

## REGISTRATION DOCUMENT

### ELVA FUNDING PLC

*(Incorporated with limited liability in Ireland)*

*On 6 October 2003 ELVA Funding plc (the "**Issuer**") established its €20,000,000,000 Asset Backed Medium Term Note Programme (the "**Programme**") for the issuance of series (each a "**Series**") of notes (the "**Notes**")*

This registration document has been approved by the Central Bank of Ireland (the "**Central Bank**"), as competent authority under Directive 2003/71/EC, as amended (the "**Prospectus Directive**"). The Central Bank only approves this registration document as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. This document constitutes a registration document (the "**Registration Document**") for the purposes of the Prospectus Directive. Application will be made to the Irish Stock Exchange plc (the "**Irish Stock Exchange**") for the Notes issued under the Programme within 12 months of this Registration Document to be admitted to the official list (the "**Official List**") and trading on its regulated market (the "**Main Securities Market**"). The Main Securities Market is a regulated market for the purposes of Directive 2004/39/EC (the "**Markets in Financial Instruments Directive**"). No assurance can be given that any such application will be successful. Such approval relates only to the Notes which are to be admitted to trading on a regulated market for the purposes of Directive 2004/39/EC and/or which are to be offered to the public in any Member State of the European Economic Area.

In respect of each Series to be admitted to the Official List of the Irish Stock Exchange and to be admitted to trading on the Main Securities Market, this Registration Document shall be read in conjunction with the securities note (the "**Securities Note**") for that Series (which shall append, where Notes of that Series have a denomination of less than EUR 100,000 (or equivalent), the summary note for that Series), prepared for the purposes of Articles 5.2 and 5.3 of the Prospectus Directive. Together, this Registration Document and the related Securities Note (appending the related summary note (if any)) shall comprise the prospectus (the "**Prospectus**") for a Series, prepared for the purposes of Article 5.1 of the Prospectus Directive.

The Notes have not been and will not be registered under the United States Securities Act of 1933 as amended (the "**Securities Act**") or any state securities laws and, unless so registered, may not be offered or sold within the United States or to, or for the benefit of U.S. persons as defined in Regulation S under the Securities Act except pursuant to an exemption from or in a transaction not subject to the registration requirements of the Securities Act and applicable state securities laws.

**MORGAN STANLEY**

7 February 2017

## **Important Notices**

**The Issuer accepts responsibility for the information contained in this document. To the best of the knowledge of the Issuer, which has taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.**

**The Issuer has only made very limited queries with regards to the accuracy and completeness of the information under the section entitled "Overview of Parties to the Programme" in this Registration Document (the "Third Party Information"). This information has been accurately reproduced from publicly available information identified by the relevant entities and, so far as the Issuer is aware, no facts have been omitted which would render the reproduced information inaccurate or misleading. Prospective investors in the Notes should not rely upon, and should make their own independent investigations and enquires in respect of, the accuracy and completeness of the Third Party Information.**

**THE NOTES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR ANY SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. ACCORDINGLY, THE NOTES MAY NOT BE OFFERED, SOLD OR DELIVERED WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S ("REGULATION S") UNDER THE SECURITIES ACT), EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, THE INVESTMENT COMPANY ACT OF 1940 (THE "INVESTMENT COMPANY ACT") AND THE SELLING AND TRANSFER RESTRICTIONS SET FORTH IN THE PROSPECTUS AND APPLICABLE SUPPLEMENT.**

**THE BEARER NOTES OF EACH SERIES WILL INITIALLY BE REPRESENTED BY A TEMPORARY GLOBAL NOTE WITHOUT COUPONS, TALONS OR RECEIPTS ATTACHED. WHILST ANY BEARER NOTE IS REPRESENTED BY A TEMPORARY GLOBAL NOTE, PAYMENTS OF PRINCIPAL, INTEREST (IF ANY) AND ANY OTHER AMOUNT PAYABLE IN RESPECT OF THE NOTES DUE PRIOR TO THE EXCHANGE DATE (AS DEFINED BELOW) WILL BE MADE (AGAINST PRESENTATION OF THE TEMPORARY GLOBAL NOTE) ONLY TO THE EXTENT THAT CERTIFICATION (IN A FORM TO BE PROVIDED) TO THE EFFECT THAT THE BENEFICIAL OWNERS OF INTERESTS IN THE TEMPORARY GLOBAL NOTE ARE NOT U.S. PERSONS OR PERSONS WHO HAVE PURCHASED FOR RESALE TO ANY U.S. PERSON, AS REQUIRED BY U.S. TREASURY REGULATIONS, HAS BEEN RECEIVED BY EUROCLEAR AND/OR CLEARSTREAM, LUXEMBOURG AND EUROCLEAR AND/OR CLEARSTREAM, LUXEMBOURG, AS APPLICABLE, HAS GIVEN A LIKE CERTIFICATION (BASED ON THE CERTIFICATIONS IT HAS RECEIVED) TO THE PRINCIPAL PAYING AGENT.**

INTERESTS IN A TEMPORARY GLOBAL NOTE WILL, ON OR AFTER THE DATE (THE "EXCHANGE DATE") WHICH IS 40 DAYS AFTER THE COMPLETION OF THE DISTRIBUTION OF ALL THE NOTES OF THE RELEVANT TRANCHE (AS DETERMINED BY THE DEALER, OR IN THE CASE OF A SYNDICATED ISSUE, THE LEAD MANAGER ONLY), BE EXCHANGEABLE, IN WHOLE OR IN PART, FOR INTERESTS IN A PERMANENT GLOBAL NOTE OR, IF SO SPECIFIED IN THE SUPPLEMENTAL TRUST DEED AND THE APPLICABLE SUPPLEMENT FOR SUCH SERIES, FOR DEFINITIVE NOTES HAVING, IF SO SPECIFIED, COUPONS AND/OR RECEIPTS ATTACHED AND/OR (IN THE CASE OF A SERIES COMPRISING BOTH BEARER NOTES AND REGISTERED NOTES) REGISTERED NOTE CERTIFICATES AS DESCRIBED IN THE TEMPORARY GLOBAL NOTE, IN EACH CASE AGAINST CERTIFICATION OF BENEFICIAL OWNERSHIP AS DESCRIBED ABOVE UNLESS SUCH CERTIFICATION HAS ALREADY BEEN GIVEN, PROVIDED THAT PURCHASERS IN THE UNITED STATES AND CERTAIN U.S. PERSONS WILL NOT BE ABLE TO RECEIVE DEFINITIVE BEARER NOTES. THE PERMANENT GLOBAL NOTE IN RESPECT OF ANY SERIES WILL BE EXCHANGEABLE FOR DEFINITIVE NOTES HAVING, IF SO SPECIFIED IN THE RELEVANT SUPPLEMENTAL TRUST DEED AND THE APPLICABLE SUPPLEMENT IN RESPECT OF SUCH SERIES, COUPONS AND/OR RECEIPTS ATTACHED AND/OR (IN THE CASE OF A SERIES COMPRISING BOTH BEARER NOTES AND REGISTERED NOTES) REGISTERED NOTE CERTIFICATES AS DESCRIBED IN THE PERMANENT GLOBAL NOTE. PARTLY PAID NOTES IN BEARER FORM WILL INITIALLY BE REPRESENTED BY A TEMPORARY GLOBAL NOTE AND WILL BE EXCHANGEABLE IN ACCORDANCE WITH THE TERMS OF SUCH TEMPORARY GLOBAL NOTE, PROVIDED THAT SUCH TERMS MAY DIFFER FROM THOSE OF THE TEMPORARY GLOBAL NOTE ATTACHED TO THE PRINCIPAL TRUST DEED.

UNLESS SPECIFIED IN THE RELEVANT PROSPECTUS, BY ITS ACQUISITION AND HOLDING OF A NOTE, EACH HOLDER OF SUCH NOTE WILL BE DEEMED TO HAVE REPRESENTED AND AGREED THAT (I) IT IS NOT AND IS NOT DEEMED FOR PURPOSES OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA") OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") TO BE (A) AN "EMPLOYEE BENEFIT PLAN" AS DEFINED IN ERISA AND SUBJECT TO PART 4 OF SUBTITLE B OF TITLE I OF ERISA, (B) A "PLAN" AS DEFINED IN AND SUBJECT TO SECTION 4975 OF THE CODE, OR (C) ANY ENTITY WHOSE UNDERLYING ASSETS ARE DEEMED FOR PURPOSES OF ERISA OR THE CODE TO INCLUDE "PLAN ASSETS" BY REASON OF SUCH EMPLOYEE BENEFIT PLAN OR PLAN'S INVESTMENT IN THE ENTITY (ANY OF THE FOREGOING, A "BENEFIT PLAN INVESTOR"), OR (II) IT IS AN "EMPLOYEE BENEFIT PLAN" THAT IS NOT A BENEFIT PLAN INVESTOR AND IT IS SUBJECT TO FEDERAL, STATE, OR LOCAL OR NON-U.S. LAW THAT IS SUBSTANTIALLY SIMILAR TO SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE ("SIMILAR LAW"), AND THE ACQUISITION, HOLDING AND DISPOSITION OF THE NOTES DO NOT AND WILL NOT VIOLATE ANY SUCH SUBSTANTIALLY SIMILAR LAW. ANY

**PURPORTED TRANSFER OF A NOTE THAT DOES NOT COMPLY WITH THESE REQUIREMENTS SHALL BE NULL AND VOID AB INITIO.**

The Dealer, the Arranger and the Trustee have not separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Dealer, the Arranger or the Trustee as to the accuracy or completeness of the financial information contained herein, or any other financial statements or any further information supplied in connection with the Programme or any of the Notes or their distribution. The statements made in this paragraph are without prejudice to the respective responsibilities of the Issuer under the Programme.

No person is or has been authorised to give any information or to make any representation not contained in or not consistent with this Registration Document or any other financial statements or further information supplied pursuant to the terms of the Programme or any of the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by either the Issuer or any of the Dealer, the Arranger or the Trustee.

Neither this Registration Document nor any further information supplied pursuant to the terms of the Programme or the Notes are intended to provide the basis of any credit or other evaluation and should not be considered as a recommendation or constituting an invitation or offer by or on behalf of either the Issuer or any of the Dealer, the Arranger or the Trustee that any recipient of this Registration Document or any further information supplied pursuant to the terms of the Programme or any of the Notes should subscribe for or purchase any of the Notes. Each investor contemplating purchasing any of the Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer.

The delivery of the Registration Document does not at any time imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other financial statements or any further information supplied pursuant to the terms of the Programme or any of the Notes is correct as of any time subsequent to the date indicated in the document containing the same. The Dealer, the Arranger and the Trustee expressly do not undertake to review the financial condition or affairs of the Issuer during the tenure of the Programme.

The Issuer, the Dealer, the Arranger and the Trustee do not represent that this Registration Document may be lawfully distributed, or that any of the Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. Accordingly, persons into whose possession this Registration Document or any of the Notes come must inform themselves about, and observe, any such restrictions. In particular, no action has been taken by the Issuer, the Dealer, the Arranger or the Trustee (save for the approval of the Registration Document by the Central Bank) which would permit a public offering of any of the Notes or distribution of this Registration Document in any jurisdiction where action for that purpose is required. Accordingly, none of the Notes may be offered or sold, directly or indirectly, and neither this Registration Document nor any Securities Note, advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws

and regulations and the Dealer has represented that all offers and sales by it will be made on the same terms.

Notwithstanding anything herein to the contrary, each prospective investor in the Notes (and its respective employees, representatives and other agents) may disclose to any and all persons, without limitations of any kind, the U.S. federal tax treatment and U.S. tax structure of the transactions contemplated by the Prospectus and any Prospectus Addendum and all materials of any kind (including tax opinions or other tax analyses) relating to such U.S. tax treatment and U.S. tax structure.

It is not intended that the Issuer will issue notes with a maturity of less than one year. Where the Issuer wishes to issue notes with a maturity of less than one year, it shall ensure that it is in full compliance with the notice of the Central Bank of exemptions granted under Section 8(2) of the Central Bank Act, 1971 (as amended).

By virtue of the issue of the Notes the Issuer is not and will not be regulated by the Central Bank. Any investment in the Notes will not have the status of a bank deposit and will not fall within the deposit protection scheme operated by the Central Bank.

This Registration Document has been filed with and approved by the Central Bank as required by the Prospectus (Directive 2003/71/EC) Regulations 2005 (the "**Prospectus Regulations**"). Upon approval of this Registration Document by the Central Bank, this Registration Document will be filed with the Irish Companies Registration Office in accordance with Regulation 38(1)(b) of the Prospectus Regulations.

*All references in this document to "£", "**pounds**", "**Pounds Sterling**" and "**Sterling**" are to the lawful currency of the United Kingdom, all references to "\$", "**dollars**", "**US\$**", "**USD**" and "**US dollars**" are to the lawful currency of the United States of America and all references to "€", "**euro**" and "**EUR**", are to the lawful currency of the member states of the European Union that have adopted or adopt the single currency in accordance with the Treaty establishing the European Community, as amended.*

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## **RISK FACTORS**

*Prospective investors in any Notes of the Issuer should read the entire Registration Document and the relevant Securities Note (including, where applicable, the summary note). Investing in the Notes of the Issuer involves certain risks. Prospective investors should consider, among other things, the following:*

### **Risks relating to the Issuer**

#### *The Issuer is a Special Purpose Vehicle*

The Issuer's sole business is the raising of money by issuing Series of Notes or other obligations for the purposes of purchasing assets and entering into related derivatives and other contracts. The Issuer has covenanted not to have any subsidiaries or employees, purchase, own, lease or otherwise acquire any real property (including office premises or like facilities), consolidate or merge with any other person or issue any shares (other than such shares as were in issue on the date of its incorporation). As such, the Issuer has, and will have, no assets other than its issued and paid-up share capital, such fees (as agreed) payable to it in connection with the issue of each Series of Notes or entry into other obligations from time to time (and any related profits and the proceeds of any deposits and investments made from such fees) and any assets on which Series of Notes or other obligations are secured. There is no day-to-day management of the business of the Issuer.

#### *No Regulation of the Issuer by any Regulatory Authority*

The Issuer is not required to be licensed, registered or authorised under any current securities, commodities or banking laws of its jurisdiction of incorporation and will operate without supervision by any authority in any jurisdiction. There is no assurance, however, that regulatory authorities in one or more jurisdictions would not take a contrary view regarding the applicability of any such laws to the Issuer. The taking of a contrary view by such regulatory authority could have an adverse impact on the Issuer or the holders of a Series of Notes.

Any investment in a Series of Notes does not have the status of a bank deposit and is not within the scope of any deposit protection scheme.

***The Issuer is subject to risks, including the location of its COMI, the appointment of examiners, claims of preferred creditors and floating charges.***

#### *Centre of Main Interests*

The Issuer has its registered office in Ireland. As a result, there is a rebuttable presumption that its centre of main interests ("**COMI**") is in Ireland and consequently that any main insolvency proceedings applicable to it would be governed by Irish law. In the decision by the European Court of Justice ("**ECJ**") in relation to *Eurofood IFSC Limited*, the ECJ restated the presumption in Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency Proceedings that the place of a company's registered office is presumed to be the company's COMI and stated that the presumption can only be rebutted if "factors which are both objective and ascertainable by third parties enable it to be established that an actual situation exists which is different from that which locating it at the registered office is deemed to reflect". As the Issuer has its registered office in Ireland, has Irish directors, is registered for tax in Ireland and

has an Irish corporate services provider, the Issuer does not believe that factors exist that would rebut this presumption, although this would ultimately be a matter for the relevant court to decide, based on the circumstances existing at the time when it was asked to make that decision. If the Issuer's COMI is held not to be located in Ireland and is held to be in a different jurisdiction within the European Union, Irish Insolvency proceedings will not be applicable to the Issuer.

### *Examinership*

Examinership is a court procedure available under the Irish company law moratorium/protection which is to facilitate the survival of Irish companies in financial difficulties. Where a company, which has its COMI in Ireland is, or is likely to be, unable to pay its debts an examiner may be appointed on a petition to the relevant Irish court under Section 509 of the Companies Act 2014.

The Issuer, the directors of the Issuer, a contingent, prospective or actual creditor of the Issuer, or shareholders of the Issuer holding, at the date of presentation of the petition, not less than one-tenth of the voting share capital of the Issuer are each entitled to petition the court for the appointment of an examiner. The examiner, once appointed, has the power to halt, prevent or rectify acts or omissions, by or on behalf of the company after his appointment and, in certain circumstances, negative pledges given by the company prior to his appointment will not be binding on the company. Furthermore, where proposals for a scheme of arrangement are to be formulated, the company may, subject to the approval of the court, affirm or repudiate any contract under which some element of performance other than the payment remains to be rendered both by the company and the other contracting party or parties.

During the period of protection, the examiner will compile proposals for a compromise or scheme of arrangement to assist in the survival of the company and the whole or any part of its undertaking as a going concern. A scheme of arrangement may be approved by the relevant Irish Court when a minimum of one class of creditors, whose interests are impaired under the proposals, has voted in favour of the proposals and the relevant Irish Court is satisfied that such proposals are fair and equitable in relation to any class of members or creditors who have not accepted the proposals and whose interests would be impaired by implementation of the scheme of arrangement and the proposals are not unfairly prejudicial to any interested party.

The fact that the Issuer is a special purpose entity and that all its liabilities are of a limited recourse nature means that it is unlikely that an examiner would be appointed to the Issuer.

If however, for any reason, an examiner were appointed while any amounts due by the Issuer under the Notes were unpaid, the primary risks to the holders of Notes would be as follows:

- (i) the Trustee, acting on behalf of Noteholders, would not be able to enforce rights against the Issuer during the period of examinership; and
- (ii) a scheme of arrangement may be approved involving the writing down of the debt due by the Issuer to the Noteholders irrespective of the Noteholders' views.

### *Preferred Creditors*

If the Issuer becomes subject to an insolvency proceeding and the Issuer has obligations to creditors that are treated under Irish law as creditors that are senior relative to the Noteholders,



the Noteholders may suffer losses as a result of their subordinated status during such insolvency proceedings. In particular:

- (i) under the terms of the Trust Deed, each Series of Notes will be secured in favour of the Trustee for the benefit of itself and the other Secured Creditors by security over such Series of Notes and assignments of various of the Issuer's rights under the Transaction Documents relating to such Series of Notes. Under Irish law, the claims of creditors holding fixed charges may rank behind other creditors (namely fees, costs and expenses of any examiner appointed and certain capital gains tax liabilities) and, in the case of fixed charges over book debts, may rank behind claims of the Irish Revenue Commissioners for PAYE and VAT;
- (ii) under Irish law, for a charge to be characterised as a fixed charge, the charge holder is required to exercise the requisite level of control over the assets purported to be charged and the proceeds of such assets including any bank account into which such proceeds are paid. There is a risk therefore that even a charge which purports to be taken as a fixed charge may take effect as a floating charge if a court deems that the requisite level of control was not exercised; and
- (iii) in an insolvency of the Issuer, the claims of certain other creditors (including the Irish Revenue Commissioners for certain unpaid taxes), as well as those of creditors mentioned above, will rank in priority to claims of unsecured creditors and claims of creditors holding floating charges.

### **Risk relating to the Notes**

#### *Potential Withholding Tax under Recent U.S. Federal Income Tax Legislative and Regulatory Developments*

Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 ("**FATCA**") impose a reporting regime and, potentially, a 30 per cent. withholding tax with respect to (i) certain payments from sources within the United States, (ii) "foreign passthru payments" made to certain non-U.S. financial institutions that do not comply with this new reporting regime, and (iii) payments to certain investors that do not provide identification information with respect to interests issued by a participating non-U.S. financial institution.

Non-U.S. financial institutions in a jurisdiction which has entered into an intergovernmental agreement with the United States to facilitate the implementation of FATCA, such as Ireland, generally are not expected to be required to withhold under FATCA (or any law implementing such an intergovernmental agreement) from payments they make on securities such as the Notes. While the Notes are in global form and held within Euroclear or Clearstream, Luxembourg (together, the "**ICSDs**") or DTC, in all but the most remote circumstances, it is not expected that FATCA will affect the amount of any payment received by the ICSDs or DTC. However, if FATCA withholding were relevant with respect to payments on the Notes, FATCA could affect payments made to custodians or intermediaries in the subsequent payment chain leading to the ultimate investor if any such custodian or intermediary generally is unable to receive payments free of FATCA withholding. It also could affect payments to any ultimate investor that is a financial institution that is not entitled to receive payments free of withholding under FATCA, or an ultimate investor that fails to provide its broker (or other custodian or intermediary from which it receives payment) with any information, forms, other documentation

or consents that may be necessary for the payments to be made free of FATCA withholding. Investors should choose their custodians and intermediaries with care (to ensure each is compliant with FATCA or other laws or agreements related to FATCA) and provide each custodian or intermediary with any information, forms, other documentation or consents that may be necessary for such custodian or intermediary to make a payment free of FATCA withholding.

If withholding is required under either of these regimes, the Issuer will not be required to pay any additional amounts with respect to the amounts so withheld which may affect the amounts paid to an investor on the Notes. Investors should consult their own advisors about the treatment of the Notes for U.S. federal income tax purposes and the application of FATCA to the Notes, in particular if they may be classified as financial institutions under the FATCA rules.

#### *European Market Infrastructure Regulation EU 648/2012*

The European Market Infrastructure Regulation EU 648/2012 ("**EMIR**") entered into force on 16 August 2012. EMIR and the regulations made under it impose certain obligations on parties to OTC derivative contracts according to whether they are "financial counterparties" such as investment firms, alternative investment funds, credit institutions and insurance companies, or other entities which are "non-financial counterparties".

Financial counterparties will, depending on the identity of their counterparty, be subject to a general obligation (the clearing obligation) to clear all "eligible" OTC derivative contracts through a duly authorised or recognised central counterparty. They must also report the details of all derivative contracts to a trade repository and in general undertake certain risk-mitigation techniques in respect of OTC derivative contracts which are not cleared by a central counterparty such as timely confirmation of terms, portfolio reconciliation and compression and the implementation of dispute resolution procedures (together, the risk mitigation obligations). Non-cleared OTC derivatives entered into by financial counterparties must also be marked to market and collateral must be exchanged (the margin requirement).

Non-financial counterparties are excluded from the clearing obligation and certain of the risk mitigation obligations provided the gross notional value of all derivative contracts entered into by the non-financial counterparty and other non-financial counterparties within its "group" (as defined in EMIR), excluding eligible hedging transactions, do not exceed certain thresholds. If the Issuer is considered to be a member of such a "group" (as defined in EMIR) and if the notional value of derivative contracts entered into by the Issuer or other non-financial counterparties within any such group exceeds the applicable threshold, the Issuer would be subject to the clearing obligation.

Whilst swap transactions entered into by the Issuer would be expected to be treated as hedging transactions and deducted from the total in assessing whether the notional value of OTC derivative contracts entered by the Issuer and/or non-financial entities within its "group", there is currently no certainty as to whether the regulator will share this view.

If the Issuer exceeds the applicable clearing thresholds, it would also be subject to the full set of risk mitigation obligations and would be required to post collateral in respect of non-cleared OTC derivative contracts. It is likely that the Issuer would be unable to comply with such

requirements, which would adversely affect the Issuer's ability to enter into swap transactions or significantly increase the cost thereof.

## DOCUMENTS INCORPORATED BY REFERENCE

The most recent 2 years audited financial statements of the Issuer (being the audited financial statements for the years ending 30 June 2014 and 30 June 2015) and including the auditors' reports thereon) (the "**Financial Information**") which have been submitted to and filed with the Central Bank of Ireland shall be deemed to be incorporated in, and to form part of, this Registration Document.

A copy of the audited financial statements can be access at the following locations:

[http://www.ise.ie/debt\\_documents/Annual%20Financial%20Statement\\_2cb5d8c6-b865-4082-aca7-eaa7167c245d.PDF](http://www.ise.ie/debt_documents/Annual%20Financial%20Statement_2cb5d8c6-b865-4082-aca7-eaa7167c245d.PDF)

[http://www.ise.ie/debt\\_documents/Elva%20Funding%20Plc%20-%202014%20Signed%20Financial%20Statements\(22097571\\_1\)\\_ecdddb8-6106-4841-ba79-181456206737.PDF](http://www.ise.ie/debt_documents/Elva%20Funding%20Plc%20-%202014%20Signed%20Financial%20Statements(22097571_1)_ecdddb8-6106-4841-ba79-181456206737.PDF)

Such documents shall be incorporated in, and form part of, this Registration Document provided, however, that any statement contained in this Registration Document or in any document incorporated by reference in, and forming part of, this Registration Document shall be deemed to be modified or superseded for the purpose of this Registration Document to the extent that a statement contained in any document subsequently incorporated by reference in any Securities Note modifies or supersedes such statement.

The Issuer will at its registered office and at the specified office of the Principal Paying Agent, make available for inspection during normal business hours and free of charge, upon oral or written request, a copy of this Registration Document and any document incorporated by reference in this Registration Document. Any request for inspection of such documents should be directed to the specified office of the Principal Paying Agent.

## DESCRIPTION OF THE ISSUER

### Incorporation and Registered Office

The Issuer was registered and incorporated as a public company with limited liability (registration number 376213) with the name Elva Funding plc under the Irish Companies Acts 1963 - 2003 (as amended) on 25 September 2003. The Issuer has been incorporated for an indefinite period and was established as a special purpose vehicle for the purpose of issuing asset backed securities.

The registered office of the Issuer is at 2nd Floor, Beaux Lane House, Mercer Street Lower, Dublin 2. The telephone number of the registered office is +353 1 697 3200.

### Share Capital

The authorised share capital of the Issuer is Euro 40,000 divided into 40,000 ordinary shares of Euro 1 each, all of which have been issued and fully paid up. 39,994 of the issued ordinary shares are held by Maples FS Trustees Ireland Limited as share trustee (the "**Share Trustee**") and the remaining six are held by six nominee shareholders which hold such shares on trust for the Share Trustee.

Under the terms of an instrument of appointment retirement and indemnity (the "**Declaration of Trust**") dated 25 August 2009 as amended on 10 June 2014 the Share Trustee holds all the issued shares held directly or indirectly by it on trust for one or more qualified charities as defined in the Declaration of Trust. The Share Trustee has no beneficial interest in and derives no benefit (other than its fees for acting as Share Trustee) from its holding of the shares of the Issuer. There are restrictions in the Declaration of Trust with regards to the disposal of the shares whilst any Notes are outstanding.

### Management

The directors of the Issuer, their respective business addresses and other principal activities at the date hereof are:

Name	Address	Occupation
Gareth Rowe	2nd Floor Beaux Lane House Mercer Street Lower Dublin 2 Ireland	Company Director
Sean O'Sullivan	2nd Floor Beaux Lane House Mercer Street Lower Dublin 2 Ireland	Company Director

## **Corporate Services Provider**

Maples Fiduciary Services (Ireland) Limited of 2nd Floor, Beaux Lane House, Mercer Street Lower, Dublin 2 is the corporate services provider (the "**Corporate Services Provider**") of the Issuer pursuant to a corporate administration agreement dated 5 October 2009 as novated on 10 June 2014 (the "**Corporate Services Agreement**"). Its duties include the provision of certain administrative and related services including acting as company secretary. The appointment of the Corporate Services Provider may be terminated and the Corporate Services Provider may retire upon 3 months written notice.

In addition, the Corporate Services Agreement provides for termination of the Corporate Services Agreement by a party in certain circumstances of insolvency of the other party and/or in the event of a material breach of the Corporate Services Agreement by the other party. In the event of a termination of the existing Corporate Services Agreement (for whatever reason) appropriate alternative management arrangements will need to be put into place at the relevant time.

## **Financial Statements and Auditors' Report**

The Issuer will prepare and publish audited financial statements on an annual basis. The financial period of the Issuer will end on 30 June in each year. The auditors appointed in respect of the Issuer are Deloitte & Touche, whose address is Deloitte & Touche House, Earlsfort Terrace, Dublin 2, Ireland. Deloitte & Touche are chartered accountants qualified to practise in Ireland and are members of the Institute of Chartered Accountants of Ireland. The audited annual financial statements to 30 June 2015 of the Issuer will be available free of charge at the offices of the Issuer.

## **Business of the Issuer**

The Issuer has not engaged, since its incorporation, in any activities other than those incidental to its incorporation under the Irish Companies Acts 1963-2003, the establishment and update of this Programme, the authorisation and issue of the Notes pursuant to the Programme and the authorisation, execution, delivery and performance of the other documents to which it is or will be a party and matters which are incidental or ancillary to the foregoing.

The principal objects of the Issuer are set forth in Clause 3.1 of its Memorandum of Association and include, *inter alia*, the management of financial assets, the purchase, transfer of, investment in and acquisition of, by any means of loans, bonds or other obligations, including the extension of credit and any security therefore and the raising and borrowing of money and the granting of security over its assets for such purposes.

The Principal Trust Deed (as defined in Annex 1 hereto) contains restrictions on the activities that the Issuer may engage in. Pursuant to these restrictions, the business of the Issuer is limited to acquiring and holding the Charged Assets, issuing Notes, entering into the relevant Transaction Documents and Related Agreements (each as defined in Annex 1 hereto) and performing its obligations and exercising its rights thereunder, and entering into other related transactions and other incidental activities, in each case, in respect of or in relation to each Series of Notes. While any Notes are outstanding the Issuer will not, without the prior consent of the Trustee, declare any dividends or engage in any other business.

The Issuer has, and will have, no material assets other than the remaining proceeds of its issued share capital, such fees (as agreed) per Series payable to it in connection with the issue of Notes or the purchase, sale or incurring of other obligations and any Charged Assets and any other assets on which the Notes are secured. Save in respect of the fees generated in connection with each issue of Notes, any related profits and the proceeds of any deposits and investments made from such fees or from amounts representing the proceeds of the Issuer's issued share capital, the Issuer will not accumulate any surpluses.

The Notes are obligations of the Issuer alone and not of, or guaranteed in any way by, the Corporate Services Provider or the Share Trustee. Furthermore, they are not obligations of, or guaranteed in any way by Morgan Stanley & Co. International plc or any other party.

## OVERVIEW OF PARTIES TO THE PROGRAMME

### *The Trustee*

Pursuant to the terms of the Principal Trust Deed, BNY Mellon Corporate Trustee Services Limited (formerly BNY Corporate Trustee Services Limited) has agreed to act as trustee in respect of each Series of Notes in relation to which the Issuer appoints it to act as set out in the relevant supplemental trust deed applicable to such Series of Notes. The Trustee is a wholly owned subsidiary of BNY Corporate Holdings (UK) Limited. The Trustee is a trust corporation and administers a substantial and diverse portfolio of corporate trusteeships for both domestic and foreign companies and institutions. The Trustee's registered office and principal place of business is at One Canada Square, London E14 5AL.

The Trustee will not be responsible for (a) supervising the performance by the Issuer or any other party to the Transaction Documents of their respective obligations under the Transaction Documents and the Trustee will be entitled to assume, until it has written notice to the contrary, that all such persons are properly performing their duties, or (b) considering the basis on which approvals or consents are granted by the Issuer or any other party to the Transaction Documents under the Transaction Documents. The Trustee will not be liable to any Noteholder or other Secured Creditor for any failure to make or to cause to be made on its behalf the searches, investigations and enquiries which would normally be made by a prudent chargee in relation to the Charged Assets and has no responsibility in relation to the legality, validity, sufficiency and enforceability of the Security and the Transaction Documents.

### *The Bank of New York Mellon (formerly The Bank of New York)*

The Bank of New York Mellon, a wholly owned subsidiary of The Bank of New York Mellon Corporation, is incorporated, with limited liability by Charter, under the Laws of the State of New York by special act of the New York State Legislature, Chapter 616 of the Laws of 1871, with its Head Office situated at 225 Liberty St, New York, NY 10286, USA and having a branch registered in England & Wales with FC No 005522 and BR No 000818 with its principal office in the United Kingdom situated at One Canada Square, London E14 5AL.

The Bank of New York Mellon's corporate trust business services \$11.8 trillion in outstanding debt from 55 locations around the world. It services all major debt categories, including corporate and municipal debt, mortgage-backed and asset-backed securities, collateralized debt obligations, derivative securities and international debt offerings. The Bank of New York Mellon's corporate trust and agency services are delivered through The Bank of New York Mellon and The Bank of New York Mellon Trust Company, N.A.

The Bank of New York Mellon Corporation is a global financial services company focused on helping clients manage and service their financial assets, operating in 34 countries and serving more than 100 markets. The company is a leading provider of financial services for institutions, corporations and high-net-worth individuals, providing superior asset management and wealth management, asset servicing, issuer services, clearing services and treasury services through a worldwide client-focused team. It has \$22.4 trillion in assets under custody and administration and more than \$1.1 trillion in assets under management. Additional information is available at [bnymellon.com](http://bnymellon.com).



### *The Custodian, the Principal Paying Agent and the Calculation Agent*

Following the court order on 3 April 2007 sanctioning the transfer of a part of the banking and corporate trust and agency business carried on by JPMorgan Chase Bank N.A., London Branch to The Bank of New York Mellon acting through its London Branch (formerly known as The Bank of New York) and pursuant to the terms of the Custody Agreement and the Agency Agreement, The Bank of New York Mellon acting through its London Branch (formerly known as The Bank of New York) has agreed to act as custodian, as principal paying agent and as calculation agent in respect of each Series of Notes in relation to which the Issuer appoints it so to act as set out in the relevant supplemental trust deed applicable to such Series of Notes.

### *The Registrar*

In connection with the court order on 3 April 2007 sanctioning the transfer of a part of the banking and corporate trust and agency business carried on by JPMorgan Chase Bank N.A. to The Bank of New York Mellon acting through its London Branch (formerly known as The Bank of New York) and pursuant to the terms of the Agency Agreement, The Bank of New York Mellon (Luxembourg) S.A. has agreed to act as registrar in respect of each Series of Notes in relation to which the Issuer appoints it so to act as set out in the relevant supplemental trust deed applicable to such Series of Notes. The Bank of New York Mellon (Luxembourg) S.A. is a société anonyme incorporated under the laws of the Grand Duchy of Luxembourg whose registered office is at 2-4 rue Eugene Ruppert, Vertigo Building – Polaris, L-2453, Luxembourg.

### *The Arranger and Dealer*

Pursuant to the terms of the Dealer Agreement, Morgan Stanley & Co. International plc has agreed to act as arranger and dealer in respect of each Series of Notes. Morgan Stanley & Co. International plc is a public company incorporated with limited liability under the laws of England and Wales whose registered office is at 25 Cabot Square, Canary Wharf, London, E14 4QA.

Morgan Stanley & Co. International plc is an indirect wholly owned subsidiary of Morgan Stanley. Morgan Stanley & Co. International plc is a U.K. registered broker dealer. The principal activity of Morgan Stanley & Co. International plc is the provision of financial services to corporations, governments and financial institutions. It is authorised and regulated by the U.K. Financial Services Authority.

Morgan Stanley is a global financial services firm that, through its subsidiaries and affiliates, provides its products and services to a large and diversified group of clients and customers, including corporations, governments, financial institutions and individuals. It maintains significant market positions in each of its business segments - Institutional Securities, Global Wealth Management Group and Asset Management.

Morgan Stanley's objects and purposes are set out in Article III of its Certificate of Incorporation and enable it to engage in any lawful act or activity for which corporations may be organised and incorporated under the General Corporation Law of the State of Delaware.

Morgan Stanley's common stock is listed on the New York Stock Exchange, Inc. and its principal executive offices are at 1585 Broadway, New York, New York 10036, U.S.A.

## IRISH TAXATION

The following is a summary of the principal Irish tax consequences for individuals and companies of ownership of the Notes based on the laws and practice of the Irish Revenue Commissioners currently in force in Ireland and may be subject to change. It deals with Noteholders who beneficially own their Notes as an investment. Particular rules not discussed below may apply to certain classes of taxpayers holding Notes, such as dealers in securities, trusts etc. The summary does not constitute tax or legal advice and the comments below are of a general nature only. Prospective investors in the Notes should consult their professional advisers on the tax implications of the purchase, holding, redemption or sale of the Notes and the receipt of interest thereon under the laws of their country of residence, citizenship or domicile.

### TAXATION OF NOTEHOLDERS

#### Withholding Tax

In general, tax at the standard rate of income tax (currently 20 per cent.), is required to be withheld from payments of Irish source interest which should include interest or premium payable on the Notes. References in this disclosure to "interest" payable on the Notes shall also include premium payable on the Notes.

The Issuer will not be obliged to make a withholding or deduction for or on account of Irish income tax from a payment of interest on a Note so long as the interest paid on the relevant Note falls within one of the following categories:

1. Interest paid on a quoted Eurobond: The Issuer will not be obliged to make a withholding or deduction for or on account of Irish income tax from a payment of interest on a Note where:
  - (a) *the* Notes are Quoted Eurobonds i.e. securities which are issued by a company (such as the Issuer), which are listed on a recognised stock exchange (such as the Irish Stock Exchange) and which carry a right to interest; and
  - (b) the person by or through whom the payment is made is not in Ireland, or if such person is in Ireland, either:
    - (i) the Notes are held in a clearing system recognised by the Irish Revenue Commissioners (Euroclear and Clearstream, Luxembourg are, amongst others, so recognised); or
    - (ii) the person who is the beneficial owner of the Note and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to a relevant person (such as a paying agent located in Ireland) in the prescribed form; and
  - (c) one of the following conditions is satisfied:
    - (i) the Noteholder is resident for tax purposes in Ireland; or

- (ii) the Noteholder is in respect of such interest subject, without any reduction computed by reference to the amount of such interest, premium or other distribution, to a tax in a relevant territory which generally applies to profits, income or gains received in that territory, by persons, from sources outside that territory; or
- (iii) the Noteholder is not a company which, directly or indirectly, controls the Issuer, is controlled by the Issuer, or is controlled by a third company which also directly or indirectly controls the Issuer, and neither the Noteholder, nor any person connected with the Noteholder, is a person or persons:

- (A) from whom the Issuer has acquired assets;

- (B) to whom the Issuer has made loans or advances; or

- (C) with whom the Issuer has entered into a swap agreement,

where the aggregate value of such assets, loans, advances or swap agreements represents not less than 75 per cent. of the assets of the Issuer; or

- (iv) at the time of issue of the Notes, the Issuer was not in possession, or aware, of any information which could reasonably be taken to indicate whether or not the beneficial owner of the Notes would be subject to tax on any interest payments,

where the term:

**"relevant territory"** means a member state of the European Union (other than Ireland) or a country with which Ireland has signed a double tax treaty ("Relevant Territory"); and

**"swap agreement"** means any agreement, arrangement or understanding that—

- (I) provides for the exchange, on a fixed or contingent basis, of one or more payments based on the value, rate or amount of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and
- (II) transfers to a person who is a party to the agreement, arrangement or understanding or to a person connected with that person, in whole or in part, the financial risk associated with a future change in any such value, rate or amount without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred.

Thus, so long as the Notes continue to be quoted on the Irish Stock Exchange, are held in Euroclear and/or Clearstream, Luxembourg, and one of the conditions set out in paragraph (c) above is met, interest on the Notes can be paid by any paying agent acting on behalf of the Issuer free of any withholding or deduction for or on account of Irish income tax. If the Notes continue to be quoted but cease to be held in a recognised clearing system, interest on the Notes

may be paid without any withholding or deduction for or on account of Irish income tax provided such payment is made through a paying agent outside Ireland and one of the conditions set out in paragraph 1(c) above is met.

2. Interest paid on a wholesale debt instrument: A "wholesale debt instrument" includes commercial paper (as defined in Section 246A(1) of the Taxes Consolidation Act of Ireland 1997, as amended ("TCA")). In that context "commercial paper" means a debt instrument, either in physical or electronic form, relating to money in any currency, which is issued by financial institution (as defined in Section 906A of the TCA), or a company that is not a financial institution, recognises an obligation to pay a stated amount, carries a right to interest or is issued at a discount or at a premium, and matures within 2 years. The exemption from Irish withholding tax applies if:

- (a) the wholesale debt instrument is held in a recognised clearing system (Euroclear and Clearstream, Luxembourg are, amongst others, so recognised); and
- (b) the wholesale debt instrument is of an approved denomination; and in this context an approved denomination means a denomination of not less than:
  - (i) in the case of an instrument denominated in euro, €500,000;
  - (ii) in the case of an instrument denominated in United States Dollars, US\$500,000; or
  - (iii) in the case of an instrument denominated in a currency other than euro or United States Dollars, the equivalent in that other currency of €500,000 (using the conversion rate applicable at the time the programme under which the instrument is to be issued is first publicised); and
- (c) one of the conditions in paragraph 1(c) is satisfied.

3. Interest paid by a qualifying company to certain non-residents: If, for any reason, the exemptions referred to above cease to apply, interest payments may still be made free of withholding tax provided that:

- (a) the Issuer remains a "qualifying company" as defined in Section 110 of the TCA and, the Noteholder is a person which is resident in a Relevant Territory, and, where the recipient is a company, the interest is not paid to it in connection with a trade or business carried on by it in Ireland through a branch or agency; and
- (b) one of the following conditions is satisfied:
  - (i) the Noteholder is a pension fund, government body or other person (which satisfies paragraph 1(c)(iii) above), which is resident in a Relevant Territory and which, under the laws of that territory, is exempted from tax that generally applies to profits, income or gains in that territory; or
  - (ii) the Noteholder is in respect of such interest subject, without any reduction computed by reference to the amount of such interest or other distribution, to a tax in a Relevant Territory which generally applies to profits, income or gains received in that territory, by persons, from sources outside that

territory. The test of residence is determined by reference to the law of the Relevant Territory in which the Noteholder claims to be resident. The Issuer must be satisfied that the terms of the exemption are satisfied.

For other Noteholders, interest may be paid free of withholding tax if the Noteholder is resident in a double tax treaty country and under the relevant provisions of the tax treaty with Ireland such Noteholder is exempt from Irish tax on the interest and clearance in the prescribed form has been received by the Issuer before the interest is paid.

### **Encashment Tax**

Irish tax will be required to be withheld at the standard rate of income tax (currently 20 per cent.) from interest on any Note, where such interest is collected or realised by a bank or encashment agent in Ireland on behalf of any Noteholder. There is an exemption from encashment tax where the beneficial owner of the interest is not resident in Ireland and has made a declaration to this effect in the prescribed form to the encashment agent or bank.

### **Income Tax, PRSI and Universal Social Charge**

Notwithstanding that a Noteholder may receive interest on the Notes free of withholding tax, the Noteholder may still be liable to pay Irish tax with respect to such interest. Noteholders resident or ordinarily resident in Ireland who are individuals may be liable to pay Irish income tax, social insurance (PRSI) contributions and the universal social charge in respect of interest they receive on the Notes.

Interest paid on the Notes may have an Irish source and therefore may be within the charge to Irish income tax. In the case of Noteholders who are non-resident individuals such Noteholders may also be liable to pay the universal social charge in respect of interest they receive on the Notes.

Ireland operates a self-assessment system in respect of tax and any person, including a person who is neither resident nor ordinarily resident in Ireland, with Irish source income comes within its scope.

There are a number of exemptions from Irish income tax available to certain non-residents. Firstly, interest payments made by the Issuer are exempt from income tax so long as the Issuer is a qualifying company for the purposes of Section 110 of the TCA, the recipient is not resident in Ireland and is resident in a Relevant Territory and the interest is paid out of the assets of the Issuer. Secondly, interest payments made by the Issuer in the ordinary course of its trade or business to a company are exempt from income tax provided the recipient company is not resident in Ireland and is either resident for tax purposes in a Relevant Territory which imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory or the interest is exempted from the charge to Irish income tax under the terms of a double tax agreement which is either in force or which will come in to force once all ratification procedures have been completed. Thirdly, interest paid by the Issuer free of withholding tax under the quoted Eurobond exemption or under the wholesale debt instrument exemption is exempt from income tax, where the recipient is a person not resident in Ireland and resident in a Relevant Territory or is a company not resident in Ireland which is under the control, whether directly or indirectly, of person(s) who by virtue of the law of a Relevant

Territory are resident for the purposes of tax in a Relevant Territory and is not under the control of person(s) who are not so resident or is a company not resident in Ireland where the principal class of shares of the company or its 75% parent is substantially and regularly traded on a recognised stock exchange. For the purposes of these exemptions and where not specified otherwise, residence is determined under the terms of the relevant double taxation agreement or in any other case, the law of the country in which the recipient claims to be resident. Interest falling within the above exemptions is also exempt from the universal social charge.

Notwithstanding these exemptions from income tax, a corporate recipient that carries on a trade in Ireland through a branch or agency in respect of which the Notes are held or attributed, may have a liability to Irish corporation tax on the interest.

Relief from Irish income tax may also be available under the specific provisions of a double tax treaty between Ireland and the country of residence of the recipient.

Interest on the Notes which does not fall within the above exemptions is within the charge to income tax, and, in the case of Noteholders who are individuals, the charge to the universal social charge. In the past the Irish Revenue Commissioners have not pursued liability to income tax in respect of persons who are not regarded as being resident in Ireland except where such persons have a taxable presence of some sort in Ireland or seek to claim any relief or repayment in respect of Irish tax. However, there can be no assurance that the Irish Revenue Commissioners will apply this treatment in the case of any Noteholder.

### **Capital Gains Tax**

A holder of Notes will not be subject to Irish tax on capital gains on a disposal of Notes unless such holder is either resident or ordinarily resident in Ireland or carries on a trade or business in Ireland through a branch or agency in respect of which the Notes were used or held.

### **Capital Acquisitions Tax**

A gift or inheritance comprising of Notes will be within the charge to capital acquisitions tax (which subject to available exemptions and reliefs will be levied at 33 per cent.) if either (i) the disponent or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the disponent is domiciled in Ireland irrespective of his residence or that of the donee/successor) on the relevant date or (ii) if the Notes are regarded as property situate in Ireland (i.e. if the Notes are physically located in Ireland or if the register of the Notes is maintained in Ireland).

### **Stamp Duty**

No stamp duty or similar tax is imposed in Ireland (on the basis of an exemption provided for in Section 85(2)(c) to the Irish Stamp Duties Consolidation Act, 1999 so long as the Issuer is a qualifying company for the purposes of Section 110 of the TCA and the proceeds of the Notes are used in the course of the Issuer's business), on the issue, transfer or redemption of the Notes.

## GENERAL INFORMATION

1. The Issuer has obtained all necessary consents, approvals and authorisations in connection with the issue and performance of any Series or Notes. The updating of the Programme and the issue of this Registration Document was authorised by resolutions of the Board of Directors of the Issuer passed on 3 February 2017.
2. There are no governmental, legal or arbitration proceedings (including any proceedings which are pending or threatened of which the Issuer is aware) involving the Issuer which may have, or have had during the 12 months prior to the date of this Registration Document, a significant effect on the financial position or profitability of the Issuer.
3. Save for the issuance of a number of Series of Notes under its Programme or as set out above or in the documents incorporated herein, there has been no significant change in the financial or trading position of the Issuer and no material adverse change in the financial position or prospects of the Issuer since 30 June 2015, being the date of the Issuer's latest audited financial statements.
4. Deloitte & Touche of Deloitte & Touche House, Earlsfort Terrace, Dublin 2, Ireland has audited without qualification the Financial Statements contained in the Annual Report and Accounts of the Bank for the financial years ended 30 June 2014 and 30 June 2015.
5. For so long as the Issuer may issue Notes with respect to which this Registration Document forms part of the Prospectus prepared by the Issuer relating to such Notes, physical and electronic copies of the following documents will be available from the date hereof, during usual business hours on any weekday (Saturdays and public holidays excepted), for inspection by Noteholders at the London office of the Principal Paying Agent and at the registered office of the Issuer:
  - (a) the constitution of the Issuer;
  - (b) the audited financial statements for the financial years ended 30 June 2014 and 30 June 2015;
  - (c) the Principal Trust Deed dated 6 October 2003, as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time) (which includes the form of the Global Notes, the Definitive Notes, the Coupons, Receipts and Talons and Registered Notes);
  - (d) the Agency Agreement dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time);
  - (e) the Programme Dealer Agreement dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time);
  - (f) the Custody Agreement dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time);



- (g) the Master Schedule of Definitions, Interpretation and Construction Clauses dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time); and
  - (h) the Proposals and Advice Agreement dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time).
- 6. Arthur Cox Listing Services Limited is acting solely in its capacity as listing agent for the Issuer in connection with the Notes and is not itself seeking admission of the Notes to the official list of the Irish Stock Exchange or to trading on the regulated market of the Irish Stock Exchange for the purposes of the Prospectus Directive.

## ANNEX 1

### TERMS AND CONDITIONS OF THE NOTES

*The following (including the additional conditions contained in Appendix 1) is the text of the terms and conditions which (subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Applicable Supplement and, save for the italicised text (other than sub-headings)) will be endorsed on each Note (whether bearer or registered) in definitive form. The terms and conditions applicable to any Note which is represented by a Global Note (whether bearer or registered) will differ in some respect from those which would apply to the Note were it in definitive form, as set out in the Global Note. Further information with respect to Notes of each Series will be given in the Applicable Supplement which will provide for those aspects of these terms and conditions which are applicable to those Notes. References in the terms and conditions to "Notes" are to the Notes of one Series only, not to all Notes which may be issued under the Programme. Terms used in the Applicable Supplement and not otherwise defined herein shall have the same meanings where used herein. References to a matter being "specified" means as the same may be specified in the Applicable Supplement.*

The Notes (as defined in Condition 1(a) below) are constituted and secured by a principal trust deed dated 6 October 2003 (as amended and restated on 7 February 2017) (as may be further amended and/or restated from time to time, the "**Principal Trust Deed**") to which the issuer and the trustee of the Notes (respectively the "**Issuer**" and the "**Trustee**" which expression shall include all persons for the time being the trustee or trustees in respect of the Notes under the Trust Deed referred to below and shall mean, in relation to any Series of Notes, the persons identified in the relevant Supplemental Trust Deed as the trustee for that Series) are party as supplemented in relation to the Notes by a supplemental trust deed (as amended or supplemented from time to time, the "**Supplemental Trust Deed**") dated the Issue Date (as defined in Condition 6(k) below), between the Issuer, the Trustee and the other parties named therein (the Principal Trust Deed and such Supplemental Trust Deed being referred to herein as the "**Trust Deed**"). The Principal Trust Deed subjects the issue of and creation of a new Series of Notes to prior notification of each Rating Agency that has ascribed a rating to any Series of Notes.

The Notes will have the benefit (to the extent applicable) of an agency agreement dated 6 October 2003 as amended and restated on 7 February 2017 (and as may be further amended and/or restated from time to time) (the "**Agency Agreement**") (as to which the Issuer, the Trustee, The Bank of New York Mellon acting through its London Branch (formerly known as The Bank of New York) in its capacity as issue agent (the "**Issue Agent**", which expression shall include any successor to The Bank of New York Mellon acting through its London Branch in its capacity as such, to the extent that only one Issue Agent can be appointed at any time except in the event of a domestic issuance which required a local Issue Agent), the Calculation Agent, the Principal Paying Agent and the other Paying Agents (in the case of Bearer Notes) or the Registrar (in the case of Registered Notes). The Principal Paying Agent is required, at all times while any Notes are outstanding, to be a financial institution with a short term senior unsecured debt rating of at least "Prime-1" from Moody's, "A-1" from S&P and "F1" from Fitch Ratings Ltd (the "**Required Principal Paying Agent Rating**"). In the event that the rating of the Principal Paying Agent falls below the Required Principal Paying Agent Rating or is

withdrawn, the Issuer shall use reasonable endeavours to procure that a replacement principal paying agent, which is acceptable to the Trustee, is appointed whose rating is not less than the Required Principal Paying Agent Rating. As used herein, "**Calculation Agent**", "**Principal Paying Agent**", "**Paying Agents**", and/or "**Registrar**" means, in relation to the Notes, the person specified in the Applicable Supplement relating to the Notes as the Calculation Agent, Principal Paying Agent, Paying Agents and/or Registrar, respectively and, in each case, any successor to such person in such capacity. The Applicable Supplement may also specify that a person is to act as determination agent (the "**Determination Agent**") in relation to a particular Series of Notes. The terms of appointment and the functions of the Determination Agent will be as set out in the Agency Agreement and/or the Supplemental Trust Deed.

The Issuer has also entered into a custody agreement dated 6 October 2003 as amended and restated on 7 February 2017 (as may be further amended and/or restated from time to time, the "**Custody Agreement**") which the Trustee and the custodian specified in the Applicable Supplement relating to the Notes (the "**Custodian**", which expression includes any successor and any other custodian appointed in connection with any Notes) are a party. In respect of any Series the Issuer may appoint any financial institution to act as Custodian in relation to that Series, as more fully set out in the Custody Agreement. The Custodian in respect of any Series of Notes is required, at all times while any such Notes are outstanding, to be a financial institution with a short term senior unsecured debt rating of at least "Prime-1" from Moody's, "A-1" from S&P and "F1+" from Fitch (the "**Required Custodian Rating**"). In the event that the rating of the Custodian falls below the Required Custodian Rating or is withdrawn, the Issuer shall use reasonable endeavours to procure that a replacement custodian, which is acceptable to the Trustee, is appointed whose rating is not less than the Required Custodian Rating.

The Notes of a Series may comprise one or more Tranches (as defined in Condition 1(c) below). Each Tranche will be subject to a final terms document (the "**Applicable Supplement**") which will supplement these terms and conditions (the "**Conditions**") and may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the Conditions, replace or modify the Conditions for the purpose of that Tranche.

Certain statements in the Conditions are summaries of the detailed provisions of the Trust Deed and other documents. Copies of the Trust Deed, any Supplementary Security Document, the Applicable Supplement, the Agency Agreement and the Custody Agreement are available for inspection at the specified offices of the Principal Paying Agent and the registered office of the Issuer as specified in the Applicable Supplement (save that, if the Notes are not admitted to trading on the regulated market of the Irish Stock Exchange and to listing on the Official List of the Irish Stock Exchange, the Applicable Supplement shall be available for inspection only by a Noteholder holding one or more Notes of the relevant Series upon production by such Noteholder of evidence satisfactory to the relevant Paying Agent as to its identity).

The Noteholders (as defined in Condition 1(b) below) are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed, any Supplementary Security Document and the Applicable Supplement and to have notice of those provisions of the Agency Agreement, the Custody Agreement and any other Transaction Document applicable to them.

In relation to the Notes, the Programme Dealer Agreement, the Principal Trust Deed, the Agency Agreement, the Corporate Services Agreement, the Custody Agreement, the Applicable Supplement, the Supplemental Trust Deed, any Supplementary Security Document, any Securities Transfer Agreement, any Sub-Custodian Agreement, any Syndication Agreement, any Related Agreement, the Notes of such Series and any other document(s) entered into in connection with such Series shall together be referred to as the "**Transaction Documents**".

Any reference in these Conditions to a matter being "specified" means as the same may specified in the Applicable Supplement.

Words and expressions defined in the Trust Deed, the Agency Agreement, the Custody Agreement or the Master Schedule of Definitions, Interpretation and Construction Clauses dated 6 October 2003 as amended and restated on 7 February 2017 (as may be further amended and/or restated from time to time, the "**Master Schedule**") and signed for the purposes of identification by, among others, the Issuer, The Bank of New York Mellon acting through its London Branch and Morgan Stanley & Co. International plc or used in the Applicable Supplement shall have the same meaning where used in these Conditions unless the context otherwise requires or unless otherwise. In the event of inconsistency between documents, the following order shall determine which shall prevail: (a) *first*, the relevant Applicable Supplement, (b) *second*, the relevant Supplemental Trust Deed, (c) *third*, these Conditions, (d) *fourth*, the Principal Trust Deed, (e) *fifth*, the Agency Agreement, (f) *sixth*, the Custody Agreement and (g) *seventh*, the Master Schedule.

## 1. **Form, Denomination and Title**

### (a) *Form and Denomination*

The Notes of the Series of which this Note forms a part (in these Conditions, the "**Notes**") will be issued either (i) in bearer form ("**Bearer Notes**"), serially numbered in an Authorised Denomination (as defined below) or (ii) in registered form ("**Registered Notes**") in an Authorised Denomination or an integral multiple thereof.

"**Authorised Denomination**" means the currency and denomination or denominations specified in the Applicable Supplement. References herein to "**Notes**" shall include Bearer Notes and Registered Notes. Bearer Notes of one Authorised Denomination may not be exchanged for Bearer Notes of another Authorised Denomination.

Interest bearing Bearer Notes are issued with Coupons (and, where appropriate, a Talon) attached. In the case of Zero Coupon Notes, references to interest (other than in relation to interest due after the Maturity Date or other date for redemption), Coupons and Talons in these Conditions are not applicable. After all the Coupons attached to, or issued in respect of, any Bearer Note which was issued with a Talon have matured, (if applicable, a coupon sheet comprising further Coupons (other than Coupons which would be void) and one further Talon, will be issued against presentation of the relevant Talon at the specified office of any Paying Agent specified in the Applicable Supplement. Any Bearer Note the principal amount of which is redeemable in instalments may be issued with one or more Receipts attached thereto. "**Maturity Date**" means the date specified in the Applicable Supplement as the final date on which the principal amount of the Note is due and payable.

A Certificate in respect of a Registered Notes (each a "**Registered Note Certificate**") will be issued to each Noteholder in respect of its registered holding.

(b) *Title*

Title to Bearer Notes, Coupons, Receipts and Talons (if any) passes by delivery. Title to Registered Notes passes by registration in the register (the "**Register**") which the Issuer shall procure to be kept by the Registrar.

In these Conditions, subject as provided below, "**Noteholder**" and (in relation to a Note, Coupon, Receipt or Talon) "**holder**" and "**Holder**" means the bearer of any Bearer Note, Coupon, Receipt or Talon (as the case may be) and the person in whose name a Registered Note is registered, as the case may be. The expressions "**Noteholder**", "**holder**" and "**Holder**" include the holders of instalment receipts (the "**Receipts**") appertaining to the payment of principal by instalments (if any) attached to such Notes (the "**Receiptholders**") and the holders of the coupons (the "**Coupons**") (if any) appertaining to interest bearing Notes in bearer form (the "**Couponholders**", which expression includes the holders of talons (the "**Talons**") (if any) for further coupons attached to such Notes (the "**Talontholders**").

The holder of any Note, Coupon, Receipt or Talon will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership or writing on the relevant Note or Registered Note Certificate, or its theft or loss or any express or constructive notice of any claim by any other person of any interest therein other than, in the case of a Registered Note, a duly executed transfer of such Note in the form endorsed on the Registered Note Certificate in respect thereof) and no person will be liable for so treating the holder.

(c) *Fungible Tranches of Notes comprising a Series*

A Series of Notes may comprise a number of tranches (each a "**Tranche**"), which will be issued on identical terms save for the Issue Date and, as the case may be, the first interest payment. Notes of different Tranches of the same Series will be consolidated with each other and form a single Series, except as set forth in the Applicable Supplement. If a further Tranche (a "**Further Tranche**") is issued in respect of a Series under which a Tranche or Tranches of Notes have already been issued (an "**Original Tranche**" or "**Original Tranches**"), the pool of assets (the "**Further Underlying Assets**") relating to such Further Tranche will be consolidated with or otherwise equivalent to the Underlying Assets for the Original Tranche or Original Tranches and the Related Agreement for the Original Tranche or Original Tranches will be amended to apply to both the Original Tranche or Original Tranches and such Further Tranche.

2. **Exchanges of Bearer Notes for Registered Notes and Transfers of Registered Notes**

(a) *Exchange of Bearer Notes*

Subject as provided in Condition 2(e), Bearer Notes may be exchanged, at the expense of the transferor Noteholder, for the same aggregate principal amount of Registered Notes at the written request of the relevant Noteholder and upon surrender of the Bearer Note to be exchanged together with all unmatured Coupons, Receipts and Talons relating to it

(if any) at the specified office of the Registrar or any Paying Agent provided, however, that Bearer Notes that are Dual Currency Notes, Variable Coupon Amount Notes or Variable Redemption Amount Notes may be exchanged for Registered Notes only with the prior written approval of the Issuer. Where, however, a Bearer Note is surrendered for exchange after the Record Date (as defined in Condition 8(b)) for any payment of interest or Interest Amount (as defined in Condition 6(k)), the Coupon in respect of that payment of interest or Interest Amount need not be surrendered with it.

Registered Notes may not be exchanged for Bearer Notes.

(b) *Transfer of Registered Notes*

Subject to Condition 2(f), a Registered Note may be transferred upon the surrender of the relevant Registered Note Certificate, together with the form of transfer endorsed on it duly completed and executed, at the specified office of the Registrar *provided, however*, that a Registered Note may not be transferred unless the principal amount of Registered Notes proposed to be the principal amount of the balance of Registered Notes proposed to be retained by the relevant transferor is each in an Authorised Denomination or a multiple thereof. In the case of a transfer of part only of a holding of Registered Notes represented by a Registered Note Certificate, a new Registered Note Certificate in respect of the balance not transferred will be issued to the transferor.

(c) *Delivery of new Registered Note Certificates*

Each new Registered Note Certificate to be issued upon exchange of Bearer Notes or transfer of Registered Notes will, within three business days (in the place of the specified office of a Paying Agent) of receipt of such request for exchange or form of transfer, be available for delivery at the specified office of the Registrar stipulated in the request for exchange or form of transfer, or be mailed at the risk of the Noteholder entitled to the Registered Note Certificate to such address as may be specified in such request or form of transfer. For these purposes, a form of transfer or request for exchange received by the Registrar after the Record Date in respect of any payment due in respect of Registered Notes shall be deemed not to be effectively received by the Registrar until the business day following the due date for such payment.

(d) *Exchange at the expense of Transferor Noteholder*

Registration of Notes on exchange or transfer will be effected at the expense of the transferor Noteholder by or on behalf of the Issuer or the Registrar, and upon payment of (or the giving of such indemnity as the Registrar may require in respect of) any tax or other governmental charges which may be imposed in relation to it.

(e) *Closed periods*

No transfer of a Registered Note to be registered, a Bearer Note to be exchanged for a Registered Note nor a Temporary Global Note to be exchanged for a Permanent Global Note may occur during the period of 15 days ending on the due date for any payment of principal, interest or Redemption Amount (as defined below) on that Note.

(f) *U.S. Registered Notes*

A Registered Note issued to a "qualified purchaser" (as defined in Section 2(A)(51) of the Investment Company Act) (a "**Qualified Purchaser**") that is also a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act) will be represented by a registered global note (a "**Rule 144A Global Note**") bearing a restrictive legend (each a "**Rule 144A Global Note Certificate**") representing each Noteholder's interest in that Rule 144A Global Note. Interests in Rule 144A Global Notes may be transferred in whole or in part to, or for the benefit of, persons who are both Qualified Purchasers and Qualified Institutional Buyers.

A Registered Note issued to a Qualified Purchaser that is also either a Qualified Institutional Buyer or an "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) (an "**Institutional Accredited Investor**") will bear a restrictive legend (each a "**Definitive IAI Registered Note**") and will be issued to each Noteholder in respect of its registered holding. Definitive IAI Registered Notes may be transferred in whole or in part to, or for the benefit of, persons who are both Qualified Purchasers and either Qualified Institutional Buyers or Institutional Accredited Investors upon surrender of the certificate representing such Definitive IAI Registered Note for a new certificate representing such Definitive IAI Registered Note. Any such transfer shall require the delivery of the duly executed form of transfer and an investor letter and the delivery of a legal opinion of counsel, all in a form reasonably satisfactory to the Issuer.

A Definitive IAI Registered Note may be transferred in whole or in part in a transaction outside the United States and not to, or for the benefit of, a U.S. person upon surrender of the relevant certificate representing the Definitive IAI Registered Note, together with the duly executed form of transfer, for a new certificate representing the Definitive IAI Registered Note. In the case of a transfer of part only of a Definitive IAI Registered Note in a transaction outside the United States and not to, or for the benefit of, a U.S. person, a Registered Note Certificate will be issued in respect of the balance so transferred and a new Registered Note Certificate in respect of the balance not transferred will be issued to the transferor. Notes issued in bearer form may not be held by U.S. persons at any time and may not be exchanged for Definitive IAI Registered Notes or Rule 144A Global Notes.

3. **Status and Instructing Creditor**

(a) *Unsubordinated Notes*

This Condition 3(a) is applicable only in relation to Notes which are specified as being Unsubordinated Notes.

The Notes, Coupons and Receipts (if any) are secured, limited recourse obligations of the Issuer, secured in the manner described in Condition 4 and recourse in respect of which is limited in the manner described in Condition 11 and will rank *pari passu* without any preference among themselves.

(b) *Subordinated Notes*

This Condition 3(b) is applicable only in relation to Notes which are specified as being Subordinated Notes.

In the case of Subordinated Notes, the Notes, Coupons and Receipts (if any) are subordinated and ranked as provided in the Supplemental Trust Deed and described in the Applicable Supplement; save that each class of Subordinate Notes shall rank *pari passu* without any preference among themselves.

(c) *Prioritised Tranches*

In the case of Prioritised Tranches of Notes, details of the relationship of the Notes with other Tranches of Notes of the same Series will be set out in full in the Applicable Supplement.

If so specified in the Applicable Supplement, prior to the security granted pursuant to the Trust Deed becoming enforceable as described in Condition 10, certain amounts received by the Issuer in connection with the Underlying Assets and/or any Related Agreement and/or Credit Support Document or otherwise, will be applied in accordance with the order or orders of priority (the "**Pre-enforcement Waterfall**") (if any) specified in the Applicable Supplement.

(d) *Instructing Creditor*

The Applicable Supplement and Supplemental Trust Deed will specify in relation to that Series of Notes whether the Instructing Creditor is:

- (i) the Counterparty only; or
- (ii) the Noteholders only.

Where the Instructing Creditor is the Noteholders, the Noteholders can (where specified) request the Trustee to take actions contemplated in the Conditions by means of a request in writing of the holders of at least one fifth in principal amount of the Notes of such Series then outstanding or by means of an Extraordinary Resolution of such Noteholders.

Where the Instructing Creditor is the Counterparty, the Counterparty may (where specified) request the Trustee to take actions contemplated in the Conditions by means of a written request.

The security in relation to any Series of Notes will become enforceable upon the Trustee giving an Enforcement Notice (as defined in Condition 10) to the Issuer of that Series subsequent to the occurrence of an Event of Default or as otherwise provided in the Trust Deed.

The Trustee shall not be bound to give any Enforcement Notice in respect of any Series of Notes, to take any steps or institute any proceedings to enforce the security for any Series or to enforce payment of any amount due and payable under or pursuant to the Notes of any Series or the Related Agreement unless it shall have been so requested by the Instructing Creditor in relation to such Series and has been secured and/or indemnified to its satisfaction.



The Trustee will, where the interests of the Instructing Creditor (as evidenced by the Instructing Creditor's instructions) conflict with those of the other Secured Creditors (as defined in Condition 4(b)), prefer the interests of such Instructing Creditor over the interests of the other Secured Creditors (and shall not take into account the interests of such other Secured Creditors).

#### 4. **Related Agreements and Security**

##### (a) *Related Agreements*

In connection with the issue of the Notes of any Series, the Issuer will, if so specified in the Applicable Supplement, enter into a swap agreement, swap transaction or other hedging agreement or option agreements or any letters of credit, guarantees or other credit support or credit enhancement documents or other financial arrangements (each a "**Related Agreement**") with one or more counterparties (each a "**Counterparty**").

##### (b) *Security*

The Trust Deed will provide that the obligations of the Issuer under the Notes, Coupons and Receipts (if any) of a Series appertaining thereto to the Trustee on its own behalf and on behalf of the Noteholders and to those persons referred to in the Applicable Supplement (collectively, the "**Secured Creditors**") are secured by security interests (governed by English law and/or the law of any other relevant jurisdiction) over certain Underlying Assets as specified in the relevant Supplemental Trust Deed (the "**Underlying Assets**" which expression shall include any substitute Underlying Assets and exclude any replaced Underlying Assets pursuant to a substitution in accordance with Condition 4(e)), any relevant Related Agreement and such other assets as are specified in the Applicable Supplement.

The Secured Creditors of all Series are also secured pursuant to the Principal Trust Deed by a charge over certain contractual rights of the Issuer and a floating charge over the assets of the Issuer not otherwise charged by the Security Documents.

The security created by the Supplemental Trust Deed may be supplemented by such further security documents (each a "**Supplementary Security Document**" and, together with the Supplemental Trust Deed, the "**Security Documents**") as may, from time to time, be required by the Trustee and as specified in the Applicable Supplement (together, the "**Security**").

The assets (including the Underlying Assets) on which the Notes of a Series are secured are referred to as the "**Charged Assets**".

*To the extent that an obligor under the Underlying Assets fails to make payments to the Issuer on the due date therefor, the Issuer may be unable to meet its obligations (a) under the Related Agreement(s) (if any) and/or (b) in respect of the Notes, the Coupons or the Receipts (if any) as and when they fall due. In addition, to the extent that a Related Agreement is terminated, the Issuer may also be unable to meet such obligations. In any such event, and subject to Conditions 7 (b), (c) and (d) and Condition 10, the Notes will become repayable in accordance with the Conditions. In any such event, following a mandatory redemption of the Notes the amount received*

*may be insufficient to pay all amounts due to the Secured Creditors (including the Noteholders).*

*The Notes are also capable of being declared immediately due and repayable prior to their stated date of maturity or other date or dates for their redemption following the occurrence of any of the Events of Default more particularly specified in Condition 10. On notice having been given to the Issuer by the Trustee following any such occurrence (and the Instructing Creditor may direct the Trustee to give such notice), the Notes will become repayable in accordance with the Conditions and the security therefor will become enforceable in accordance with and subject to the provisions of Condition 11. On any such enforcement, the amount received may be insufficient to pay all amounts due to the Secured Creditors (including the Noteholders).*

- (c) *Realisation of the Underlying Assets upon enforcement or Underlying Disposal Event*

Subject to the Applicable Supplement in respect of a Series of Notes, in the event of:

- (i) the security created by the Security Documents becoming enforceable as provided in Condition 10, the Trustee shall have the right to enforce its rights under the Security Documents in relation to the relevant Charged Assets only;
- (ii) an Underlying Disposal Event (as defined in Condition 7(b)), the Custodian shall arrange for and administer the sale of the relevant Underlying Assets,

but in each case without any liability as to the consequence of such action and without having regard to the effect thereof on, or being required to account for such action to, any Secured Creditor, provided that the Trustee shall not be required to take any action that would involve the Trustee in any liability or expense unless previously indemnified and/or secured to its satisfaction.

- (d) *Application of Proceeds*

Subject to the provisions of the Supplemental Trust Deed and as specified in the Applicable Supplement, on any enforcement of the security created by the Security Documents or any Mandatory Redemption Event (as defined in Condition 7(b)(iv)) in accordance with these Conditions, the Liquidation Amount (as defined below) shall be applied as follows:

- (i) if "**Counterparty Priority**" is specified in the Applicable Supplement:
  - (a) first, rateably in meeting the claims (if any) of each Counterparty under the Related Agreement(s);
  - (b) secondly, rateably in meeting the claims (if any) of the holders of Notes, Coupons and Receipts (which for this purpose shall include any claim of the Principal Paying Agent for reimbursement of payment of principal and/or interest made to the holders of Notes, Coupons and Receipts). If the monies received by the Trustee are not enough to pay such amounts in full, the Trustee shall apply

them pro-rata on the basis of the amount due to each party entitled to such payment; and

- (c) thirdly, in payment of the balance (if any) to the Issuer.
- (ii) if "**Noteholder Priority**" is specified in the Applicable Supplement:
  - (a) first, rateably in meeting the claims (if any) of the holders of Notes, Coupons and Receipts (which for this purpose shall include any claim of the Principal Paying Agent for reimbursement of payment of principal and/or interest made to the holders of Notes, Coupons and Receipts). If the monies received by the Trustee are not enough to pay such amounts in full, the Trustee shall apply them pro-rata on the basis of the amount due to each party entitled to such payment; and
  - (b) secondly, in meeting the claims (if any) of each Counterparty under the Related Agreement(s); and
  - (c) thirdly, in payment of the balance (if any) to the Issuer.
- (iii) if "**Other Priority**" is specified, as specified in the Supplemental Trust Deed and in the Applicable Supplement.

In these Conditions, "**Liquidation Amount**" means, unless otherwise specified in the Applicable Supplement, the equivalent in the currency in which the Notes are denominated of (i) (in the case of an enforcement of the security constituted by the Security Documents or an Underlying Disposal Event) the net proceeds of the realisation of the Charged Assets or the Underlying Assets, as the case may be, received by the Trustee or the Issuer, as the case may be, or (ii) (in the case of an Underlying Early Redemption) the redemption proceeds of the relevant Underlying Assets, or (iii) (in the case of a Credit Event) the amount specified in the Applicable Supplement, after, in the case of (i), (ii) and (iii) above, payment of the Trustee's, the Custodian's, the Corporate Services Provider's, each of the Agents', and any Receiver's expenses, Liabilities and remuneration, any other amounts (other than amounts payable on the Notes) due to the Trustee, the Custodian, the Agents and such Receiver, and any other expenses payable by the Issuer (if specified in the relevant Supplemental Trust Deed) in respect of the Notes and any amounts owing in taxes or to any governmental or other authority.

(e) *Substitution of Underlying Assets*

If specified in the Applicable Supplement, the Issuer may from time to time, upon agreement with all the Noteholders but subject (in the case of Notes which are rated by any Rating Agency or Rating Agencies) to the Issuer having obtained prior written confirmation from each such Rating Agency that the credit rating of the Notes will not be adversely affected, substitute alternative assets for such of the Underlying Assets as the Issuer may deem appropriate. Any such alternative assets will become Underlying Assets and will be held subject to the security interests created in favour of the Trustee as

set out or contemplated in the Supplemental Trust Deed. The Issuer (in the case of a Series admitted to listing on the Irish Stock Exchange or such other stock exchange (as the case may be)) shall prepare such documents as may be required (if any) which shall be lodged with such stock exchange, setting out details of such substitution (including, without limitation, the alternative Underlying Assets) and, in any event, shall notify the Noteholders thereof (and other Secured Creditors) in accordance with Condition 15.

## 5. **Covenants**

- (a) So long as any of the Notes remain outstanding, the Issuer will not, save to the extent permitted or contemplated herein or by the Transaction Documents or with the Trade Documents:
  - (i) engage in any business (other than acquiring and holding the Underlying Assets (which shall include the making of loans or otherwise providing credit provided that the Issuer shall not make a loan or provide credit unless it has received advice of U.S. tax counsel, experienced in such matters, to the effect that such action will not cause the Issuer to be treated as engaged in a U.S. trade or business or to be subject to U.S. federal income tax on a net income basis), issuing the Notes, entering into Related Agreements, entering into the Transaction Documents and the Trade Documents acquiring and holding other assets which impose no obligations on the Issuer, provided that the Issuer shall not purchase, acquire or hold any asset that would cause the Issuer to be engaged in a U.S. trade or business or to be otherwise subject to tax on a net income basis, issuing further Series of Notes on terms substantially similar to these Conditions, performing its obligations and exercising its rights thereunder and under the other agreements entered into by it in connection with the issue of the Notes, the Trade Documents and the Transaction Documents and such further Series and matters reasonably incidental thereto);
  - (ii) have any employees or premises;
  - (iii) declare or pay any dividend (except for dividends not exceeding an aggregate of €5,000.00 per annum, payable to its shareholder or shareholders from time to time) or make any distribution in respect of its share capital or issue any additional shares;
  - (iv) incur or permit to subsist any other indebtedness for borrowed money whatsoever or give any guarantee or indemnity in respect of any indebtedness other than issuing Notes pursuant to the Principal Trust Deed (other than the Subordinated Notes, the terms of which are set out in the relevant Supplemental Trust Deed), provided that the Trustee is satisfied that such Notes are:
    - (1) secured on assets of the Issuer other than:
      - (A) the assets securing any other Series of Notes (save in the case of a Fungible Tranche of such Notes forming a single

Series with the Tranche of Notes already issued, subject to Condition 1(c));

(B) any other assets of the Issuer on which any other obligations of the Issuer are secured; and

(C) the Issuer's share capital or the Issuer Domestic Account;

- (2) issued on terms in substantially the form contained in these Conditions which provide for the extinguishment of all claims in respect of such further Notes and obligations after application of the proceeds of sale or redemption of the assets on which such Notes and obligations are secured; and
- (3) in the case of a further Tranche of Notes forming a single series with any Tranche of Notes previously issued, secured *pari passu* on the assets for such previously issued Tranche and such further assets of the Issuer upon which such further Tranche of Notes and such previously issued Tranche are secured, subject to Conditions 1(c) and 4;
- (v) sell or otherwise dispose of the Underlying Assets or any interest therein or agree or purport to do so;
- (vi) create or permit to exist upon or affect any of the Underlying Assets relating to any Series any security interest whatsoever other than as contemplated by the Security Documents in relation to such Series;
- (vii) consolidate or merge with any other person or convey or transfer its properties or assets substantially in their entirety to any person;
- (viii) permit the validity or effectiveness of the Trust Deed, any other Security Document, any guarantee arrangements executed in relation to the issue of Notes or the priority of the security created thereby to be amended, terminated, postponed or discharged, or permit any person whose obligations form part of such security to be released from such obligations;
- (ix) release any party to any Related Agreement from any executory obligation thereunder;
- (x) have any subsidiaries;
- (xi) issue a Series of Notes which would cause the Issuer to breach the Issuer Limit;
- (xii) not pledge its assets for the benefit of any other entity or make loans or advances to any other entity except as provided in the Transaction Documents;

- (xiii) fail to comply with its respective obligations under the Custody Agreement and/or Sub-Custodian Agreement executed in relation to such Series, the Agency Agreement, the Programme Dealer Agreement, the Corporate Services Agreement (if any), the other Transaction Documents or Related Agreements (in each case, with respect to such Series) in respect of the Underlying Assets relating to such Series if any and, without prejudice to the generality of the foregoing, at all times maintain any Agents in any jurisdiction, place or city required by the Conditions relating to any outstanding Notes of such Series in accordance with the terms of the Notes of such Series; or
  - (xiv) make or consent to any amendment to any Transaction Document or Trade Documents in respect of such Series or any Underlying Asset and Charged Assets in respect of any Series without the prior written consent of the Trustee.
- (b) The Issuer hereby covenants that, for so long as any of the Notes remain outstanding, it will:
- (i) ensure that it remains separate to, and independent from, any other person, including, but not limited to: maintaining books, records, accounts and financial statements independent and separate from any other person (for the avoidance of doubt, without prejudice to the Issuer's right to engage the services of the Corporate Service Provider); not to commingle assets with those of any other any other person (subject to the terms of the Custody Agreement); conducting its own business in its own name; holding itself out as having separate corporate existence (and it shall correct any known misunderstanding regarding its separate corporate existence); observing all corporate, partnership, or other formalities required by its constitutional documents; not guaranteeing or becoming obligated for the debts of any other Person; using its own stationery and invoices;
  - (ii) pay its own liabilities out of its own funds; and
  - (iii) maintain independent directors, being duly appointed members of the board of directors of the Issuer who have not been, at the time of such appointment, (i) a direct or indirect legal or beneficial owner of any Agent, the Counterparty, the Dealer or the Trustee (each a "**Relevant Party**"), (ii) a creditor, supplier, employee, officer, director, family member, manager, or contractor of any Relevant Party, or (iii) a person who controls (whether directly, indirectly, or otherwise) any Relevant Party or any creditor, supplier, employee, officer, director, manager, or contractor of any Relevant Party.

The Trustee shall be entitled to rely absolutely on a certificate of any director of the Issuer in relation to any matter relating to such restrictions and to accept without liability any such certificate as sufficient evidence of the relevant fact or matter in question.

6. **Interest and other Calculations**

(a) *Interest on Fixed Rate Notes*

This Condition 6(a) is applicable only if the Applicable Supplement specifies the Notes are Fixed Rate Notes.

Each Fixed Rate Note bears interest on its Principal Amount (or as otherwise specified in the Applicable Supplement) from and including the Interest Commencement Date at the Interest Rate, such interest being payable in arrear (unless otherwise specified in the Applicable Supplement) on each Interest Payment Date (as defined in Condition 6(k)).

If a Fixed Coupon Amount or a Broken Amount is specified in the Applicable Supplement, the amount of interest payable on each Interest Payment Date will amount to the Fixed Coupon Amount or, if applicable, the Broken Amount so specified, and in the case of the Broken Amount will be payable on the particular Interest Payment Date(s) specified in the Applicable Supplement.

(b) *Business Day Convention*

If any date referred to in these Conditions or the Applicable Supplement is specified to be subject to adjustment in accordance with a Business Day Convention and would otherwise fall on a day which is not a Business Day, then if the Business Day Convention specified in the Applicable Supplement is:

- (i) the "Following Business Day Convention", such date shall be postponed to the next day which is a Business Day;
- (ii) the "Modified Following Business Day Convention", such date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such date shall be brought forward to the immediately preceding Business Day;
- (iii) the "Preceding Business Day Convention", such date shall be brought forward to the immediately preceding Business Day;
- (iv) the "FRN Convention", the "Floating Rate Convention" or the "Eurodollar Convention" means that each relevant date shall be the date which numerically corresponds to the preceding such date in the calendar month which is the number of months specified in the relevant Applicable Supplement as the Specified Period (as defined in the relevant Applicable Supplement) after the calendar month in which the preceding such date occurred *provided, however, that:*
  - (A) if there is no such numerically corresponding day in the calendar month in which any such date should occur, then such date will be the last day which is a Business Day in that calendar month;
  - (B) if any such date would otherwise fall on a day which is not a Business Day, then such date will be the first following day which is a Business

Day unless that day falls in the next calendar month, in which case it will be the first preceding day which is a Business Day; and

- (C) if the preceding such date occurred on the last day in a calendar month which was a Business Day, then all subsequent such dates will be the last day which is a Business Day in the calendar month which is the specified number of months after the calendar month in which the preceding such date occurred; or

- (v) "No Adjustment" means that the relevant date shall not be adjusted in accordance with any Business Day Convention.

(c) *Interest Rate on Floating Rate Notes*

This Condition 6(c) is applicable only if the Applicable Supplement specifies the Notes are Floating Rate Notes.

Each Floating Rate Note bears interest on its Principal Amount (or as otherwise specified in the Applicable Supplement) from and including the Interest Commencement Date at the Interest Rate (as determined in accordance with this Condition 6(c) (unless otherwise specified in the Applicable Supplement) on each Interest Payment Date (as defined in Condition 6(k)).

If Screen Rate Determination is specified in the Applicable Supplement as the manner in which the Interest Rate(s) is/are to be determined, the Interest Rate applicable to the Notes for each Interest Period will be determined by the Calculation Agent on the following basis:

- (i) if the Page displays a rate which is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Relevant Rate which appears on the Page as of the Relevant Time on the relevant Interest Determination Date;
- (ii) in any other case, the Calculation Agent will determine the arithmetic mean of the Relevant Rates which appear on the Page as of the Relevant Time on the relevant Interest Determination Date;
- (iii) if, in the case of (i) above, such rate does not appear on that page or, in the case of (ii) above, fewer than two such rates appear on that page or if, in either case, the Page is unavailable, the Calculation Agent will:
  - (1) request the principal Relevant Financial Centre office of each of the Reference Banks to provide a quotation of the Relevant Rate at approximately the Relevant Time on the relevant Interest Determination Date to prime banks in the Relevant Financial Centre interbank market in an amount that is representative for a single transaction in that market at that time; and
  - (2) determine the arithmetic mean of such quotations; and



- (iv) if fewer than two such quotations are provided as requested, the Calculation Agent will determine the arithmetic mean of the rates (being the nearest to the Relevant Rate, as determined by the Calculation Agent) quoted by major banks in the Relevant Financial Centre of the Relevant Currency, selected by the Calculation Agent, at approximately 11.00 a.m. (local time in the Relevant Financial Centre of the Relevant Currency) on the first day of the relevant Interest Period for loans in the Relevant Currency to leading European banks for a period equal to the relevant Interest Period and in the Representative Amount,

and the Interest Rate for such Interest Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined; *provided, however, that* if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Interest Period, the Interest Rate applicable to the Notes during such Interest Period will be the sum of the Margin and the rate (or as the case may be) the arithmetic mean last determined in relation to the Notes in respect of a preceding Interest Period.

If "ISDA Determination" is specified in the Applicable Supplement as the manner in which the Interest Rate(s) is/are to be determined, the Interest Rate(s) applicable to the Notes for each Interest Period will be the sum of the Margin and the relevant ISDA Rate where "ISDA Rate" in relation to any Interest Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Calculation Agent under an interest rate swap transaction as if the Calculation Agent were acting as Calculation Agent for that interest rate swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (i) the Floating Rate Option is as specified in the Applicable Supplement;
- (ii) the Designated Maturity is the Specified Duration; and
- (iii) the relevant Reset Date is either (A) if the relevant Floating Rate Option is based on the London inter-bank offered rate (LIBOR) for a currency, the first day of that Interest Period or (B) in any other case, as specified in the Applicable Supplement.

For the purposes of this paragraph (c) "Floating Rate", "Floating Rate Option", "Designated Maturity" and "Reset Date" have the meanings given to them in the ISDA Definitions as published by the International Swaps and Derivatives Association, Inc. ("ISDA") and as amended and updated as of the first date of issue of the Notes.

(d) *Interest Rate on Index Linked Notes*

If the Applicable Supplement specifies that the Interest Rate will be linked to an index or indices, the Interest Rate applicable to the Notes for each Interest Period will be determined in the manner specified in the Applicable Supplement.

(e) *Maximum or Minimum Interest Rates*

If any Maximum Interest Rate or Minimum Interest Rate is specified in the Applicable Supplement, then the Interest Rate shall in no event be greater than the maximum or be less than the minimum so specified.

(f) *Interest Rate on Zero Coupon Notes*

The Interest Rate for any overdue principal in respect of a Zero Coupon Note shall be a rate per annum (expressed as a percentage) equal to the figure expressed to be the amortisation yield (the "**Amortisation Yield**") shown on the face of the Note or in the Applicable Supplement (as well after as before judgment) up to the Relevant Date.

(g) *Accrual of Interest*

Interest will cease to accrue on each Note on the due date for redemption unless, upon due presentation, payment of principal is improperly withheld or refused by the Issuer or the Paying Agents (acting on behalf of the Issuer), in which event interest will continue to accrue (as well after as before judgment) at the Interest Rate in the manner provided in this Condition 6 to the Relevant Date (as defined in Condition 7(d)).

(h) *Rounding*

For the purposes of any calculations required pursuant to these Conditions (unless otherwise specified):

- (i) all percentages resulting from such calculations will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point (with halves being rounded up);
- (ii) all figures will be rounded to seven significant figures (with halves being rounded up); and
- (iii) all currency amounts which fall due and payable will be rounded to the nearest unit of such currency (with halves being rounded up), save in the case of Japanese yen, which shall be rounded down to the nearest Japanese yen. For these purposes, "unit" means, with respect to any currency other than euro, the lowest amount of such currency which is available as legal tender in the country of such currency and, with respect to euro, means 0.01 euro.

(i) *Calculations*

The amount of interest payable in respect of any Note for each Interest Period shall be calculated by multiplying the product of the Interest Rate and the Principal Amount outstanding of such Note during that Interest Period by the Day Count Fraction, unless an Interest Amount is specified in respect of such period in the Applicable Supplement, in which case the amount of interest payable in respect of such Note for such Interest Period will equal such Interest Amount.

(j) *Determination and Publication of Interest Rates, Interest Amounts, Redemption Amounts and Instalment Amounts*

As soon as practicable after the Relevant Time on each Interest Determination Date or such other time on such date as the Calculation Agent may be required to calculate any Redemption Amount or Instalment Amount, obtain any quote or make any determination or calculation, the Calculation Agent will (A) determine the Interest Rate and calculate the amount of interest payable (the "**Interest Amounts**") in respect of each Authorised

Denomination of Notes for the relevant Interest Period, calculate the Redemption Amount or Instalment Amount, obtain such quote or make such determination or calculation, as the case may be, and (B) cause the Interest Rate and the Interest Amounts for each Interest Period and the relevant Interest Payment Date and, if required to be calculated, the Redemption Amount or any Instalment Amount to be notified to the Principal Paying Agent, the Trustee, the Issuer, each of the Paying Agents, the Noteholders and, if the Notes are listed on a stock exchange and the rules of such stock exchange so requires, such exchange as soon as possible after their determination but in no event later than (i) (in case of notification to such stock exchange) the commencement of the relevant Interest Period, if determined prior to such time, in the case of an Interest Rate and Interest Amount, or (ii) in all other cases, the fourth Business Day after such determination. The Interest Amounts and the Interest Payment Date so published may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) without notice in the event of an extension or shortening of the Interest Period. If the Notes become due and payable under Condition 10, the accrued interest and the Interest Rate payable in respect of the Notes shall nevertheless continue to be calculated as previously in accordance with this Condition but no publication of the Interest Rate or the Interest Amount so calculated need be made unless otherwise required by the Trustee. The determination of each Interest Rate, Interest Amount, Redemption Amount and Instalment Amount, the obtaining of each quote and the making of each determination or calculation by the Calculation Agent or, as the case may be, the Trustee pursuant to Condition 6(c), shall (in the absence of manifest error) be final and binding upon all parties.

(k) *Definitions*

In these Conditions, unless the context otherwise requires, the following defined terms shall have the meanings set out below.

**"Business Day"** means:

- (i) in relation to any sum payable in euro, a TARGET Settlement Day and a day on which commercial banks and foreign exchange markets settle payments generally in each (if any) additional city or cities specified in the Applicable Supplement; and
- (ii) in relation to any sum payable in a currency other than euro, a day on which commercial banks and foreign exchange markets settle payments generally in London and Dublin, for so long as the Notes are listed on the Irish Stock Exchange, in the principal financial centre of the Relevant Currency and in any (if any) additional city or cities specified in the Applicable Supplement.

**"Day Count Fraction"** means, in respect of the calculation of an amount of interest on any Note for any period of time (whether or not constituting an Interest Period, the **"Calculation Period"**):

- (a) if **"Actual/365"** or **"Actual/Actual"** is specified, the actual number of days in the Calculation Period divided by 365 (or, if any portion of that Calculation Period falls in a leap year, the sum of:

- (i) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366; and
- (ii) the actual number of days in that portion of the Calculation Period falling in a non-leap year divided by 365);
- (b) if "**Actual/365(Fixed)**" is specified, the actual number of days in the Calculation Period divided by 365;
- (c) if "**Actual/360**" is specified, the actual number of days in the Calculation Period divided by 360;
- (d) if "**30/360**", "**360/360**" or "**Bond Basis**" is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360x(Y_2 - Y_1)] + [30x(M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"**Y<sub>1</sub>**" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"**Y<sub>2</sub>**" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"**M<sub>1</sub>**" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"**M<sub>2</sub>**" is the calendar month, expressed as number, in which the day immediately following the last day included in the Calculation Period falls;

"**D<sub>1</sub>**" is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

"**D<sub>2</sub>**" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31 and D<sub>1</sub> is greater than 29, in which case D<sub>2</sub> will be 30";

- (e) if "**30E/360**" or "**Eurobond Basis**" is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360x(Y_2 - Y_1)] + [30x(M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"**Y<sub>1</sub>**" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Calculation Period, unless such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless such number would be 31, in which case D<sub>2</sub> will be 30; and

- (f) if "**30E/360 (ISDA)**" is so specified, the number of days in the Calculation Period divided by 360, calculated on a formula basis as follows:

$$\text{Day Count Fraction} = \frac{[360 \times (Y_2 - Y_1)] + [30 \times (M_2 - M_1)] + (D_2 - D_1)}{360}$$

where:

"Y<sub>1</sub>" is the year, expressed as a number, in which the first day of the Calculation Period falls;

"Y<sub>2</sub>" is the year, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"M<sub>1</sub>" is the calendar month, expressed as a number, in which the first day of the Calculation Period falls;

"M<sub>2</sub>" is the calendar month, expressed as a number, in which the day immediately following the last day included in the Calculation Period falls;

"D<sub>1</sub>" is the first calendar day, expressed as a number, of the Calculation Period, unless (i) that day is the last day of February or (ii) such number would be 31, in which case D<sub>1</sub> will be 30; and

"D<sub>2</sub>" is the calendar day, expressed as a number, immediately following the last day included in the Calculation Period, unless (i) that day is the last day of February but not the Maturity Date or (ii) such number would be 31, in which case D<sub>2</sub> will be 30,

*provided, however, that* in each such case the number of days in the Calculation Period is calculated from and including the first day of the Calculation Period to but excluding the last day of the Calculation Period;

"**euro**" means the lawful currency of the Member States of the European Union participating in the Economic and Monetary Union;

**"Interest Commencement Date"** means the Issue Date or such other date as may be specified in the Applicable Supplement;

**"Interest Determination Date"** means, with respect to an Interest Rate and an Interest Period, the date specified as such in the Applicable Supplement or, if none is so specified, the day falling two Business Days in London prior to the first day of such Interest Period (or (i) if the specified currency is British pound sterling, the first day of such Interest Period and (ii) if the specified currency is Euro, the day falling two TARGET Settlement Days prior to the first day of such Interest Period);

**"Interest Payment Date"** means the date(s) specified as such in the Applicable Supplement and, if a Business Day Convention is specified in the relevant Applicable Supplement, as the same may be adjusted in accordance with the relevant Business Day Convention, or if the Business Day Convention is the FRN Convention, Floating Rate Convention or Eurodollar Convention and an interval of a number of calendar months is specified in the relevant Applicable Supplement as being the Specified Period, each of such dates as may occur in accordance with the FRN Convention, Floating Rate Convention or Eurodollar Convention at such Specified Period of calendar months following the Interest Commencement Date (in the case of the first Interest Payment Date) or the previous Interest Payment Date (in any other case);

**"Interest Period"** means the period beginning on (and including) the Interest Commencement Date and ending on (but excluding) the first Interest Period End Date and each successive period beginning on (and including) an Interest Period End Date and ending on (but excluding) the next succeeding Interest Period End Date;

**"Interest Period End Date"** means the date(s) specified as such in the Applicable Supplement, and if no such date(s) are specified, each Interest Payment Date;

**"Interest Rate"** means the rate of interest payable from time to time in respect of the Note and which is either specified in, or calculated in accordance with the provisions of, these Conditions and/or the Applicable Supplement;

**"ISDA Definitions"** means, in respect of a Series of Notes, the 2006 ISDA Definitions (as may be amended and updated as at the date of issue of the relevant Notes (as specified in the relevant Applicable Supplement)) as published by the International Swaps and Derivatives Association, Inc.;

**"Issue Date"** means the date of issue of the Notes;

**"Margin"** means the rate per annum (expressed as a percentage) specified in the Applicable Supplement;

**"Order of Priority"** means, in relation to any Series, the order of priority for application of all monies received by the Trustee pursuant to Clause 12 of the Principal Trust Deed (as amended by the relevant Supplemental Trust Deed);

**"Page"** means such page, section, caption, column or other part of a particular information service (including, but not limited to, Reuters) as may be specified in the Applicable Supplement, or such other page, section, caption, column or other part as may replace the same on that information service or on such other information service, in

each case as may be nominated by the person or organisation providing or sponsoring the information appearing there for the purpose of displaying comparable rates or prices;

**"Participating Member State"** means a member state of the European Communities which adopts the euro as its lawful currency in accordance with the Treaty;

**"Principal Amount"** means in relation to a Note or Series, the original face value thereof less any repayments of principal made to the holder(s) thereof in respect of such Note or Series;

**"Redemption Amount"** means, unless otherwise specified in the Applicable Supplement, in relation to a Note or Series, the amount of the original face value thereof less any repayment of principal made to the Holder(s) thereof in respect of such Note or Series;

**"Reference Banks"** means the institutions specified as such or, if none, four major banks selected by the Calculation Agent in the interbank market (or, if appropriate, money market) which is most closely connected with the Relevant Rate as determined by the Calculation Agent in its sole and absolute discretion;

**"Relevant Currency"** means the currency specified as such or, if none is specified, the currency in which the Notes are denominated;

**"Relevant Financial Centre"** means, with respect to any Note, to be the financial centre as may be specified as such or, if none is so specified, the financial centre with which the Relevant Rate is most closely connected as determined by the Calculation Agent;

**"Relevant Rate"** means the offered rate for a Representative Amount of the Relevant Currency for a period (if applicable) equal to the Specified Duration (or such other rate as shall be specified in the Applicable Supplement);

**"Relevant Time"** means, with respect to any Interest Determination Date, the local time in the Relevant Financial Centre specified in the Applicable Supplement or, if none is specified, the local time in the Relevant Financial Centre at which it is customary to determine bid and offered rates in respect of deposits in the relevant currency in the interbank market in the Relevant Financial Centre;

**"Representative Amount"** means, with respect to any rate to be determined on an Interest Determination Date, the amount specified in the Applicable Supplement as such or, if none is specified, an amount that is representative for a single transaction in the relevant market at the time;

**"Specified Duration"** means, with respect to any Floating Rate to be determined on an Interest Determination Date, the period or duration specified in the Applicable Supplement or, if none is specified, a period of time equal to the relative Interest Period;

**"TARGET2"** means the Trans-European Automated Real-Time Gross Settlement Express Transfer payment system which utilises a single shared platform and which was launched on 19 November 2007;

**"TARGET Settlement Day"** means any day on which TARGET2 is open for the settlement of payments in euro; and

**"Treaty"** means the Treaty establishing the European Communities, as amended by the Treaty of the European Union.

(l) *Calculation Agent and Reference Banks*

The Issuer will procure that there shall at all times be four Reference Banks selected by the Issuer acting through the Calculation Agent with offices in the Relevant Financial Centre and a Calculation Agent if provision is made for them in the Conditions applicable to any Series of Notes and for so long as any Series is outstanding. If any Reference Bank (acting through its relevant office) is unable or unwilling to continue to act as a Reference Bank, then the Issuer acting through the Calculation Agent will select another Reference Bank with an office in the Relevant Financial Centre to act as such in its place. If the Calculation Agent is unable or unwilling to act as such or if the Calculation Agent fails duly to establish the Interest Rate for any Interest Period or to calculate the Interest Amounts or any other requirements, the Issuer will appoint (with the prior written consent of the Trustee) a successor to act as such in its place. The Calculation Agent may not resign its duties without a successor having been appointed as aforesaid.

(m) *Determination or Calculation by Trustee*

If the Calculation Agent does not at any time for any reason determine any Interest Rate, Interest Amount, Redemption Amount, Instalment Amount or any other amount to be determined or calculated by it, the Trustee (or an agent appointed by the Trustee) shall determine such Interest Rate, Interest Amount, Redemption Amount, Instalment Amount or other amount as aforesaid at such rate or in such amount as in its absolute discretion (having regard as it shall think fit to the procedures described above, but subject to the terms of the Trust Deed) it shall deem fair and reasonable in all the circumstances or, subject as aforesaid, apply the foregoing provisions of this Condition, with any consequential amendments, to the extent that, in its sole opinion, it can do so and in all other respects it shall do so in such manner as it shall, in its absolute discretion, deem fair and reasonable in the circumstances, and each such determination or calculation shall be deemed to have been made by the Calculation Agent.

7. **Redemption, Purchase and Exchange**

(a) *Redemption at Maturity*

Unless previously redeemed, or purchased and cancelled as provided below or, unless such Note is stated in the Applicable Supplement as having no fixed maturity date each Note will be redeemed at its Redemption Amount (as defined in Condition 6(k)), on the date or dates (or, in the case of Floating Rate Notes, on the date or dates upon which interest is payable) specified in the Applicable Supplement.



- (b) *Mandatory Redemption*
- (i) Underlying Disposal Event

If any of the following events (each an "**Underlying Disposal Event**") occurs:

- (A) there has been a payment default on the due date therefor (without, unless otherwise specified in the Applicable Supplement, regard to any grace period) in respect of the Underlying Assets or the Underlying Assets are declared due and payable before they would otherwise have been due and payable or an event of default (howsoever described on the terms of such Underlying Assets) has occurred; or
- (B) either (x) any Related Agreement is terminated in whole or in part only (as more fully set out in the Applicable Supplement) and is not replaced on or prior to such termination to the satisfaction, and with the prior written approval, of the Trustee or (y) without duplication, if so specified in the applicable Securities Note, a Counterparty Replacement Failure Event; or
- (C) unless otherwise specified in the Applicable Supplement and subject to Condition 14(c),
  - (x) the Issuer or any Paying Agent on the occasion of the next payment due in respect of the Notes would be required by law to withhold or account for tax (including any withholding or deduction required pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto ("**FATCA**")); or
  - (y) the Issuer would suffer tax, including pursuant to FATCA, in respect of its income in respect of the Underlying Assets or payments made to it under a Related Agreement, or would receive net of any tax, including pursuant to FATCA, any payments in respect of the Underlying Assets or payments made to it under a Related Agreement (in each case, where there is no obligation to pay an additional amount due to the Issuer in respect of the Underlying Assets or the relevant Related Agreement); or
  - (z) in each case following issuance of the Notes, any exchange controls or other currency exchange or transfer restrictions or tax are imposed on the Issuer or any payments to be made to or by the Issuer or as a result of change in law the cost to the Issuer of complying with its obligations under or in connection with the Trust Deed or meeting its operating or administrative expenses would (in the sole opinion of the Issuer) be materially increased, the Trustee having required the Issuer to use its best endeavours to procure the substitution of a company incorporated in another jurisdiction approved in writing by the Trustee as the principal

obligor in respect of the Notes, or the establishment of a branch office in another jurisdiction approved in writing by the Trustee (in each case subject to the satisfaction of certain conditions as more fully specified in the Trust Deed) from which it may continue to carry out its functions under the Notes and the Related Agreement(s), and the Issuer, having used its best endeavours is unable to arrange such substitution before the next payment is due in respect of the Notes of the relevant Series,

on first becoming aware of the occurrence of any Underlying Disposal Event, the Issuer or the Determination Agent acting on the Issuer's behalf shall give notice thereof (the "**Underlying Disposal Event Notice**") to the Trustee, the Counterparty, the Custodian, the Principal Paying Agent or, as the case may be, the Registrar and the Issuer shall give notice to the Noteholders in accordance with Condition 15. The Issuer or the Determination Agent acting on behalf of the Issuer, shall arrange for the sale of the Underlying Assets in accordance with any agreed procedure for this purpose. Upon receipt of the sale proceeds thereof, the Issuer shall give not more than 30 days' notice (or such other number of days as may be provided in the relevant Applicable Supplement or agreed by the Trustee) to the Secured Creditors (which notice shall be irrevocable) of the date on which the net proceeds of such sale shall be applied in accordance with the application of proceeds specified in the Supplemental Trust Deed as described in the Applicable Supplement in respect of such Series.

Prior to giving any notice of redemption in respect of the circumstance set out in Condition 7(b)(i)(C) above, the Issuer shall deliver to the Trustee a certificate signed by a director of the Issuer demonstrating that the conditions precedent to the obligations of the Issuer so to redeem have occurred and, in the case of a redemption of Notes under Condition 7(b)(i)(C)(x) or (y) an opinion (in form and substance satisfactory to the Trustee) of legal advisers of recognised standing to the Issuer (previously approved by the Trustee) in the relevant jurisdiction to the effect that the Issuer has or will become obliged to withhold, account for or suffer such tax. The Trustee may rely on the aforementioned certificate and/or opinion without further enquiry.

Notwithstanding the foregoing, if any of the taxes referred to in Condition 7(b)(i)(C)(x) arises:

- (a) owing to the connection of any Noteholder, or any third party having a beneficial interest in the Notes, Coupon or Receipt, with the place of incorporation or tax jurisdiction of the Issuer otherwise than by reason only of the holding of any Note, Coupon or Receipt or receiving principal, Redemption Amount, Amortised Face Amount, interest or Interest Amount in respect thereof;
- (b) by reason of the failure by the relevant Noteholder to comply with any applicable procedures required to establish non-residence or other similar claim for exemption, reduction or refund from such tax (including any failure by a holder or any third party having an interest

in the Notes, Coupons or Receipts to comply with any request made pursuant to Condition 9(b));

- (c) by reason of the Noteholder or any third party being unable to receive payments free from withholding tax under FATCA;
- (d) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusion of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or
- (e) where a Noteholder would have been able to amend such withholding or deduction by presenting the relevant Note or Coupon to another Paying Agent in a member state of the EU,

then to the extent it is able to do so, the Issuer shall deduct such taxes from the amounts payable to such Noteholder or any third party having a beneficial interest in the Notes, Coupon or Receipt, and shall not redeem the relevant Notes of the relevant Series but this shall not affect the rights of the other Noteholders and Couponholders hereunder. Any such deduction shall not constitute an Event of Default under Condition 10.

(ii) *Early Redemption of Underlying Assets*

If the Underlying Assets are redeemed pursuant to an early redemption of such Underlying Assets (an "**Underlying Early Redemption**") prior to their stated date of maturity (other than by reason of payment default, as referred to in Condition 7(b)(i)(A) or as contemplated in the Applicable Supplement) the Issuer shall forthwith give not more than 30 nor less than 15 days' notice (or such other number of days as may be provided in the Applicable Supplement or agreed by the Trustee) to the Trustee and the Secured Creditors of the date on which the Liquidation Amount shall be applied as specified in Condition 4(d).

(iii) *Credit Event*

If the Applicable Supplement so provides, if there has been, in the opinion of the Determination Agent (as specified in the Applicable Supplement), a Credit Event (as specified and defined in the Applicable Supplement), the Determination Agent shall give written notice thereof to the Trustee, the Issuer, the Paying Agent(s) and the Counterparty. No further payment should be made in respect of the Notes (other than as provided in this Condition 7(b)(iii)). The Applicable Supplement shall specify the basis for calculation of the amount (the "**Credit Event Redemption Amount**") payable upon redemption of the Notes in accordance with this Condition 7(b)(iii) which shall be determined by the Determination Agent. The Issuer shall give not more than 30 nor less than 15 days' notice (or such other number of days as may be provided in the Applicable Supplement or agreed by the Trustee) to the Secured Creditors (which notice shall be irrevocable) of the date on which payment of the Credit Event

Redemption Amount will be made to the Noteholders or delivery will be made to the Noteholders of the Reference Securities (as defined in the Applicable Supplement), as the case may be. The Applicable Supplement will also specify all other additional terms and conditions which will apply in relation to such Credit Event.

(iv) *Definition*

In these Conditions, each of an Underlying Disposal Event, an Underlying Early Redemption and a Credit Event is referred to as a "**Mandatory Redemption Event**".

(v) *Redemption of Notes*

Upon expiry of the relevant notice under Condition 7(b)(i), (ii) or (iii) above and subject to the conditions of such notice the Issuer shall (unless, in the case of Condition 7(b)(i)(C) only, the Trustee has required the substitution of another company as principal obligor in respect of the Notes or the establishment of a branch as contemplated in Condition 14(c) or otherwise requested by the Instructing Creditor) redeem each Note in whole or, as the case may be, in part on a *pro rata* basis having applied the Liquidation Amount in accordance with Condition 4(d), the delivery of the Reference Securities or the Credit Event Redemption Amount in accordance with Condition 7(b)(iii) (or as specified in the Applicable Supplement). The provisions of Clause 17 (*Limited Recourse*) of the Principal Trust Deed shall apply in respect of such redemption of Notes.

The date on which the Liquidation Amount shall be applied in redemption of the Notes in accordance with the above paragraph of this Condition 7(b)(v) shall be at any time in accordance with the notice provisions contained in the relevant Condition and any relevant provisions in the Applicable Supplement.

(c) *Purchase*

If a purchase option is specified in the Applicable Supplement, the Issuer may, provided that no Event of Default or Mandatory Redemption Event has occurred and is continuing, purchase Notes or any of them (provided that all unmatured Receipts and Coupons and unexchanged Talons (if any) appertaining thereto are attached or surrendered therewith) in the open market or otherwise at any price.

The Related Agreement will provide that on such purchase such Related Agreement (or a proportionate part thereof which corresponds to the Notes to be purchased) will terminate.

The Applicable Supplement will set out all the terms of such termination, which will reflect the terms of the Related Agreement. The Applicable Supplement will also set out the terms on which the security over the Underlying Assets or part thereof may be released to provide funds for such purpose (which will reflect the terms of the relevant Supplemental Trust Deed). No interest will be payable with respect to a Note to be purchased pursuant to this Condition in respect of the period from the Issue Date or, if

later, the most recent date for the payment of interest on such Note, as the case may be, to the date of such purchase and thereafter.

If not all the Notes which are in registered form are to be purchased, upon surrender of the existing Registered Note the relevant Paying Agent shall forthwith upon the written request of the Noteholder concerned issue a new Registered Note in respect of the Notes which are not to be purchased and despatch such Registered Note to the Noteholder (at the risk of the Noteholder and to such address as the Noteholder may specify in such request).

***Whilst the Notes are represented by a Global Note, the relevant Global Note will be endorsed to reflect the principal amount of Notes to be so redeemed or purchased.***

(d) *Early Redemption of Zero Coupon Notes*

- (i) In respect of any Note which does not bear interest prior to the Maturity Date and the Redemption Amount of which is not linked to an index and/or a formula, the amount payable upon redemption of such Note pursuant to Condition 7(b) or, if applicable, Conditions 7(f), (g), (h) or (i) or upon it becoming due and payable as provided in Condition 10 shall be the Amortised Face Amount (calculated as provided below) of such Note. References in the Conditions to "**principal**" in the case of Zero Coupon Notes, shall be deemed to include references to "**Amortised Face Amount**" where the context permits.
- (ii) Subject to the provisions of (iii) below and as provided in the Applicable Supplement, the Amortised Face Amount of any Zero Coupon Note shall be the scheduled Redemption Amount of such Note on the Maturity Date discounted at a rate per annum (expressed as a percentage) equal to the Amortisation Yield shown in the Applicable Supplement compounded annually. Where such calculation is to be made for a period of less than one year, it shall be made on the basis of the Day Count Fraction specified in the Applicable Supplement.
- (iii) If the amount payable in respect of any such Note upon its redemption pursuant to Condition 7(b) or, if applicable, Conditions 7(f), (g) or (h) or upon it becoming due and payable as provided in Condition 10 is not paid when due, the amount due and payable in respect of such Note shall be the Amortised Face Amount of such Note as defined in Condition 7(d)(i), except that such Condition shall have effect as though the reference therein to the date on which the Note becomes due and payable were replaced by a reference to the date (the "**Relevant Date**") which is the earlier of:
  - (A) the date on which all amounts due in respect of the Note have been paid; or
  - (B) the date on which the full amount of the monies payable on the Notes has been received by the Principal Paying Agent, and notice to that effect has been given to holders in accordance with the provisions of Condition 15.

The calculation of the Amortised Face Amount will continue to be made (as well after as before judgment) until the Relevant Date unless the Relevant Date

falls on or after the Maturity Date, in which case the amount due and payable shall be the principal amount of such Note together with any interest which may accrue in accordance with Condition 6.

(e) *Redemption of Variable Redemption Amount Notes*

The Applicable Supplement in respect of a Series of Variable Redemption Amount Notes shall specify the basis for calculation of the Redemption Amount payable upon redemption of the relevant Notes on maturity or under Condition 7(b) or, if applicable, Conditions 7(g), 7(h) or 7(i) or upon them becoming due and payable as provided in Condition 10 and the name of the Calculation Agent appointed to determine such Redemption Amount.

(f) *Redemption at the Option of the Issuer and Exercise of Issuer's Option*

If so specified in the Applicable Supplement, the Issuer may, subject to compliance with all relevant laws, regulations and directives, on giving irrevocable notice to the Noteholders falling within the Issuer's Redemption Option Period (as specified in the Applicable Supplement), redeem or exercise any Issuer's option in relation to, all or, if so provided, some only of the Notes in the manner and on the date or dates specified in the Applicable Supplement at their Redemption Amount or at their Amortised Face Amount (in the case of Zero Coupon Notes), together with interest accrued to, or Interest Amount payable on, the date fixed for redemption. Where the Notes are represented in global form, any such irrevocable notice given by the Issuer to the Noteholders must be given no less than that 15 (fifteen) Clearing System Business Days prior to the proposed date of redemption, where "**Clearing System Business Day**" means a day on which each Clearing System for which the Global Note is being held is open for business.

Notice having been given by the Issuer to redeem Note(s) pursuant to this Condition may not be withdrawn (save with the prior written consent of the Trustee) and the Issuer shall be bound to redeem the Note(s) in accordance with the notice, this Condition and the Applicable Supplement.

In the case of a partial redemption of Notes or a partial exercise of an Issuer's option (if permitted as specified in the Applicable Supplement):

- (A) when the Notes are in definitive form or are represented by Registered Note Certificates, the Notes to be redeemed will be selected in the manner indicated in the Applicable Supplement and notice of the Notes called for redemption will be published in accordance with Condition 15 not less than 15 days prior to the date fixed for redemption; and
- (B) when the Notes are represented in global form, if a partial redemption is to be effected by selection of whole Notes as indicated in the Applicable Supplement, the Notes to be redeemed will be selected in accordance with the rules and procedures of Euroclear Bank SA/NV ("**Euroclear**") and/or (as the case may be) Clearstream Banking, société anonyme ("**Clearstream, Luxembourg**") and/or any other relevant clearing system.

*The Applicable Supplement will specify the terms on which the security over the relevant Underlying Assets or part thereof may be released to provide funds for such redemption or for the exercise of the Issuer's option.*

*The Related Agreement will provide that on the redemption of Notes by the Issuer and/or the exercise of the Issuer's option in relation to the Notes such Related Agreement (or a proportionate part thereof which corresponds to the Notes to be redeemed by the Issuer pursuant to the exercise of such option) will terminate. The Applicable Supplement will set out the terms of such termination.*

(g) *Redemption at the Option of Noteholders and Exercise of Noteholders' Options*

- (A) If so specified in the Applicable Supplement the Issuer shall, subject to compliance with all relevant laws, regulations and directives, at the option of the holder of any such Note, redeem such Note on the date or dates specified in the Applicable Supplement at its Redemption Amount or at its Amortised Face Amount (in the case of Zero Coupon Notes), together with interest accrued to, or the Interest Amount payable on, the date fixed for redemption.

To exercise such Noteholder's option which may be specified in the Applicable Supplement, the holder must deposit the relevant Note (together with all unmatured Coupons) with any Paying Agent at their respective specified offices, together with a duly completed exercise notice ("**Exercise Notice**") in the form obtainable from any Paying Agent not more than 30 days nor less than 10 days (or such other number of days as may be specified in the relevant Applicable Supplement) prior to the relevant date for redemption or exercise of any option.

The Applicable Supplement will specify the terms on which the security over the relevant Underlying Assets or part thereof may be released to provide funds for such redemption or for the exercise of the Noteholder's Option.

The Related Agreement will provide that on the redemption of Notes by the Noteholders pursuant to the exercise of the Noteholders' Option in relation to the Notes such Related Agreement (or a proportionate part thereof which corresponds to the Notes to be redeemed by the Issuer pursuant to the exercise of such option) will terminate. The Applicable Supplement will set out the terms of such termination.

In the case of any Note represented by a Global Note, the Noteholder must deliver the Exercise Notice together with an authority to Euroclear or, as the case may be, Clearstream, Luxembourg to debit such Noteholder's account accordingly. No Note (or authority) so deposited may be withdrawn (except as provided in the Applicable Supplement) without the prior consent of the Issuer.

(h) *Morgan Stanley Noteholder Option*

- (A) Morgan Stanley & Co. International plc and each of its affiliates (each such person a "**Morgan Stanley Noteholder**") shall have the option, exercisable at any time and from time to time, to require the Issuer to redeem all or some only

of the Notes held by it (or beneficially owned by it) (the "**Morgan Stanley Noteholder Option**"). The Morgan Stanley Noteholder Option shall be exercised by the relevant Morgan Stanley Noteholder giving at least 5 Business Days' notice to the Issuer specifying the Notes to be redeemed and the Issuer shall be obliged to redeem such Notes at the Redemption Amount on the date specified in such notice.

No interest will be payable in respect of a Note to be redeemed pursuant to an exercise of the Morgan Stanley Noteholder Option in respect of the period since the last date on which interest was payable (or, if there is no such date, the Issue Date).

Upon an exercise of the Morgan Stanley Noteholder Option, the Relevant Portion of each Related Agreement will terminate and the Determination Agent will:

- (a) arrange for the sale or liquidation of the Relevant Portion of the Underlying Assets (rounded down, if appropriate, to the nearest denomination) and that amount of the Underlying Assets shall be released from the security constituted by the Security Documents; and
- (b) identify any changes to the terms and conditions of the Notes and the Transaction Documents which the Determination Agent considers are required in order to reflect and account for the redemption pursuant to the exercise of the Morgan Stanley Noteholder Option and to ensure that the amounts payable on those Notes which are not redeemed are the same (in all material respects) as the amounts which would have been payable on those Notes but for that redemption. Upon identification by the Determination Agent of any such changes, the terms and conditions of the Notes and the Transaction Documents shall be deemed to be amended without any further action required by, or consent required from, any other party.

For this purpose, "**Relevant Portion**" means, in relation to a Related Agreement or the Underlying Assets, a share thereof corresponding to the proportion which the Principal Amount of the Notes of that Series to be redeemed bears to all of the Notes (including the Notes to be redeemed).

Unless otherwise specified in the Applicable Supplement, the Redemption Amount in respect of all the Notes to be redeemed in the event of an exercise of the Morgan Stanley Noteholder Option is an amount equal to (a) the proceeds of sale or liquidation of the Relevant Portion (subject to any rounding) of the Underlying Assets (net of the costs incurred in effecting that sale or liquidation) plus (b) the amount (if any) paid to the Issuer on termination of the Relevant Portion of any Related Agreements less (c) the amount (if any) payable by the Issuer on termination of the Relevant Portion of the Related Agreement less (d)



an amount equal to all claims which rank in priority to the claims of the Noteholders (and a pro rata amount will be payable in respect of each Note).

(i) *Redemption by Instalments*

Unless previously redeemed, purchased and cancelled as provided in this Condition 7, each Note which provides for Instalment Dates and Instalment Amounts will be partially redeemed on each Instalment Date at the Instalment Amount specified on it, whereupon the outstanding Principal Amount of such Note shall be reduced by the Instalment Amount for all purposes and the notional amount(s) of principal under any Related Agreement upon which payments under the Series of Notes of which such Note forms part are calculated shall be reduced in a proportion equal to the proportion which the Instalment Amount bears to the original notional amount(s) of such Related Agreement.

(j) *Accrued Interest*

Any Redemption Amount, Credit Event Redemption Amount, Instalment Amount or other amount paid in redemption of the Notes pursuant to this Condition 7 (*Redemption, Purchase and Exchange*) shall be made together (if applicable) with interest accrued on the Notes to (but excluding) the relevant date of redemption.

(k) *Cancellation*

In respect of all Notes purchased by or on behalf of the Issuer, the Bearer Notes or the Registered Note Certificates shall be surrendered to or to the order of the Principal Paying Agent for cancellation and, if so surrendered, will, together with all Notes redeemed by the Issuer, be cancelled forthwith (together, in the case of Bearer Notes, with all unmatured Receipts and Coupons and unexchanged Talons attached thereto or surrendered therewith). Any Notes so surrendered for cancellation may not be reissued or resold and the obligations of the Issuer in respect of any such Notes shall be discharged.

(l) *Exchange of Notes for Underlying Assets*

If specified in the Applicable Supplement, a Noteholder may request the Issuer to exchange any Note held by it for a corresponding principal amount of the Underlying Assets upon terms that will be more fully set out in the Applicable Supplement.

(m) *Exchange of Series*

If specified in the Applicable Supplement and subject to the conditions specified in such Applicable Supplement, the Issuer may from time to time with the consent of the Counterparty under the Related Agreement (if any) with respect to such Series substitute a new Series of Notes (the "**New Series**") for that existing Series of Notes (the "**Existing Series**") as it may deem appropriate. Any substitution of a Series may occur with or without the consent of the Noteholders, as specified in the relevant Applicable Supplement. The exchange procedure and means by which Noteholders consent to such exchange (if any) shall be specified in the relevant Applicable Supplement at the time of issue.

## 8. **Payments**

### (a) *Bearer Notes*

Payments of principal (or, as the case may be, Redemption Amounts or other amounts payable on redemption) and interest (or, as the case may be, Interest Amounts) in respect of Bearer Notes (other than Dual Currency Notes) will, subject as mentioned below, be made against presentation and surrender of the relevant Receipts (in the case of payment of Instalment Amounts, other than on the due date for final redemption on which the Receipt shall be presented for payment together with its relative Note), Notes (in the case of all other payments of principal and, in the case of interest, as specified in Condition 8(f)(v)) or Coupons (in the case of interest, save as specified in Condition 8(f)(iv)), as the case may be, at the specified office of any Paying Agent outside the United States and its possessions by transfer to an account denominated in the currency in which such payment is due with, or (in the case of Definitive Notes only) a cheque payable in that currency drawn on, a bank in (a) the principal financial centre of that currency provided that such currency is not euro, or (b) the principal financial centre of any Member State of the European Community if that currency is euro.

### (b) *Registered Notes*

Payments of principal (or, as the case may be, Redemption Amounts) in respect of Registered Notes (other than Dual Currency Notes) will be made against presentation and surrender of the relevant Registered Note Certificate at the specified office of the Registrar and in the manner provided in Condition 8(a).

Payments of instalments in respect of Registered Notes will be made against presentation of the relevant Registered Note Certificate at the specified office of the Registrar or, if the Notes are listed on the Irish Stock Exchange, the specified office of the Registrar appointed in Dublin in the manner provided in Condition 8(a) above and annotation of such payment on the Register by the Registrar and the relevant Registered Note Certificate.

- (A) Interest (or, as the case may be, Interest Amounts) on Notes represented by a Global Note Certificate payable on any Interest Payment Date will be paid to the persons shown on the Register on the fifteenth day before the due date for payment thereof (the "**Record Date**"). Upon application by the Noteholder to the specified office of the Registrar at least 10 Calendar days before the relevant Record Date, the payment of interest may be made by transfer to an account in the relevant currency maintained by the payee with a bank in (a) the principal financial centre of the country of that currency provided that such currency is not euro, or (b) the principal financial centre of any Member State of the European Community if that currency is euro.
- (B) Each payment of Interest (or, as the case may be, Interest Amounts) in respect of Notes represented by a Registered Global Note payable on any Interest Payment Date will be made, in accordance with the prevailing systems and procedures for payments of the relevant Clearing System(s) in which such Registered Global Note is being held, to the person shown as the Holder in the Register at the

opening of business on the Clearing System Business Day before the due date for such payment.

(c) *Payments in the United States*

Notwithstanding the foregoing, if any Bearer Notes are denominated in U.S. dollars, payments in respect thereof may be made at the specified office of any Paying Agent in New York City in the same manner as aforesaid if:

- (i) the Issuer shall have appointed Paying Agents with specified offices outside the United States with the reasonable expectation that such Paying Agents would be able to make payment of the amounts on the Notes in the manner provided above when due;
- (ii) payment in full of such amounts at all such offices is illegal or effectively precluded by exchange controls or other similar restrictions on payment or receipt of such amounts; and
- (iii) such payment is then permitted by United States law, without involving, in the opinion of the Issuer and the Trustee, adverse tax consequences to the Issuer.

(d) *Payments subject to fiscal laws; payments on Global Notes and Registered Notes*

All payments of principal and interest on the Notes are subject in all cases to (i) any applicable fiscal or other laws, regulations and directives, but without prejudice to the provisions of Condition 9 and (ii) FATCA

No commission or expenses shall be charged to the Noteholders, Couponholders or Receiptholders (if any) in respect of such payments.

Payments of principal (or Redemption Amounts) and interest (or Interest Amounts) in respect of the Bearer Notes when represented by a Permanent Global Note will be made against presentation and surrender or, as the case may be, presentation of the Permanent Global Note at the specified office of the Principal Paying Agent, subject in all cases to any fiscal or other laws, regulations and directives applicable in the place of payment to the Issuer, the Principal Paying Agent or the bearer of the Permanent Global Note. A record of each payment so made will be endorsed on the schedule to the Permanent Global Note by or on behalf of the Principal Paying Agent which endorsement shall be *prima facie* evidence that such payment has been made.

The holder of a Permanent Global Note or Registered Note shall be the only person entitled to receive payments of principal (or Redemption Amounts) and interest (or Interest Amounts) on the Permanent Global Note or such Registered Note (as the case may be) and the Issuer will be discharged by payment to, or to the order of, the holder of such Permanent Global Note or Registered Note in respect of each amount paid.

(e) *Appointment of the Agents*

The Paying Agents, the Issue Agent, the Determination Agent, the Calculation Agent and the Registrar (the "**Agents**") appointed by the Issuer and their respective specified offices are listed below or as otherwise appointed pursuant to the Agency Agreement and with

specified offices as set out in the Applicable Supplement. The Agents act solely as agents of the Issuer and do not assume any obligation or relationship of agency or trust for or with any Holder. The Issuer reserves the right at any time to vary or terminate the appointment of any Agent, and to appoint additional or other Agents, provided that the Issuer will at all times maintain (i) a Principal Paying Agent, (ii) a Calculation Agent (where the Conditions so require one) and (iii) while any Registered Notes remain outstanding, a Registrar in Luxembourg, and (iv) a paying agent in Ireland (if the Notes are issued in definitive form and held outside the Clearing Systems) each Agent (other than the Registrar) having a specified office in a European city which, if the Notes are admitted to listing on a listing authority, stock exchange and/or quotation system and the rules of such listing authority, stock exchange and/or quotation system require the appointment of a Paying Agent in a particular place, shall be such place. For Registered Notes, the Issuer will at all times maintain a Registrar and the Register in Luxembourg (or such other place as the Trustee may approve), for so long as any stamp duty requirements apply.

The Issuer will ensure that it maintains a Paying Agent in an EU member state that will not be obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any other Directive implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced to conform to, such Directive.

Notice of any change in any of the Paying Agents or in their Specified Offices shall promptly be given to the Noteholders.

(f) *Unmatured Coupons and Receipts and unexchanged Talons*

- (i) Subject to the provisions of the Applicable Supplement, upon the due date for redemption of any Note which is a Bearer Note, unexpired Coupons relating to such Note (whether or not attached) shall become void and no payment shall be made in respect of them.
- (ii) Upon the date for redemption of any Note, any unexpired Talon relating to such Note (whether or not attached) shall become void and no Coupon shall be delivered in respect of such Talon.
- (iii) Upon the due date for redemption of any Note which is redeemable in instalments, all Receipts relating to such Note having an Instalment Date falling on or after such due date (whether or not attached) shall become void and no payment shall be made in respect of them.
- (iv) Where any Note which is a Bearer Note, is presented for redemption without all unexpired Coupons and any unexpired Talon relating to it, and where any Bearer Note is presented for redemption without any unexpired Talon relating to it, redemption shall be made only against the provision of such indemnity as the Issuer may require.
- (v) If the due date for redemption of any Note is not a due date for payment of interest or an Interest Amount, interest accrued from the preceding due date for payment of interest or the Interest Commencement Date, as the case may be or,

in the case of a Variable Coupon Amount Note, the Interest Amount payable on such date for redemption shall only be payable against presentation (and surrender if appropriate) of the relevant Note. Interest accrued on a Note which only bears interest after its Maturity Date shall be payable on redemption of such Note against presentation thereof.

(g) *Non-Business Days*

Subject as provided in the Applicable Supplement, if any date for payment in respect of any Note, Receipt or Coupon is not a business day, the holder shall not be entitled to payment until the next following business day nor to any interest or other sum in respect of such postponed payment. In this paragraph, "**business day**" means a day (other than a Saturday or a Sunday) on which banks are open for presentation and payment of debt securities and for dealings in foreign currency in London and in the relevant place of presentation and in the cities referred to in the definition of Business Days set out in the Applicable Supplement and:

- (1) (in the case of a payment in a currency other than euro) where payment is to be made by transfer to an account maintained with a bank in the relevant currency, on which dealings may be carried on in the relevant currency in the principal financial centre of the country of such currency; or
- (2) (in the case of a payment in euro) on a day which is a TARGET Settlement Day.

(h) *Dual Currency Notes*

The Applicable Supplement in respect of Dual Currency Notes shall specify the currency in which each payment in respect of the relevant Notes shall be made, the terms relating to any option relating to the currency in which any payment is to be made and the basis for calculating the amount of any relevant payment and the manner of payment thereof.

(i) *Talons*

On or after the Interest Payment Date for the final Coupon forming part of a coupon sheet issued in respect of any Note, the Talon forming part of such coupon sheet may be surrendered at the specified office of any Paying Agent in exchange for a further coupon sheet (and if necessary another Talon for a further coupon sheet) (but excluding any Coupons which may have become void pursuant to Condition 12).

9. **Taxation**

- (a) All payments in respect of the Notes, Receipts or Coupons will be made without withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature unless the Issuer, or any Paying Agent or, where applicable, the Trustee is required by applicable law, regulation, rule or agreement with a taxing authority to make any payment in respect of the Notes, Receipts or Coupons subject to any withholding or deduction for, or on account of, any present or future taxes, duties or charges of whatsoever nature (including any withholding tax imposed under FATCA, or any similar or successor legislation or any agreement entered into pursuant to any such legislation, or any

law implementing an intergovernmental approach thereto). In that event, the Issuer, any Paying Agent, or the Trustee (as the case may be) shall make such payment after such withholding or deduction has been made and shall account to the relevant taxing authorities or other governmental agencies for the amount so required to be withheld or deducted. Neither the Issuer, nor any Paying Agent, nor the Trustee will be obliged to make any additional payments to the Noteholders, Receiptholders or the Couponholders in respect of such withholding or deduction, but Condition 7(b)(i)(C) will apply. The Issuer or any Paying Agent may require Holders to provide such certification and other documents as required by applicable law or reasonably requested pursuant to Condition 9(b) below in order to qualify for exemption, reduction or refund of any withholding taxes or other taxes imposed by any taxing authority or governmental agency.

- (b) Each Holder or any third party having an interest in the Notes, Coupons or Receipts shall furnish (including by way of updates in such form and at such time as is reasonably requested) any information, representations and forms as shall reasonably be requested to assist in obtaining any exemption, reduction or refund of any withholding or other taxes imposed by any taxing authority or other governmental agency (including any withholding tax imposed pursuant to FATCA, or any similar or successor legislation or any agreement entered into pursuant to any such legislation or any law implementing an intergovernmental approach thereto) upon the Issuer, amounts paid to the Issuer, or amounts distributable by the Issuer to such Holder.
- (c) If the Applicable Supplement provides for the sale of all or any portion of the Applicable Series of Notes to "qualified institutional buyers" in reliance on Rule 144A under the Securities Act, or to "accredited investors" in reliance on Section 4(2) under the Securities Act, the Applicable Supplement will contain a section disclosing certain US Federal Income Tax Considerations relating to the purchase, ownership and sale or other disposition of the Applicable Series of Notes.

#### 10. **Events of Default**

- (a) Subject to Condition 10(c), the Trustee at its discretion may, and, if so requested by the Instructing Creditor, shall, give notice (an "**Enforcement Notice**") to the Issuer that the Notes of such Series are, and they shall accordingly immediately become, due and repayable, at their Redemption Amount together with accrued interest to the date of payment (or, in the case of Zero Coupon Notes at their Amortised Face Amount) or as otherwise specified in the Applicable Supplement and the Security constituted by the Security Documents shall become enforceable (as provided in the Trust Deed) and the Liquidation Amount shall be applied as specified in Condition 4(d) upon the occurrence of any of the following events (each an "**Event of Default**");

- (i) if default is made for a period of 14 days or more in the case of interest payments or 7 days or more in the case of principal in the payment of any sum due in respect of such Notes or any of them; or
- (ii) if the Issuer of such Series fails to perform or observe any of its other obligations under the Notes or the Trust Deed and, where the Trustee considers, in its absolute discretion that such default can be remedied, such failure continues for a period of 30 days (or such longer period as the Trustee may permit) next following the service by the Trustee on the Issuer of notice requiring the same to be remedied; or
- (iii) if any order shall be made by any competent court or any resolution passed for the winding-up or dissolution of the Issuer or an order is made for the Issuer's bankruptcy or examination (or any analogous proceedings) save for the purposes of amalgamation, merger, consolidation, reorganisation or other similar arrangement on terms approved by the Trustee; or
- (iv) if (a) any other proceedings are initiated against the Issuer under any applicable liquidation, examination, bankruptcy, insolvency, composition, reorganisation, readjustment or other similar proceeding under any laws (but excluding the presentation of any application for an administration order) and such proceedings are not being disputed in good faith, or (b) an examiner or other receiver, administrator or other similar official (not being a receiver or manager appointed by the Trustee pursuant to the Principal Trust Deed) is appointed in relation to the Issuer or in relation to the whole or any substantial part of the undertaking or assets of the Issuer or (c) an encumbrancer (not being the Trustee or any Receiver or manager appointed by the Trustee) shall take possession of the whole or any substantial part of the undertaking or assets of the Issuer or (d) a distress or execution or other process shall be levied or enforced upon or sued out against the whole or any substantial part of the undertaking or assets of the Issuer (other than, in any such case, by the Trustee or pursuant to any of the Transaction Documents) and in any of the foregoing cases (other than in relation to the circumstances described in (b) where no grace period shall apply) such order, appointment, possession or process (as the case may be) is not discharged or stayed or does not cease to apply within 14 days; or
- (v) if the Issuer initiates or consents to judicial proceedings relating to itself (except in accordance with paragraph (iii) above) under any applicable liquidation, examination, bankruptcy, insolvency, composition, reorganisation, readjustment or other similar proceedings under any laws or makes a conveyance or assignment for the benefit of its creditors generally; or
- (vi) if the Issuer becomes insolvent or is adjudicated or found bankrupt; or

(vii) if an event of default (as defined in the conditions of the Underlying Assets) occurs in relation to the Underlying Assets and is continuing.

(b) *Confirmation of no Event of Default*

The Issuer shall provide written confirmation to the Trustee, on an annual basis, that no Event of Default or Potential Event of Default or other matter which is required to be brought to the Trustee's attention has occurred.

(c) *Enforcement*

In the event of the security constituted by the Security Documents becoming enforceable following an acceleration of the Notes of a particular Series as provided in this Condition 10, the Trustee shall, (but without any liability as to the consequence of such action and without having regard to the effect of, or being required to account for, such action to, the Secured Creditors) have the right to enforce its rights under the Transaction Documents and the Trade Documents, in relation to the relevant Charged Assets in relation to such Series only, provided that the Trustee shall not be required to take any action that would involve the Trustee in any liability or expense unless previously indemnified to its satisfaction.

*The provisions of the Trust Deed are expressed to apply separately to each Series. Accordingly, the occurrence of an Event of Default under one Series does not per se constitute an Event of Default under any other Series.*

*The Events of Default may be varied or amended in respect of any Series of Notes as set out in the Applicable Supplement.*

**11. Limited Recourse Enforcement**

- (a) If the amounts realised from the Charged Assets in respect of any Series (including, without limitation, a realisation of the Security or a sale or redemption of the Underlying Assets and termination of any Related Agreement in accordance with these Conditions) are not sufficient (after meeting the Trustee's, the Agents', the Corporate Services Provider's, the Custodian's and any Receiver's expenses, liabilities and remuneration, and any other amounts that rank in priority to the Notes of such Series as specified in the Supplemental Trust Deed and/or identified in the Applicable Supplement) to make payment of all amounts due in respect of the Notes of such Series and all other Secured Obligations with respect to that Series including, without limitation any amount due to the Counterparty as a result of the termination of any Related Agreement, no other assets of the Issuer will be available to meet that shortfall. Any such shortfall shall be borne in accordance with the relevant Order of Priority (applied in reverse order) specified in the Supplemental Trust Deed and/or stated in the Applicable Supplement. Any claim of the Holders of the relevant Series remaining after such application shall be extinguished and such Holders will have no further recourse to the Issuer and any



failure to make any payment in respect of such shortfall shall in no circumstances constitute an Event of Default under Condition 10.

- (b) Only the Trustee may pursue the remedies available under the Trust Deed, the Conditions and the Transaction Documents and enforce the rights of the Secured Creditors in relation to the Underlying Assets of the relevant Series. No Secured Creditor is entitled to proceed directly against the Issuer or any assets of the Issuer unless the Trustee, having become bound to proceed in accordance with the terms of the Trust Deed, the Security Documents, fails or neglects to do so within a reasonable period and such failure or neglect is continuing. However, the Trustee shall not be bound to enforce the security or pursue the remedies available under the Trust Deed, the Conditions or any of the Transaction Documents or any Trade Documents unless it is indemnified and/or secured to its satisfaction and has, if so required by the Conditions, been requested to do so by the Instructing Creditor.
- (c) After realisation of the Security in respect of the Notes which has become enforceable and distribution of (1) the Liquidation Amount in accordance with Condition 4(d) or (2) the net proceeds thereof, neither the Trustee nor any Secured Creditor (if any) may take any further steps against the Issuer or any of its assets to recover any sums due but unpaid in respect of the Notes and all claims against the Issuer in respect of each such sum unpaid shall be extinguished.
- (d) No Noteholder, Couponholder or Receiptholder may at any time institute against, or join any person in instituting against, the Issuer any bankruptcy, winding-up, examination, re-organisation, arrangement, insolvency or liquidation proceeding (except for the appointment of a receiver and manager pursuant to the terms of the Trust Deed) or other proceeding under any similar law. The Noteholders, Couponholders and Receiptholders (if any) accept and agree, and in the relevant Related Agreement the Counterparty will accept and agree, that the only remedy of the Trustee against the Issuer after any of the Notes of that Series have become due and payable pursuant to Condition 10 is to enforce the security for the Notes for the relevant Series created by the security arrangements under the Trust Deed or any other Security Document.

*The net proceeds of enforcement of the security or realisation of the Charged Assets for the relevant Series may be insufficient to pay all amounts due to the Secured Creditors in respect of such Series in which event claims in respect of all such amounts will be extinguished.*

## 12. **Prescription**

Claims against the Issuer for payment in respect of the Notes, Receipts or Coupons (which, for this purpose, shall not include Talons) shall be prescribed and become void unless made within ten years (in the case of principal) or five years (in the case of

interest) from the appropriate Relevant Date (as defined in Condition 7(d)) in respect thereof.

**13. Replacement of Notes, Coupons, Receipts and Talons**

If any Bearer Note, Registered Note Certificate, Receipt, Coupon or Talon is lost, stolen, mutilated, defaced or destroyed it may be replaced, subject to applicable laws and stock exchange requirements, at the specified office of the Principal Paying Agent in London upon payment by the claimant of the expenses incurred in connection with such replacement and on such terms as to evidence, security, indemnity and otherwise as the Issuer may require. Mutilated or defaced Notes, Coupons or Talons must be surrendered before replacements will be issued.

**14. Meetings of Noteholders, Modification, Waiver, Authorisation and Substitution**

*(a) Meetings of Noteholders, Modifications and Waiver*

The Principal Trust Deed contains provisions for convening meetings of Noteholders of a Series to consider matters affecting their interests, including the modification by Extraordinary Resolution of the Conditions or the provisions of the Trust Deed. The quorum at any such meeting for passing an Extraordinary Resolution will be two or more persons holding or representing not less than one quarter of the Principal Amount of the Notes of the relevant Series for the time being outstanding, or, at any adjourned such meeting, two or more persons being or representing Noteholders of the relevant Series, whatever the Principal Amount of the Notes so held or represented, except that, *inter alia*, the terms of the security and certain terms concerning the amount and currency and the postponement of the due dates of payment of the Notes and the Coupons or Receipts (if any) may be modified only by resolutions passed at a meeting the quorum at which shall be two or more persons holding or representing three quarters in Principal Amount of the Notes of the relevant Series for the time being outstanding, at any adjourned such meeting, not less than one quarter, in Principal Amount of the Notes of the relevant Series for the time being outstanding. In addition, a Written Resolution will take effect as if it were an Extraordinary Resolution. An Extraordinary Resolution passed at any meeting of the Noteholders will be binding on all Noteholders (and any Couponholders and Receiptholders) of the relevant Series, whether or not they were present at such meeting.

***The Holder of a Global Note will be treated as being two persons for the purposes of any quorum requirement of a meeting of Noteholders.***

The Trustee may without the consent of the Secured Creditors of any Series (without prejudice to its rights in respect of any subsequent breach, condition, event or act) at any time, but only if and in so far as in its opinion the interests of the Instructing Creditor in respect of the relevant Series will not be materially prejudiced thereby (i) waive or authorise any breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Transaction Documents in relation to such Series or (ii) determine that any Event of Default or Potential Event of Default in relation to such Series shall not be treated as an Event of Default or, as the case may be, Potential Event of Default in relation to such Series, *provided that* the Trustee shall not exercise such powers in contravention of any express request given by the Instructing Creditor. Any

such waiver, authorisation or determination may be given or made on such terms and subject to such conditions as may seem fit and proper to the Trustee, shall be binding on the Secured Creditors of the relevant Series and, if but only if the Trustee so requires, shall be notified by the Issuer to the relevant Secured Creditors of such Series in accordance with the terms of the Notes as soon as practicable thereafter.

The Trustee may, without the consent of the Secured Creditors of such Series, concur with the Issuer in making:

- (a) any modification to any Transaction Document if in the opinion of the Trustee such modification is of a formal, minor or technical nature or to correct a manifest error; or
- (b) any other modification to the Trust Deed (except as mentioned therein) or any other Transaction Document which in the opinion of the Trustee it is proper to make, provided that the Trustee is of the opinion that such modification will not be materially prejudicial to the interests of the Instructing Creditor of such Series.

Any such modification may be made on such terms and subject to such conditions as may seem fit and proper to the Trustee, shall be binding upon the Holders of such Series and any other Secured Creditor relating to such Series and, unless the Trustee agrees otherwise, shall be notified by the Issuer to the relevant Holders in accordance with the terms of the relevant Notes and the other Secured Creditors as soon as practicable thereafter.

(b) *Authorisation*

The Issuer will not, except as specified in the Applicable Supplement, exercise any rights in its capacity as a holder of, or person beneficially entitled to or participating in the Underlying Assets, unless directed to do so by the Trustee and, if such direction is given, the Issuer will act only in accordance with such directions. The Trustee may, but need not, vote provided that it will vote if requested to do so by the Instructing Creditor and if the Trustee does vote pursuant to such request, it will bear no liability for doing so. In particular, the Issuer will not attend or vote at any meeting of holders of, or other persons interested or participating in, or entitled to the rights or benefits (or a part thereof) under, the Underlying Assets or give any consent, waiver, indulgence, time or notification or make any declaration in relation to such Underlying Assets unless it shall have been so directed by the Trustee in writing.

(c) *Substitution*

- (i) The Trust Deed contains provisions permitting the Trustee to agree:
  - (a) without the consent of the Secured Creditors; but
  - (b) if any Notes are rated by a Rating Agency or Rating Agencies subject to the prior receipt by the Issuer and the Trustee of written confirmation from such Rating Agency or Rating Agencies that the credit rating of such Notes will not be adversely affected;

to the substitution in place of the Issuer as principal debtor under the Trust Deed and the Notes of any other company (incorporated in any jurisdiction);

(ii) In connection with any proposed substitution or change of jurisdiction of the Issuer, the Trustee may:

- (a) without the consent of the Secured Creditors; but
- (b) if any Notes are rated by a Rating Agency or Rating Agencies subject to the prior receipt by the Issuer and the Trustee of written confirmation from such Rating Agency or Rating Agencies that the credit rating of such Notes will not be adversely affected,

agree to a change of the law governing the Trust Deed, the Supplemental Trust Deed, any other Security Document, the Notes, the Receipts, the Coupons, the Talons (if any) provided that such change would not in the opinion of the Trustee be materially prejudicial to the interests of the relevant Noteholders or the Counterparty.

(d) *Entitlement of the Trustee*

In connection with the exercise of its powers, trusts, authorities or discretions (including but not limited to those in relation to any proposed modification, waiver, authorisation or substitution as aforesaid) the Trustee shall not have regard to the consequences of such exercise for individual Secured Creditors or of holders of any other notes or bonds, resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory and the Trustee shall not be entitled to require, nor shall any Secured Creditor be entitled to claim, from the Issuer any indemnification or payment in respect of any tax consequence of any such exercise upon individual Secured Creditors.

(e) *Prioritised Tranches*

The Supplemental Trust Deed will contain certain provisions relating to meetings, modification, waiver and substitution for Prioritised Tranches.

## 15. **Notices**

Notices to holders of Registered Note Certificates will be posted to them at their respective addresses in the Register and deemed to have been given on the date of posting or, if so agreed with the relevant Noteholder, will be given to them by fax or email. Couponholders and Receiptholders will be deemed for all purposes to have notice of the contents of any notice given to the holders of Bearer Notes in accordance with this Condition.

So long as any Notes are represented by Global Notes and are held in their entirety on behalf of Euroclear and/or Clearstream, Luxembourg, notices to Noteholders shall be given by delivery of the relevant notice to Euroclear and/or Clearstream, Luxembourg for communication by them to the holders of the Notes (and the provisions of the paragraph above shall not apply).

For so long as the Notes are admitted to trading on the Irish Stock Exchange, a copy of any notice to Noteholders shall also be filed in the Companies Announcement Office of the Irish Stock Exchange.

16. **Trustee's Indemnification, Retirement and Removal**

The Trust Deed contains provisions for indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from taking any action including taking proceedings to enforce repayment unless indemnified and/or secured to its satisfaction. The Trustee or any of its affiliates is entitled to enter into business transactions with the Issuer, any issuer or guarantor of (or other obligor in respect of) any of the securities or other assets, rights and/or benefits comprising the Charged Assets or the Secured Creditors or any of their respective subsidiaries or associated companies without accounting to the Secured Creditors for any profit resulting therefrom.

The Trustee, in the absence of gross negligence, bad faith or wilful default, is exempted from any liability in respect of any loss, diminution in value or theft of all or any part of the Charged Assets, from any obligation to insure all or any part of the Charged Assets (including, in either such case, any documents evidencing, constituting or representing the same or transferring any rights, benefits and/or obligations thereunder) or to procure the same to be insured or monitoring the adequacy of any insurance arrangements and from any claim arising if all or any part of the Underlying Assets (or any such document aforesaid) are held in an account with Euroclear, Clearstream, Luxembourg or any similar clearing system in accordance with that system's rules or otherwise held in safe custody by the Custodian or a bank or other custodian selected by the Trustee. The Trustee will incur no liability, vicarious or otherwise, for any actions or inactions of the Custodian.

The Trustee was appointed trustee in respect of notes to be issued by the Issuer under the Programme pursuant to the terms of the Principal Trust Deed. Pursuant to the terms of the Principal Trust Deed, the Trustee may retire upon the giving of three months' notice to the Issuer and each Secured Creditor or may be removed by an Extraordinary Resolution of the Holders of the relevant Series of Notes. Where notice of retirement or removal of the Trustee has been given, the Issuer shall procure the appointment of a new trustee as soon as reasonably practicable and such retirement or removal shall not become effective until a successor trustee has been appointed in accordance with the terms of the Principal Trust Deed.

17. **Governing Law**

(a) *Governing Law*

The Trust Deed, the Supplemental Trust Deed, the Notes, the Coupons, the Receipts and the Talons (if any) and the Agency Agreement and any non-contractual obligations arising out of or in connection with them are governed by English law. Any Supplementary Security Document and any non-contractual obligations arising out of or in connection with it will be governed by the law specified therein.

(b) *Submission to jurisdiction*

The Issuer has, in the Trust Deed, irrevocably agreed for the benefit of the Noteholders that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Notes (or any non-contractual matters arising out of or in connection with them) (respectively, "**Proceedings**" and "**Disputes**") and, for such purposes, irrevocably submits to the jurisdiction of such courts.

(c) *Waiver*

The Issuer has, in the Trust Deed, irrevocably waived any objection which it might now or hereafter have to the courts of England being nominated as the forum to hear and determine any Proceedings and to settle any Disputes and agrees not to claim that any such court is not a convenient or appropriate forum.

(d) *Process agent*

The Issuer has, in the Trust Deed, agreed that the process by which any Proceedings in England are begun may be served on it by being delivered to Morgan Stanley & Co. International plc at 25 Cabot Square, Canary Wharf, London, E14 4QA or its other registered office for the time being. If such person is not or ceases to be effectively appointed to accept service of process on the Issuer's behalf, the Issuer shall, on the written demand of the Trustee, appoint a further person in England to accept service of process on its behalf and, failing such appointment within 15 days, the Trustee shall be entitled to appoint such a person by written notice to the Issuer. Nothing contained herein shall affect the right of any Secured Creditor to serve process in any other manner permitted by law.

(e) *Non-exclusivity*

The submission to the jurisdiction of the courts of England shall not (and shall not be construed so as to) limit the right of the Secured Creditors to take Proceedings against the Issuer in any other court of competent jurisdiction, nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

(f) *Third Party Rights*

No person shall have any right to enforce any term or condition of the Notes or the Trust Deed under the Contracts (Rights of Third Parties) Act 1999.

## Appendix 1

### Counterparty Replacement Provisions

*These additional terms and conditions (the **Additional Conditions**) form part of the terms and conditions of the Notes which (subject to completion and amendment and as supplemented or varied in accordance with the provisions of the relevant Applicable Supplement and, save for the italicised text (other than sub-headings)) will be endorsed on each Note (whether bearer or registered) in definitive form.*

#### 1. **Notification of Counterparty Replacement Event**

Promptly following the occurrence of a Counterparty Replacement Event, the Issuer shall give notice of such Counterparty Replacement Event to the Calculation Agent, the Principal Paying Agent, the Trustee and the Noteholders and such notice shall include (i) a description in reasonable detail of the facts relevant to such Counterparty Replacement Event, and (ii) the date of the occurrence of the Counterparty Replacement Event.

#### 2. **Noteholder Election**

Following a Counterparty Replacement Event, Noteholders holding 100 per cent. of the then outstanding principal amount of the Notes may elect that the Counterparty Replacement Process should apply in respect of the Notes (a "**Counterparty Replacement Election**"). In order to make such election, such Noteholders must provide a Counterparty Replacement Notice to the Issuer, copying the Agents and the Trustee, on or before the day falling 5 Business Days after the occurrence of a Counterparty Replacement Event (the "**Counterparty Replacement Election Cut-Off Date**"). A Counterparty Replacement Election may be made regardless of whether any notice required by Additional Condition 1 (*Notification of Counterparty Replacement Event*) has been given.

#### 3. **Termination of Swap Agreement**

Following a Counterparty Replacement Event, the Swap Agreement will be terminated and the Early Termination Amount in respect of such termination will be calculated and payable in accordance with the terms of the Swap Agreement.

The Issuer shall provide to Noteholders a copy of any notice received or given by it pursuant to Section 6 of the Swap Agreement following a Counterparty Replacement Event.

#### 4. **Early Termination Amount owed by the Issuer: liquidation of Underlying Assets**

If the Early Termination Amount in respect of the Swap Agreement is payable by the Issuer to the Counterparty and the amount of Eligible Credit Support in the form of cash comprised in the Counterparty's Credit Support Balance (if any) is insufficient to fund payment of the Early Termination Amount, then before the date on which the Early Termination Amount is payable in accordance with the Swap Agreement, the Custodian (acting on behalf of the Issuer) (or, if no Custodian is appointed at such time, such other party as maybe appointed by the Issuer for such purpose), shall liquidate or otherwise

realise such portion of the Underlying Assets as is necessary in order to generate proceeds that are, when taken together with any Eligible Credit Support in the form of cash comprised in the Counterparty's Credit Support Balance, sufficient to fund payment by the Issuer of the Early Termination Amount.

In liquidating or otherwise realising such Underlying Assets, the Custodian shall first liquidate any Eligible Credit Support (other than Eligible Credit Support in the form of cash) comprised in the Counterparty's Credit Support Balance and held by or on behalf of the Issuer at such time and then shall liquidate other Underlying Assets as necessary to comply with the preceding paragraph.

If any proceeds of such Liquidation or any Eligible Credit Support in the form of cash that is comprised in the Counterparty's Credit Support Balance are not denominated in the Specified Currency, then such amounts shall be converted into the Specified Currency at a rate determined by the Calculation Agent to be representative of the spot foreign exchange rates prevailing for the sale of the relevant currency and purchase of the Specified Currency.

5. **Early Termination Amount owed by the Counterparty: use of proceeds and assignment of unpaid claim**

If the Early Termination Amount in respect of the Swap Agreement is payable by the Counterparty to the Issuer, then to the extent such amount is actually received by the Issuer, it shall be used by the Issuer to fund payment of the Replacement Swap Price (if any) and/or any Unpaid Swap Close-Out Claim Additional Payment Amount payable by the Issuer under Additional Condition 11 (*Amounts payable*) below. To the extent that such amount is not actually received by the Issuer, Additional Condition 13 (Assignment of Unpaid Swap Close-Out Claim) shall apply.

6. **Selection of Replacement Counterparty**

If a Replacement Counterparty and the other information required to be specified in the Counterparty Replacement Notice are specified in the Counterparty Replacement Notice, then the Replacement Counterparty so specified will be appointed in accordance with and subject to Additional Condition 10 (*Counterparty Replacement Agreement*).

If no Replacement Counterparty was specified in the Counterparty Replacement Notice or other information required to be specified in the Counterparty Replacement Notice was not so specified, then Additional Condition 8 (*Counterparty Auction*) below will apply.

7. **Know-Your-Customer**

The appointment of any Replacement Counterparty pursuant to these Additional Conditions shall be subject to such Replacement Counterparty satisfying the Replacement Counterparty Eligibility Criteria, including the Issuer, the Trustee and each Agent completing satisfactorily any necessary 'know-your-customer' or equivalent checks. Each entity participating in the Counterparty Auction must also comply with the Replacement Counterparty Eligibility Criteria as at the Counterparty Auction Costs Payment Date.



If at any time after the Replacement Counterparty Selection Date but prior to the execution of the Counterparty Replacement Agreement, either:

- (a) the Issuer, the Trustee or any Agent gives notice to the Issuer that the Replacement Counterparty has failed any necessary 'know-your-customer' or equivalent checks; or
- (b) the Replacement Counterparty gives notice to the Issuer that any of the Issuer, the Trustee or any Agent has failed any necessary 'know-your-customer' or equivalent checks,

then such event shall constitute a Counterparty Replacement Failure Event and the Issuer shall provide notice of the same to Noteholders (with a copy to the Trustee, the Principal Paying Agent, the Custodian and each other Agent).

A Counterparty Replacement Failure Event shall, if so specified in the Securities Note, constitute an Underlying Disposal Event pursuant to Condition 7(b) (*Mandatory Redemption*).

#### 8. **Counterparty Auction**

If an Auction Agent, rather than a Replacement Counterparty was specified in the Counterparty Replacement Notice then:

- (a) the Issuer shall procure that:
  - (i) the Auction Agent specified in the Counterparty Replacement Notice arranges an auction to determine the Replacement Counterparty;
  - (ii) on or before the day falling 5 Business Days following the Counterparty Replacement Election Cut-Off Date, the Auction Agent calculates the Counterparty Auction Costs and notifies the Noteholder Representative, with a copy to the Issuer, the Trustee and the Calculation Agent, of such Counterparty Auction Costs and of the details of the account into which such amount is payable;
- (b) in order for the Counterparty Auction to proceed, Noteholders must pay to the account designated by the Auction Agent pursuant to this Additional Condition 8 (Counterparty Auction), the full amount of the Counterparty Auction Costs on or before the 10 Business Day following the Counterparty Replacement Election Cut-Off Date (the "**Counterparty Auction Costs Payment Date**"); and
- (c) the Issuer shall use reasonable endeavours to procure that, promptly following the completion of the Counterparty Auction, the Auction Agent notifies the Noteholder Representative, with a copy to the Issuer, the Trustee and the Calculation Agent, of the results of the Counterparty Auction, including the names of each participant in such auction, the Replacement Swap Price, the Collateral Replacement Price and the Total Replacement Price quoted by such participant and, if permitted by the Counterparty Auction process, any other conditions attached to such participant's submission (such notice a "**Counterparty Auction Result Notice**").

The Counterparty Auction Result Notice must be provided to the Noteholder Representative by email to the address specified in the Counterparty Replacement Notice and, if sent before 3:00 p.m., London time on a Business Day shall be deemed to be received by the Noteholder Representative immediately upon such email having been sent by the Auction Agent and, if sent after 3:00 p.m., London time on a Business Day, or on a day that is not a Business Day, shall be deemed to be received at 9:00 a.m., London time on the next following Business Day.

The terms of the Counterparty Auction shall be determined by the Auction Agent in compliance with the Counterparty Auction Requirements.

The Noteholder Representative must:

- (I) within 2 hours of deemed receipt by the Noteholder Representative of the Counterparty Auction Result Notice, provide to the Auction Agent by email:
  - (A) if 'Noteholder Representative Last Look Right' is specified as applicable in the Counterparty Replacement Notice, notification as to which of the auction participants it has selected to be the Replacement Counterparty; and
  - (B) evidence reasonably satisfactory to the Auction Agent that Noteholders holding 100 per cent. of the then outstanding principal amount of the Notes have committed to pay to the Issuer any Issuer Shortfall Amount to be determined pursuant to Additional Condition 11 (*Amounts payable*), and
- (II) promptly following the notification to the Auction Agent set out in sub-paragraph (I) above, provide to the Issuer, the Trustee and the Calculation Agent copies of the information provided to the Auction Agent under sub-paragraph (I) above.

If 'Noteholder Representative Last Look Right' is not specified as applicable in the Counterparty Replacement Notice, then the party that has quoted the lowest Total Replacement Price in the Counterparty Auction will be deemed to have been selected as the Replacement Counterparty.

The Replacement Swap Price, Collateral Replacement Price and Total Replacement Price quoted by the party selected as the Replacement Counterparty shall be deemed to be the Replacement Swap Price, Collateral Replacement Price and Total Replacement Price respectively for the purposes of the remainder of this Additional Condition 8.

**9. Counterparty Auction failure**

If:

- (a) the Counterparty Auction does not comply with the Counterparty Auction Requirements;
- (b) the Counterparty Auction Costs (if any) are not received in full by the Auction Agent on or before the Counterparty Auction Costs Payment Date; or
- (c) the Noteholder Representative does not comply with Additional Conditions 8(I)

and/or (II) above,

then a Counterparty Replacement Failure Event shall, if so specified in the Securities Note, constitute an Underlying Disposal Event pursuant to Condition 7(b) (*Mandatory Redemption*).

10. **Counterparty Replacement Agreement**

Within 15 Business Days of the Replacement Counterparty Selection Date, each of the Issuer, the Trustee, the Principal Paying Agent, the Custodian and each other Agent shall be required, subject to completion of any necessary "know-your-customer" or equivalent checks being satisfactorily completed, to execute a Counterparty Replacement Agreement with such Replacement Counterparty.

11. **Amounts payable**

- (a) On or before the Counterparty Replacement Calculation Date, the Calculation Agent will determine whether an Issuer Shortfall Amount or an Issuer Excess Amount exists and shall notify the Issuer, the Trustee and Noteholders of such amount, together with details of the calculations of the same (a "**Counterparty Replacement Calculation Notice**") on or promptly following the Counterparty Replacement Calculation Date.

If the Counterparty Replacement Calculation Notice specifies that an Issuer Shortfall Amount exists, then the Counterparty Replacement Calculation Notice must contain details of the Issuer's Counterparty Replacement Account.

- (b) If an Issuer Shortfall Amount exists in respect of the Counterparty Replacement Calculation Date, then:
  - (iii) in order for the Counterparty replacement to proceed, Noteholders must pay to the Issuer's Counterparty Replacement Account an amount in the Specified Currency equal to the Issuer Shortfall Amount on or before the day falling 2 Business Days prior to the Replacement Counterparty Settlement Date (the "Replacement Counterparty Settlement Cut-Off Date"); and
  - (iv) if the Total Replacement Price is payable by the Issuer to the Replacement Counterparty, the Issuer shall pay the Total Replacement Price to the Replacement Counterparty on or before the Replacement Counterparty Settlement Date.
- (c) If an Issuer Excess Amount exists in respect of the Counterparty Replacement Calculation Date, then:
  - (i) if the Total Replacement Price is payable by the Issuer to the Replacement Counterparty, the Issuer shall pay the Total Replacement Price to the Replacement Counterparty on or before the Replacement Counterparty Settlement Date; and

- (ii) the Issuer shall pay the Counterparty Replacement Additional Payment Amount (if any) in respect of each Note on the Replacement Counterparty Settlement Date.

12. **Delivery of replacement Underlying Assets**

If a Collateral Shortfall existed on the Counterparty Replacement Calculation Date, then on the Replacement Counterparty Settlement Date, the Replacement Counterparty shall procure the delivery to the Custodian on behalf of the Issuer of the Collateral Shortfall Assets which shall be held by the Custodian on behalf of the Issuer, subject to the Security.

13. **Assignment of Unpaid Swap Close-Out Claim**

If an Unpaid Early Termination Amount exists on the Counterparty Replacement Calculation Date and Noteholders elected in the Counterparty Replacement Notice for an assignment of the Unpaid Early Termination Amount, then the Issuer shall as soon as reasonably practicable after the Replacement Counterparty Settlement Date but subject to completion of any necessary 'know-your-customer' or equivalent checks, assign all of its rights, title and interest against the Counterparty in respect of such Early Termination Amount to the entity designated by Noteholders in the Counterparty Replacement Notice.

If an Unpaid Early Termination Amount exists on the Counterparty Replacement Calculation Date and Noteholders did not elect in the Counterparty Replacement Notice for an assignment of the Unpaid Early Termination Amount, then as soon as reasonably practicable after the Replacement Counterparty Settlement Date, the Issuer (or its agent) shall liquidate the Issuer's claim in respect of the Unpaid Early Termination Amount and, if applicable, shall notify the Issuer upon completion of the same.

The Issuer shall pay the Unpaid Swap Close-Out Claim Additional Payment Amount (if any) in respect of each Note on the Unpaid Swap Close-Out Claim Additional Payment Amount Payment Date.

14. **Suspension of Payments**

If, a Counterparty Replacement Election has been made under these Additional Conditions, then the Issuer may by notice to Noteholders (with a copy to the Trustee and the Agents) elect that no payment of principal or interest shall be made by the Issuer in respect of the Notes during the period from and including the date that a Counterparty Replacement Election is made under Additional Condition 2 (*Noteholder election*) to but excluding the earlier to occur of:

- (a) the date on which the Replacement Swap Agreement becomes effective; and
- (b) the date on which a Counterparty Replacement Failure Event occurs,

(such date, the "**Counterparty Replacement Resumption Date**"). All amounts of principal and interest that would otherwise have been payable in respect of the Notes shall be payable by the Issuer on the day falling five Business Days following the Counterparty Replacement Resumption Date. Noteholders and Couponholders shall

not be entitled to any further payment as a result of any postponement pursuant to this Additional Condition 14.

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