees, registration charges, duties, taxes and expenses, including, without prejudice to the generality of the foregoing, all legal, accountancy and taxation advice costs and disbursements, including Value Added Tax thereon, incurred by the Bank and its advisers in connection with the preparation, execution and delivery of the Finance Documents (and all such costs and expenses as aforesaid shall be payable by the Customer whether or not any Foreign Exchange Contracts are entered into) and all costs and expenses on a Solicitor and own client basis incurred by the Bank in connection with the maintenance, preservation and enforcement of its rights under the Finance Documents or any of them.

3.14 Bank's Certificate

The certificates given or accounts kept by the Bank from time to time as to any amount due by the Customer under the Finance Documents or as to any other matter relating to the Finance Documents shall in the absence of manifest error be binding and conclusive.

3.15 Customer's Own Risk

The Customer hereby acknowledges that all Foreign Exchange Contracts and Interest Rate Contracts are entirely at the Customer's own risk. To the fullest extent permissible by law, the Bank shall not be liable for any losses of the Customer, of whatever nature, arising from Foreign Exchange Contracts, Interest Rate Contracts or otherwise under the Finance Documents or any of them. The Customer hereby represents and warrants to the Bank and acknowledges to and agrees with the Bank that on each date on which it enters into or varies a Foreign Exchange Contract or an Interest Rate Contract that:

- (a) the Customer is acting for its own account and (notwithstanding any information or advice it may have received from the Bank) that it has made its own independent decision to enter into or vary the Foreign Exchange Contract or Interest Rate Contract and as to whether the Foreign Exchange Contract or Interest Rate Contract is appropriate or proper for the Customer based upon Customer's own judgement and upon advice from such advisers as it has deemed necessary. The Customer is not relying on any communication (written or oral) from the Bank as investment advice or as a recommendation to enter into or vary that Foreign Exchange Contract or Interest Rate Contract; it being understood by the Customer that information and explanations relating to the terms and conditions of a Foreign Exchange Contract or Interest Rate Contract shall not be considered investment advice or a recommendation to enter into that Foreign Exchange Contract. No communication (written or oral) received from the Bank shall be deemed to be an assertion as to the expected results of that Foreign Exchange Contract or Interest Rate Contract;
- (b) the Customer is capable of assessing the merits and demerits of and fully understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks inherent in Foreign Exchange Contracts and Interest Rate Contracts. The Customer is also capable of assuming, and assumes, the risks of the Foreign Exchange Contracts; and
- (c) the Bank is not acting as a fiduciary for or an adviser to the Customer in respect of the Foreign Exchange Contracts or Interest Rate Contracts and the Bank is acting on its own behalf as an execution only broker to the Customer in respect of each Foreign Exchange Contract and each Interest Rate Contract.

3.16 Joint and Several Liability

If more than one party shall constitute the Customer under the Finance Documents, the obligations of all such parties under the Finance Documents shall be joint and several.

4 Electronic banking

4.1 Use of Services and Application

- (a) The Services may be accessed and utilised by persons who:
 - (i) are Nominated Subscribers;
 - (ii) have completed and submitted to the Bank a Subscriber Agreement which has been accepted by the Bank;
 - (iii) have received from the Bank a Certificate;
 - (iv) have created a key pair and/or an Internet Password and/or such other method as may from time to time be specified by the Bank as a means of authenticating identity in accordance with the Operating Instructions; and
 - (v) have satisfied such other conditions as may be imposed by the Bank from time to time in connection with access to and use of the Services.
- (b) The Bank may in its absolute discretion without assigning any reason refuse to accept a Subscriber Agreement and/or waive any of the conditions contained in paragraph 4.1(a). The waiver by the Bank of one or more of the conditions in paragraph 4.1(a) shall be without prejudice to any other provisions of these Conditions and shall not result in the Bank incurring any liability to the Customer.
- (c) These Conditions govern the use of the Services and the Customer and each Subscriber shall be bound by them.
- (d) The Customer shall (in the case of an individual customer) comply, and shall (in the case of a customer other than an individual customer) procure the compliance by its Subscribers, with the terms and conditions of the Subscriber Agreement, and shall fully and effectively indemnify the Bank in respect of any loss or damages which may arise as a consequence of any non-compliance by the Customer and/or such a Subscriber (as the case may be) with the Subscriber Agreement.

4.2 Security Conditions

- (a) The Customer shall or (as the case may be) shall procure that the Subscriber shall keep the key pair connected to a Certificate and its Internet Password and any other method as may from time to time be specified by the Bank as a means of authenticating identity safe and shall not divulge any of them to any other person, or note any of them in any form that would be intelligible or otherwise accessible to a third party or do or omit to do anything else that might enable irregular or unauthorised access to or utilisation of the Services.
- (b) The Customer shall or (as the case may be) shall procure that the Subscriber shall immediately notify the Bank if:

- (i) the key pair, and/or Certificate and/or any other method may from time to time be specified by the Bank as a means of authenticating identity are in any way compromised;
 - (ii) the Internet Password or any other method from time to time specified by the Bank as a means of authenticating identity is revealed to another person or is otherwise compromised; or
 - (iii) unauthorised or irregular transactions are recorded on an Enabled Account.
- (c) If the Customer has made a notification to the Bank in accordance with paragraph 4.2(b) then the Internet Password or other means of authenticating identity may not be used to access or utilise the Services and if the Customer wishes to continue to avail of the Services the Customer or (as the case may be) its Subscriber must apply to the Bank for the issue of a new Certificate and must create a new Internet Password or other means of authenticating identity in accordance with the Operating Instructions.
- (d) Prior to receipt by the Bank of a notification in accordance with paragraph 4.2(b) the Bank shall be entitled to rely on all instructions received from the Customer or (as the case may be) any Subscriber on behalf of the Customer and shall have no liability to the Customer and/or Subscriber for any acts done or transactions entered into pursuant to such instructions. The Customer shall be liable absolutely for and shall indemnify the Bank against any costs or losses incurred in implementing any subsequent instruction to cancel or reverse any such action taken or transaction entered into.

4.3 Authority to Bank

- (a) The Customer authorises and instructs the Bank to act on all instructions and requests that are received through the Services provided the instructions and requests are made by use of the relevant Certificate and the Internet Password or such other method as may from time to time be specified by the Bank as a means of authenticating identity. Although the Bank may from time to time require other additional means of personal identification it shall not be obliged to do so and it may act on such instructions and requests without taking any further steps to ensure that the instructions or requests are genuine.
- (b) The Bank may decline to act on any instruction or request for information received through the Services if the Bank believes that the Services are being accessed and/or used in an irregular or unauthorised manner but the Bank shall not be liable for any failure to do so. Instructions or requests received through the Services will normally be processed automatically. However, if during such processing the Bank believes that the instruction or request is irregular or unauthorised it may terminate such processing.

- (c) The Bank is not obliged to cancel or amend any instruction or request that is received through the Services. The Bank shall use reasonable efforts to act on a request of the Customer for cancellation or amendment prior to execution of the request or instruction but, to the fullest extent permissible by law, shall have no liability, if it does not do so.
- (d) The Bank may decline to act on any instruction or request until it has been confirmed in writing and signed by the Customer or a Subscriber. The Bank reserves the right to not act on any instruction or request received otherwise than by means of a Banking Channel.

4.4 Obligations of Customer

- (a) The Customer shall provide and maintain at the Customer's own expense all Devices needed to access the Services and shall ensure that such equipment satisfies all technical and other requirements specified by the Bank in the Operating Instructions.
- (b) The Customer or (as the case may be) the Subscriber is responsible for disconnecting and clearing any information from all Devices used to access the Services before leaving such Devices unattended.
- (c) The Customer shall ensure that all instructions given by the Customer or (as the case may be) any Subscriber to the Bank through the Services are accurate and complete and (where applicable) prior to confirming any such instruction, shall ensure that the instruction as relayed back to the Customer for the purpose of confirmation through the Service is that which the Customer intends. The Customer cannot cancel or change instructions once given and instructions once given shall be final and binding on the Customer.
- (d) The Customer will pay all applicable transactional fees and charges from time to time payable for services provided through the Services in accordance with the Bank's standard fees and charges from time to time applicable. All costs incurred by the Customer in accessing and utilising the Services including the cost of telephone calls and internet access shall be at the Customer's expense.
- (e) The Customer shall immediately notify the Bank of any change of address and shall comply with the security conditions described in paragraph 4.2 hereof.

4.5 Normal Conditions continue to apply

The Services are a method of accessing and utilising services provided by the Bank. Accordingly, save to the extent that these Conditions provide otherwise, all Mandates relating to the Enabled Accounts and all terms and conditions applicable to the Enabled Accounts remain in full force and effect.

4.6 Processing of Transactions

- (a) It is the Bank's intention that instructions and requests received through the Services will be processed as quickly as practicable and in accordance with such timescales as may be notified to the Customer from time to time.
- (b) A failure by the Bank to meet these timescales will not, however, to the fullest extent permissible by law, result in the Bank incurring any liability to the Customer.

4.7 Availability of Services

- (a) There will be occasions when due to technical, security, maintenance, administrative or other reasons (whether within the control of the Bank or not) some or all of the Services normally available through the Website will not be available. Accordingly, the Bank may from time to time, without incurring any liability to the Customer, temporarily suspend any or all of the Services for such periods as the Bank shall determine. Where the Services are suspended or withdrawn for these reasons the Bank shall use its reasonable endeavours to provide access to Accounts and banking services via the telephone, or through its branch network in accordance with the terms of the Mandate.
- (b) The Bank shall, on giving not less than 14 days notice to Customers, be entitled to terminate permanently the Services.
- (c) The Bank may from time to time add to, withdraw, suspend, amend or otherwise alter all or any of the Services, which may be accessed and utilised through the Website. Details of the Services available from time to time will be given in the Operating Instructions. The Bank may amend, supplement or replace the Operating Instructions from time to time.

4.8 Account Balance Information

- (a) While the Bank intends to operate a real-time on-line system, which should enable immediate updates to Enabled Accounts, the time necessary to complete the processing of instructions and requests may vary depending on whether they can be immediately processed and the nature of the instruction or request. Accordingly the Customer acknowledges that while the Bank will endeavour to ensure that account balance information given through the Services is as up-to-date as the Bank's systems permit at the time of the Customer's enquiry, such account balance information may not represent a complete statement of the balance on the Enabled Account to which it refers as, inter alia, it may or may not reflect transactions in respect of which instructions have been received by the Bank, but which still have to be processed or verified. For example, an account balance shown may include a credit in respect of a cheque which has been lodged to an Enabled Account but which has not yet cleared. If that cheque does not clear for any reason the Bank will debit the

Enabled Account with the amount of the cheque and the account balance information will be updated accordingly. To the fullest extent permissible by law, the Bank will not be liable for any loss suffered by reason of any Enabled Account balance information not being accurate or up-to-date.

- (b) The Customer acknowledges that any loan account balance provided through the Services may not represent the total amount required to settle that loan account.

4.9 Joint Accounts and Authorised Signatories

- (a) Where an Enabled Account is held with the Bank by two or more persons (a "Joint Account") and the Mandate for that Joint Account allows the Bank to act on instructions given by any one of the account holders then it may be accessed through the Website if any of the account holders so consents and the Bank may rely on the Certificate of any one of the account holders to validate any Transaction. If the Mandate for the Joint Account allows the Bank to act on instructions given by two or more of the account holders then, at the Bank's sole discretion, it may be accessed through the Website and each of two or more of the account holders must apply their Certificates to validate the Transaction.
- (b) If the Bank has notice of a dispute between the holders of a Joint Account, the Bank may, but shall not be obliged to, cease to permit withdrawals from that Joint Account and, subject to the Bank's discretion, dealings may not be permitted on that Joint Account until the Bank receives a new written Mandate from all the account holders.
- (c) If a Mandate allows the Bank to act on instructions given by two or more authorised signatories, then each of two or more of the signatories authorised on the Mandate must apply their Certificates in order to validate the Transaction.

4.10 Termination of the Services

- (a) The Bank reserves the right to terminate the entitlement of any Customer and/or Subscriber to access and utilise the Services by writing, by post, fax or e-mail or telephoning or sending a communication by any other means (electronic or otherwise) to the Customer or Subscriber:
 - (i) at any time subject to giving at least 10 Business Days notice to the Customer or Subscriber;
 - (ii) forthwith on the breach, non-performance or non-observance by the Customer or Subscriber of any Mandate, these Conditions or the Operating Instructions or any other agreement with the Bank or the occurrence of an Event of Default; and
 - (iii) forthwith on the bankruptcy, insolvency or other contractual incapacity of the Customer or Subscriber.

- (b) The Customer may terminate the use of the Services at any time on written instructions to the Bank at Internet Banking Support, Stephen Court, 18-21 St. Stephen's Green, Dublin 2.

4.11 Disclosure of Information

Save in accordance with the Bank's privacy statement on its Website and subject to paragraph 4.14, information concerning the Customer and/or Subscribers will not be disclosed by the Bank except with the express or implied consent of the Customer and/or Subscribers or where otherwise required or permitted by law.

4.12 The Website

- (a) The information, content, graphics, text, sounds, images, buttons, trade marks, trade names and logos (the "Materials") contained in the Website are protected by copyright, and other intellectual property laws, under national laws and international treaties. The Customer and each Subscriber is granted a limited licence solely for the Customer's or Subscriber's own personal non commercial use to refer to, bookmark or point to any page within the Website, and to download the Materials contained on the Website to a single personal computer, and to print a single hard copy of the Materials contained in the Website for the Customer's or Subscriber's own personal reference, provided however that all copyright, trade mark and other proprietary notices are left intact. Any other use of the Materials in the Website without the prior written permission of the Bank, is strictly prohibited and is in violation of the proprietary rights of the Bank
- (b) The Customer acknowledges that Irish Bank Resolution Corporation Limited, IBRC, the IBRC logo and any other trade names, service marks and logos used in connection with the Services are trade marks of the Bank. All other trade marks, service marks, trade names and logos contained in the Website and identified as such belong to their respective owners.
- (c) The Customer acknowledges that in accessing the Website, the Customer and each Subscriber does so at its own risk and on its own initiative, and shall be responsible for compliance with local laws, to the extent any local laws are applicable. Use of the Website and/or Services may be unlawful under the laws of the applicable jurisdiction pertaining to such conduct and (whether or not unlawful) constitutes breach of these Conditions and may result in, amongst other penalties, immediate termination of the right to use the Services and the Website.
- (d) The Customer acknowledges that unless and until and to the extent that the Customer is advised otherwise by the Bank via the Website or by any other means:
 - (i) the Bank is not giving or offering to give investment advice via the Website or the Services;
 - (ii) any content or information received on or via the Website or the Services should not be relied on for important personal, financial or business decisions, and the Customer should consult an appropriate professional for advice which is specifically tailored to the Customer's particular circumstances;
 - (iii) nothing in the Website or the Services constitutes or shall be deemed to constitute advice or an invitation to invest or otherwise deal in shares or other securities.
- (e) The Customer acknowledges that content and information received via the Website or the Services is supplied by sources believed to be reliable. However, calculations made using such data, and opinions expressed in relation to such data, are not guaranteed by these sources, the Bank or any other person or entity and may not be complete.
- (f) The Customer acknowledges that the Customer's and each of its Subscriber's use of the Website is also subject to the "Terms and Conditions of Use" and the Operating Instructions as posted on the Website from time to time and agrees to be bound by same.

4.13 Disclaimers

- (a) All use of the Website and/or the Services is at the Customer's own risk and the Customer assumes complete responsibility for, and for all risk of loss resulting from, the downloading and/or using of, or referring to or relying on, Materials, software, or any other information obtained from use of the Website. The Customer agrees that the Bank and providers of technology, telecommunications and network services to the Bank will not, to the fullest extent permissible by law, be liable for damages arising out of its or its Subscribers use or inability to use the Website and/or the Services, and hereby waives any and all claims with respect thereto, and whether based on contract, tort or other grounds.
- (b) The Website is available to the Customer and each Subscriber "as is" without any representations or warranties of any kind, either express or implied. To the greatest extent permitted by applicable law, the Bank excludes any warranty express or implied, statutory or otherwise as to the quality, accuracy, timeliness, completeness, merchantability or fitness for a particular purpose of the Materials, software, the Services and/or materials, goods, facilities and/or the services advertised or accessed via the Website.
- (c) The Bank makes no representations, warranties or undertakings that the Website, or the server that makes it available, will be free from defects, including, but not limited to viruses or other harmful elements. The Bank, to the fullest extent permissible by law, expressly excludes liability for any infection by computer virus, tampering, unauthorised access, intervention, alteration or use, fraud, theft, technical failure, error, omission, interruption, deletion,

defect, delay, or any event or occurrence beyond the control of the Bank, which corrupts or affects the administration, security, fairness and integrity or proper conduct of any aspect of the Website.

- (d) The Bank makes no representations, warranties or undertakings about any content of or information on any other website referred to or accessed by hypertext link through the Website or from which the Website is referred to or accessed by hypertext link ("third party site"). The Bank does not endorse or approve the content of any third party site, nor will the Bank, to the fullest extent permissible by law, have any liability in connection with any third party site or any contract entered into on or through any third party site (including but not limited to liability arising out of any allegation that the content of or information on any third party site infringes any law or the rights of any person or entity, liability for non-performance or delayed performance of any such contract or liability for claims regarding the nature, quality or merchantability of any good or service purchased, the fitness for the purpose for which they have been sold or for any other purpose). No judgment or warranty is made with respect to the accuracy, timeliness or suitability of the content of any third party site, and any and all liability which might arise out of, or in connection with, the Customer's or a Subscriber's use or reliance on the content of or information on, or the performance of, any third party site is excluded to the fullest extent permissible by law. Nor can the Bank guarantee that the controller of any third party website will respect a Customer's or Subscriber's privacy in the same manner as the Bank.

4.14 Security

While the Bank has taken all reasonable security precautions, the nature of communication by the internet and other electronic means is such that the Bank cannot guarantee the privacy or confidentiality of any information relating to the Customer passing by such methods. In accessing the Website and in availing of the Services, the Customer accepts that communications may not be free from interference by third parties and may not remain confidential. To the fullest extent permissible by law, the Bank shall incur no liability in this regard and the use of the Website is at the Customer's sole risk.

4.15 Limitation on Liability

To the fullest extent permitted by applicable law, neither the Bank nor any of its directors, employees, servants, agents, affiliates or other representatives and/or their respective parent and subsidiary companies will be liable for loss or damages arising out of or in connection with the use of, or inability to use, the Materials, software, the Services and/or facilities offered through the Website, including, but not limited to, indirect or consequential loss or damages, loss of data, income, profit or opportunity, loss of or damage to property and claims of third parties, even if the Bank has been advised of the possibility of such loss or damages, or such loss or damages were reasonably foreseeable.

5 Representations and warranties

5.1 The Customer hereby warrants and represents to the Bank and so that the same shall be deemed to be repeated by the Customer on the date each Treasury Transaction is entered into that:-

- (a) the Customer is duly incorporated and validly existing under the laws of its country of incorporation or is duly organised and validly existing and in good standing under the laws of its state of organisation, is a separate legal entity capable of suing and being sued and has the power and authority to own its assets and to conduct the business it now conducts and/or proposes to conduct, and is duly licensed and qualified to do business in every jurisdiction where the nature of its activities requires such licensure and/or qualification.
- (b) the execution and delivery by the Customer of these Conditions and any Finance Documents and the entry into of Treasury Transactions thereunder will not contravene the Customer's Memorandum or Articles of Association (or any other constitutional document of the Customer) nor any agreement, deed or other instrument which is binding upon the Customer, and that the same are within the Customer's corporate powers and have been duly authorised by all necessary corporate action;
- (c) the Customer is not in default under any contractual or statutory obligation whatsoever (including payment of any due taxes) which materially and adversely affects or is likely materially and adversely to affect the business or financial condition of the Customer or its ability to perform its obligations hereunder;
- (d) full and accurate disclosure has been made to the Bank prior to the date of acceptance by the Customer of these Conditions of all facts in relation to the Customer and its business and affairs as are material and ought properly to be made known to any person proposing to do business with the Customer;
- (e) no Event of Default or Potential Event of Default has occurred and the Customer is not in default under any of the terms or conditions of any other facility made available to the Customer by the Bank;
- (f) there is no pending or, to its knowledge (after due and careful enquiry), threatened litigation, arbitration or administrative proceedings affecting it or its assets;
- (g) in the case of a Customer who is an individual or a number of individuals combined, that the Customer is acting within his trade, business or profession and as such is not a "consumer" for the purposes of the Consumer Credit Act, 1995 or the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995; and
- (h) that the Customer is entering into these Conditions and each Treasury Transaction as principle for its own account and not as agent or in any other capacity, fiduciary or otherwise and that all Foreign Exchange Contracts are entered into for hedging purposes only.

5.2 The Customer undertakes to comply strictly with the Mandate, these Conditions, the Finance Documents and the Operating Instructions (which are designed to minimise the risk of unauthorised use of the Services) and to fully and effectively indemnify the Bank in respect of any loss or damages which may arise as a consequence of the Customer's and/or its Subscribers' non-compliance with the Mandate, these Conditions, the Finance Documents and the Operating Instructions. To the fullest extent permissible by law, the Bank shall not in any circumstances be liable to the Customer for any special, indirect loss or any loss of data or loss of profit suffered or incurred by the Customer.

5.3 Each and every request by the Customer that the Bank enter into a Treasury Transaction shall constitute a reaffirmation by the Customer of each and every representation and warranty contained herein as of the date of such request and a further representation and warranty that (a) no Event of Default or Potential Event of Default then exists and (b) the Customer is not the subject of any Insolvency Proceeding (as defined in paragraph 3.5 above) in any state or federal court in the United States of America.

6 Covenants

The Customer hereby covenants and undertakes to the Bank that it shall:-

- (a) carry on its business in an efficient and business-like manner;
- (b) pay all taxes, duties, imposts, assessments and levies as and when due;
- (c) pay promptly all debts which, under any applicable law, are to be paid in priority to all other debts;
- (d) furnish to the Bank its annual audited accounts which it is required to prepare under applicable law within 120 days of its financial year end and such other financial, statistical or trading information on demand as the Bank may require from time to time;
- (e) furnish on request and permit the Bank's representatives to visit and inspect its premises, books of account, records and assets; and
- (f) not make any changes to its Memorandum or Articles of Association (or other constitutional documents) without the prior consent of the Bank.

7 Miscellaneous

7.1 Waiver

No failure or delay on the part of the Bank in exercising any power, right or remedy under these Conditions, the Finance Documents or any Treasury Transactions and no course of dealing between the Bank and the Customer shall operate as a waiver of any such power, right or remedy nor shall any single or partial exercise of any such power, right or remedy preclude any other or further exercise of the same or the exercise of any other power, right or remedy.

7.2 Notices

- (a) Any notice to be given or served under these Conditions, the Mandate, the Finance Documents or any Treasury Transactions shall be in writing and shall be duly expressed to be a notice under these Conditions, the Finance Documents or any Treasury Transactions and shall be deemed duly given or served if sent by facsimile at the time of transmission (subject to the correct code or facsimile number being received) or if posted 48 hours after the time at which it was posted or, if delivered by hand, at the time of delivery if such day is a Business Day or if such day is not a Business Day on the next following Business Day, to the party to whom it is to be given or served at its address set out below or such other addresses or facsimile numbers as such party shall have previously communicated for such purpose by notice to the other party. The address and facsimile number for service of the Customer shall be the address and facsimile number of the Customer specified on the Mandate or last known to the Bank.
- (b) Either party giving or serving a notice under these Conditions, the Mandate or any Treasury Transactions by facsimile shall, but without prejudice to the validity of the notice given, send a copy of the notice by pre-paid registered post to the other party to that party's address hereinbefore set out or to such other address as such party shall have previously communicated by notice to the party giving such first mentioned notice.
- (c) All notices given or served pursuant to or otherwise relating to these Conditions, the Mandate, the Finance Documents or any Treasury Transactions shall be in the English language.

7.3 Severability

If any term or provision of these Conditions, the Finance Documents or any Treasury Transactions shall be held to be illegal or unenforceable, in whole or in part, such term or provision or part shall to that extent be deemed not to form part of these Conditions, the Finance Documents or any Treasury Transactions and the enforceability of the remainder of these Conditions, the Finance Documents or any Treasury Transactions shall not be affected.

7.4 Assignment and Transfer

- (a) The Customer shall not assign or transfer any of its rights or obligations under any of these Conditions, the Finance Documents or any Treasury Transactions.
- (b) The Bank may (whether as part of a transfer or securitisation scheme or otherwise without notice to the Customer or any other person) assign, transfer, novate or otherwise dispose of all or any of its rights and obligations under these Conditions, the Finance Documents and/or any Treasury Transactions and the Customer consents to the assignment, transfer, novation or other disposal by the Bank of all or any of its rights and obligations under any of these Conditions, the Finance Documents or any Treasury Transactions to a third party. The Customer shall at

the Bank's expense enter into all documents specified by the Bank to be necessary to give effect to any such assignment or transfer.

- (c) These Conditions, the Finance Documents and any Treasury Transactions shall be binding upon and enure for the benefit of the Bank and the Customer's respective successors and the Bank's assigns.

7.5 Disclosure of Information

- (a) The Bank may make appropriate enquiries in relation to the Borrower and may register the existence of any agreement or other document with, and disclose information relating hereto, and to the performance by the Customer of its obligators to the Irish Credit Bureau Limited and to any other credit reference bureau or agency. The Bank is hereby authorised to disclose any information in relation to any agreement or other document, the Customers and/or the performance of the Borrower's obligations to any person acting as agent of the Bank in connection herewith.
- (b) The Customer (being an individual or individuals) hereby consents, for the purposes of the Data Protection Act 1988 and 2003 to the disclosure of personal data relating to the Customer provided to the Bank in connection with any agreement or other document or the parties thereto to the Irish Credit Bureau Limited or to any other credit reference bureau or agency or to any proposed assignee, transferee, novatee or other disponee or their agents with or without notice to the Customer whether as part of the transfer or securitisation scheme or otherwise. Where the Customer is a corporate entity, partnership or unincorporated body, the Customer confirms that it has notified its relevant directors, officers, employees, agents, members or partners (being an individual or individuals) of the fact that personal data relating to them has been disclosed to the Bank, the purposes for which the Bank shall use and/or disclose such personal data, and of the fact of their rights of access and to have inaccuracies in the personal data remedied, as well as the fact and implications of credit referencing, and confirms that it has obtained all necessary consent from such individuals.
- (c) The Customer agrees that all information provided or to be provided by it to the Bank is and will be true and accurate in all respects. Upon request by the Bank, the Customer hereby agrees to certify the truth and accuracy of any information provided to the Bank.

7.6 Death of a Customer

- (a) In the event of the death of a sole depositor his personal representatives shall be obliged to immediately inform the Bank. Following receipt by the Bank of notice of the death in accordance with this paragraph, the Bank shall not be obliged to accept any instructions from any party with regard to any account maintained by such deceased depositor without production of an appropriate original Grant of Probate or administration or an official copy thereof.

- (b) In the event of the death of a joint depositor his personal representatives and co-depositor(s) shall be obliged to immediately inform the Bank. Following receipt by the Bank of notice of death in accordance with this paragraph, the Bank shall not be obliged to accept any instructions from any party with regard to any account maintained by such deceased joint depositor without production of an appropriate original Grant of Probate or Administration or an official copy thereof. For the avoidance of doubt all joint accounts will in the absence of any written instruction to the contrary be treated as joint tenancy accounts.
- (c) The Bank may however at its sole discretion opt to accept instructions from surviving joint depositor(s) where the amount standing to credit in such joint account does not exceed €5,000, or such other amount as the Bank may determine at its sole discretion, having regard to the provisions of the Finance Acts, and if the Bank so opts neither the personal representatives of the deceased joint depositor nor the other joint depositor(s) shall have any claim against the Bank, provided only that the Bank shall have acted in good faith.
- (d) Notwithstanding the death or incapacity of a Customer the Bank shall be entitled to provide all information requested and execute all instructions given through the Services with the use of that Customer's Certificate and Internet Password and/or other method as specified by the Bank of authenticating identity until the Bank has received actual written notice of such death or incapacity.
- (e) In the case of death of the Customer, any notice or demand by the Bank shall be sufficiently given if delivered or sent by prepaid post addressed to the deceased or his personal representatives at his address last known to the Bank or stated hereunder unless and until the Bank shall have received notice in writing of the name and address of the person to whom representation has been granted. In the case of an emergency, notice may be given by fax - the Bank's fax transmission slip shall be sufficient evidence of both dispatch and receipt.

7.7 Variations of these Conditions

- 7.7.1** The Bank may from time to time vary any conditions governing the accounts of the Customer and may give notice of such variation in any manner it considers appropriate. Should the Customer maintain its accounts with the Bank for a period of fourteen days after the date upon which such notice of variation is given then it shall be conclusively deemed to have accepted such variation in each and every respect. Without prejudice to the generality of the foregoing, the Bank may at any time amend, supplement or replace Section 4 of these Conditions as a result of changes in technology, a desire to update these Conditions or other circumstances affecting the Bank or the services it offers. The Customer may of course, on receiving such notice, immediately terminate the use of the Services in accordance with paragraph 4.10(b) above.

7.7.2 Cancellation of the Treasury Transactions

The Treasury Transactions and the Services may be reviewed or cancelled at any time by the Bank at its sole discretion and without stating any reason for such cancellation.

7.8 Complaints Procedure

The Bank has a complaints procedure to deal with any dissatisfaction you may have in relation to the products or services provided. The procedure may be viewed on our website (www.ibrc.ie) and is available upon request. If you make a complaint, we will acknowledge it within five business days of receiving it and we will provide you with the name of a person in the Bank to contact about your complaint. We will investigate your complaint fully and will respond to you within twenty days of receiving the complaint. While your complaint remains unresolved, we will provide you with regular updates. To make a complaint, you may contact any member of staff or the Head of the relevant Business Section as follows:

**Irish Bank Resolution Corporation Limited,
Stephen Court, 18/21, St. Stephen's Green, Dublin 2.
Tel: +353 1 616 2000**

If you are not satisfied with the outcome of the investigation, you have the right to refer your complaint to the Financial Services Ombudsman at:

**Financial Services Ombudsman's Bureau,
3rd Floor,
Lincoln House, Lincoln Place, Dublin 2
Tel: + 353 1 662 0899
Lo Call: 1890 882090
Email: enquiries@financialombudsman.ie**

7.9 Investor Compensation Scheme and Deposit Protection Scheme

The Bank is a member of the Investor Compensation Scheme which provides for the payment of compensation to certain clients as defined in the Investor Compensation Act 1998 in circumstances as defined by that Act. That compensation may be payable where the Financial Regulator has determined that money or investment instruments owned or belonging to clients cannot be returned to those clients for the time being and there is no reasonably foreseeable opportunity of that firm being able to do so. This compensation scheme only applies to certain investors (known as eligible investors) and it is only payable in the circumstances set down in the Investor Compensation Act 1998. Where an entitlement to compensation is established, the compensation payable will be the lesser of 90 per cent of the amount of the client's loss which is recognised for the purposes of the Investor Compensation Act, 1998 or €20,000. The Bank is also bound by the Deposit Protection Scheme which is provided for in the European Communities (Deposit Guarantee Schemes) Regulations 1995 (SI 168/1995) (as amended). This compensates eligible deposit holders in the event of a failure of a credit institution. Please note that this compensation scheme only applies to certain deposits lodged with us and does not extend to all

deposits. Where compensation is payable, it relates to all deposits held by one depositor subject to a maximum compensation payment of €100,000.

7.10 Law and Jurisdiction

- (a) These Conditions, the Finance Documents and all Treasury Transactions and all relationships created by or in connection with these Conditions, the Finance Documents and any Treasury Transactions will in all respects be governed by and construed in accordance with Irish law without regard to Irish conflicts of law principles.
- (b) The Customer hereby agrees for the exclusive benefit of the Bank that any legal action or proceeding ("Proceedings") brought against it with respect to these Conditions and all Treasury Transactions may be brought in such competent court of Ireland as the Bank may elect and the Customer waives any objection to Proceedings in such courts whether on the grounds of venue or on the grounds that Proceedings have been brought in an inconvenient forum.
- (c) Nothing in these Conditions, the Finance Documents or any Treasury Transaction shall limit the right of the Bank to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking by the Bank of Proceedings in any other jurisdiction (whether concurrently or not).

Schedule

Events of Default

Each of the following events shall be an Event of Default: If:

1. the Customer fails to pay any sum to the Bank under the Finance Documents or any Treasury Transactions when due and in the manner stipulated thereunder;
2. the Customer fails to observe or perform any other obligations under or is otherwise in breach or default of any term or provision of these Conditions, the Finance Documents or any Treasury Transactions;
3. any representation or warranty contained in these Conditions, the Finance Documents or any Treasury Transactions or any certificate to be provided to the Bank by the Customer or on its behalf thereunder is inaccurate or misleading in any respect;
4. the Customer should die, become bankrupt, or become a ward of court;
5. any indebtedness in respect of money borrowed by the Customer in an amount greater than Euro 12,700 becomes payable or capable of being declared payable before its stated maturity;
6. the Customer is (or admits it is) unable to pay its debts as they fall due within the meaning of Section 214 of the Companies Act, 1963 or Section 2(3) of the Companies Amendment Act, 1990 or other applicable law;

7. an order is made or a petition is presented or a meeting is convened for the purpose of considering a resolution or a resolution is passed for the winding-up, liquidation, bankruptcy or dissolution of the Customer or the appointment of an examiner of the Customer;
8. a receiver is appointed over the Customer or any part of its undertaking assets rights or revenues or its directors request any person to make such appointment;
9. an encumbrancer takes possession of or a distress execution sequestration or other process is levied or enforced upon any part of the undertaking assets rights or revenues of the Customer;
10. the Customer ceases to carry on the whole or a substantial part of its business or stops or suspends payment of its debts or proposes to enter into any composition scheme compromise or arrangement with or for the benefit of its creditors generally or any class of them;
11. any security (or any part of it) given under or in respect of these Conditions, the Finance Documents or any Treasury Transactions or in respect of the these Conditions is not or ceases to be for any reason a valid enforceable effective and continuing security or the Bank receives legal advice to that effect;
12. any event equivalent or analogous to any of the foregoing occurs in any jurisdiction in relation to the Customer, the Customer's holding company or a subsidiary of the Customer or any other party to these Conditions, the Finance Documents or any Treasury Transactions;
13. any circumstances arise which in the Bank's opinion have or may have a material adverse effect on the Customer's ability to perform its obligations under these Conditions, the Finance Documents or any Treasury Transactions or on the validity or enforceability of the Bank's security or any of these Conditions, the Finance Documents or any Treasury Transactions; and/or
14. the insolvency or inability of the Customer or any other person, corporation or entity now or hereafter liable, absolutely or contingently for the payment of the Customer's obligations under the Financing Documents and Treasury Transactions ("Other Liable Party"), to pay his or its debts as they mature, or the appointment of a receiver, trustee, custodian or other fiduciary for, or for any property of, or an assignment for the benefit of creditors by, or the making of or entering into a trust mortgage or deed or other instrument of similar import for the benefit of creditors by the Customer or any other Liable Party; or the convening of a meeting of the creditors, or the selection of a committee representing the creditors of Debtor or any other Liable Party.



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Irish Bank Resolution Corporation Limited (trading as IBRC) is regulated by the Central Bank of Ireland