

DATED \_\_\_\_\_ 201[X]

[COUNTERPARTY]

CENTRAL BANK OF IRELAND

FRAMEWORK AGREEMENT  
in respect of  
SPECIAL MORTGAGE-BACKED € PROMISSORY NOTES  
(UK ASSETS)

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THIS FRAMEWORK AGREEMENT is made the                    day of                    ,

**BETWEEN:**

- (1) [COUNTERPARTY] of [specify] (the “Counterparty”); and
- (2) CENTRAL BANK OF IRELAND of PO Box 559, Dame Street, Dublin 2 (the “Bank”)

**WHEREAS:**

- (A) The Counterparty carries on the business *inter alia* of making and administering mortgage loans secured on residential properties within England, Wales, Scotland and Northern Ireland.
- (B) Pursuant to a Decision of the European Central Bank of 14 December 2011 on additional temporary measures relating to Eurosystem refinancing operations and eligibility of collateral (ECB/2011/25), the European Central Bank, with effect from 19 December 2011, widened the criteria for determining the eligibility of assets to be used as collateral in Eurosystem monetary policy operations. Pursuant to that Decision, the Bank may from time to time make certain advances to the Counterparty that will be represented by Special Mortgage-Backed € Promissory Notes (as hereinafter defined) issued by the Counterparty.
- (C) The Counterparty:
  - (a) will, pursuant to deeds of charge or floating charge (in relation to Scottish Mortgage loans) which it is intended will be executed by the Counterparty on the date hereof immediately following the execution of this Agreement, create security over certain mortgage loans, together with the benefit of the collateral security for the same, satisfying the Selection Criteria (as hereinafter defined); and
  - (b) may also, with the agreement of the Bank, provide, or procure the provision of, certain other credit support,

to secure its obligations to the Bank on foot of the Special Mortgage-Backed € Promissory Notes issued from time to time by the Counterparty.

**IT IS HEREBY AGREED** as follows:

**1. Definitions**

- 1.1 In this Agreement, unless the contrary intention appears, the following definitions shall have the following meanings:

“**Accelerated LPA**” means, in respect of any Partially Accelerated Note and Optional Early Maturity Date, the amount of the Liquidity Provided Amount the subject of that Optional Early Maturity Date;

“**Accelerated Nominal Amount**” means, in respect of any Partially Accelerated Note and Optional Early Maturity Date, such amount of the Nominal Amount, if any, as the Bank determines in its discretion;

“**Alternative Credit Support**” has the meaning given to it in clause 5.2(b);

“**Alternative Credit Support Document**” means any document pursuant to which Alternative Credit Support is effected;

**“Agreed Mortgage Pool Value”** means an amount equal to such percentage, not being less than one hundred percent (100%), as the Bank may prescribe from time to time of the aggregate Liquidity Provided Amount of all Special Mortgage-Backed € Promissory Notes issued to the Bank by the Counterparty which are outstanding at any time;

**“Authorisation”** means a communication in the form set out in Appendix 2 or in such other form as may be agreed from time to time, which shall be sent by e-mail (or such other means as may be agreed from time to time) by the Counterparty to the Bank each time (subject to clause 2.14 and 2.15) a Special Mortgage-Backed € Promissory Note is to be issued, setting out information required for, and constituting an authorisation by the Counterparty for, completion on its behalf of a Special Mortgage-Backed € Promissory Note;

**“Balance”** means in relation to each and any Loan secured by a Mortgage and identified in a Mortgage Schedule and on any date the original principal amount advanced to the Mortgage Borrower plus any mortgage indemnity premium or other disbursement, legal expense, fee, charge or premium capitalised and added to the amounts secured by the relevant Mortgage in accordance with the Mortgage Conditions applicable to the relevant Loan on or prior to such date and minus all repayments and prepayments of principal made in respect of any such Loan prior to such date;

**“Business Day”** means any day on which the Bank is open for conducting Eurosystem monetary policy operations; this will be any day other than Saturdays, Sundays, New Year’s Day, Good Friday, Easter Monday, 1 May, Christmas Day and 26 December and any other days as notified from time to time;

**“Credit Support Provider”** means any person, other than the Counterparty, that provides Alternative Credit Support;

**“Deed of Charge”** means each deed of charge or floating charge in a form set out in Appendix 5 issued to the Bank by the Counterparty and **“Deeds of Charge”** means all of them;

**“Earliest Repayment Date”** means, in respect of any Special Mortgage-Backed € Promissory Note issued in connection with a Eurosystem 3YR LTRO, the first date on which a Participating NCB’s counterparty is entitled to exercise early repayment rights in respect of that Eurosystem 3YR LTRO pursuant to applicable Eurosystem rules in this regard;

**“Enforcement Date”** means the date on which the Bank declares the security created by the Deeds of Charge to be enforceable in accordance with clause 8.3;

**“English or Welsh Mortgage”** means the first legal mortgage or charge of freehold or long leasehold residential property situate in England or Wales;

**“Eurosystem”** for the purposes of this Agreement is composed of the European Central Bank and the Participating NCBs;

**“Eurosystem Operation”** means, in respect of any Special Mortgage-Backed € Promissory Note, the operation, of a type referred to at clause 2.1(a), (b), or (c), in connection with which that Special Mortgage-Backed € Promissory Note was issued;

**“Eurosystem 3YR LTRO”** means a Eurosystem Operation that is a longer-term refinancing operation with a term to maturity of 36 months in respect of which the Participating NCB’s counterparty has certain early repayment rights (exercisable in respect of all, or part only, of the liquidity provided pursuant to that Eurosystem Operation);

**“euro”** means the single currency of participating member states of the European Union introduced on 1 January 1999;

**“Events of Default”** means the events of default set out in clause 8 and any one an **“Event of Default”**;

**“Finance Documents”** means each of this Agreement, the Deeds of Charge, any Alternative Credit Support Document and the Special Mortgage-Backed € Promissory Notes;

**“Further Advance”** means a discretionary further Loan made by the Counterparty to a Mortgage Borrower as an addition to and on the security of a Mortgage which is on the date of the making of such further Loan included in the Mortgage Pool;

**“General Documentation”** means the document dated 1 January 2012 issued by the European Central Bank entitled The Implementation of Monetary Policy in the Euro Area, General Documentation on Eurosystem Monetary Policy Instruments and Procedures;

**“Initial Mortgage Pool”** means the Loans and Mortgages securing such Loans which have been initially selected and segregated by the Counterparty and set out in the Initial Mortgage Schedule to be charged to the Bank pursuant to the Deeds of Charge;

**“Initial Mortgage Schedule”** means the schedule setting out the details of the Initial Mortgage Pool as specified in Appendix 4 (as such specified details may from time to time be amended by written notice from the Bank to the Counterparty or supplemented by guidance issued by the Bank to the Counterparty);

**“Insurance Contracts”** means the insurance policies effected by the Mortgage Borrowers or of which the Mortgage Borrowers become beneficiaries from time to time in relation to any Loan in accordance with the terms of the Mortgage Conditions;

**“Liquidity Provided Amount”** means, at any given time in respect of any Eurosystem Operation and any related Special Mortgage-Backed € Promissory Note, the amount of liquidity the Counterparty has been allotted in such Eurosystem Operation as the same may previously have been reduced pursuant to clause 2.14 and/or 2.15, as specified in the Special Mortgage-Backed € Promissory Note relating to such Eurosystem Operation at such time;

**“Liquidity Value”** shall have the meaning ascribed to it in clause 5.1;

**“Loan”** means an advance made by the Counterparty by way of loan and which is subject to the Mortgage Conditions and which is a loan identified in a Mortgage Schedule (and whether originally advanced as a Loan or as a Further Advance);

**“Marginal Lending Facility”** means the standing facility of the Bank designated as such pursuant to which certain Counterparties of the Bank may receive overnight credit against a pre-specified interest rate;

**“Maturity Date”** means, in respect of any Special Mortgage-Backed € Promissory Note, the earlier of the maturity date specified therein and (where relevant) any Optional Early Maturity Date or Substitution Early Maturity Date designated in respect of all, but not part only, of the Liquidity Provided Amount;

**“Mortgage”** means an English or Welsh Mortgage, a Scottish Mortgage or a Northern Irish Mortgage by which a Loan is secured;

**"Mortgagee"** means in relation to a Loan and the related Mortgage the person from time to time entitled to exercise the rights of the mortgagee thereunder;

**"Mortgage Borrower"** means in relation to each Mortgage the person who is the borrower thereunder;

**"Mortgage Conditions"** means the terms and conditions contained in the Standard Documentation to which a Loan secured by a Mortgage is subject, including the terms of any letter of offer or agreement to make a loan to a Mortgage Borrower if, pursuant to such letter of offer or agreement, the Loan advance was secured by a Mortgage;

**"Mortgage Pool"** means, on any date

- (a) the Loans and Mortgages securing such Loans comprising the Initial Mortgage Pool;
- (b) any Loans and Mortgages securing such Loans which have been segregated on or before that date;

other than in each case such of those Mortgages as shall then have been redeemed in the ordinary course of business of the Counterparty or shall have otherwise ceased pursuant to any of the provisions hereof to be a part of the Mortgage Pool;

**"Mortgage Schedule"** means the Initial Mortgage Schedule and each schedule setting out details as specified in Appendix 4 (as such specification may from time to time be amended by written notice from the Bank to the Counterparty or supplemented by guidance issued by the Bank to the Counterparty) of the Loans and Mortgages securing such Loans which have subsequently been segregated;

**"Nominal Amount"** means, in respect of any Special Mortgage-Backed € Promissory Note, the amount specified as such in that Special Mortgage-Backed € Promissory Note;

**"Northern Irish Mortgage"** means the first legal mortgage or charge of freehold or long leasehold residential property situate in Northern Ireland which is security for any Loan;

**"Optional Early Maturity Date"** has the meaning given to it in clause 2.14;

**"Other Deed of Charge"** means any deed of charge, other than the Deeds of Charge, from time to time issued to the Bank by the Counterparty to secure mortgage-backed promissory notes other than the Special Mortgage-Backed € Promissory Notes;

**"Other Lending"** means any loan or other credit advanced to a Mortgage Borrower other than

- (a) a Loan; or
- (b) a Loan which is treated as a Further Advance;

**"Outstanding LPA"** means, in respect of any Partially Accelerated Note, an amount, as determined by the Bank, equal to the Liquidity Provided Amount in respect thereof as specified therein less the Accelerated LPA;

**"Outstanding Nominal Amount"** means, in respect of any Partially Accelerated Note, an amount, as determined by the Bank, equal to the Nominal Amount less the Accelerated Nominal Amount;

**"Partially Accelerated Note"** means a Special Mortgage-Backed € Promissory Note in respect of which an Optional Early Maturity Date has been designated in respect of part, only, of the Liquidity Provided Amount specified therein;

**"Participating NCBs"** means national central banks of the EU Member States which have adopted the single currency in accordance with the Treaty establishing the European Community;

**"Property"** means, in relation to a Mortgage, the freehold, heritable or leasehold property upon which the Loan(s) of the Mortgage Borrower are secured and the expression the **"Properties"** shall be construed accordingly;

**"Property Deeds"** means all conveyancing deeds and documents which make up the title to the Properties and the Mortgages, including each letter of offer in respect of a Mortgage and solicitors' undertakings and all other documents comprised in the Related Security (as defined in each of the Deeds of Charge) relating to each such Mortgage;

**"Replacement Note"** means a Special Mortgage-Backed € Promissory Note completed pursuant to clause 2.14;

**"Scottish Mortgage"** means the first ranking standard security over freehold or long leasehold (meaning any lease of more than 20 years in duration) residential property situated in Scotland, which is security for any Loan;

**"segregated"** in relation to a Loan means that such Loan has been identified in the paper and/or computer based (as may be appropriate) records of the Counterparty in such a manner as will distinguish it from all other loans administered or beneficially owned by the Counterparty and in such a manner as will make it clear that such Loan and the Mortgage securing such Loan is part of the Mortgage Pool and **"segregate"** shall be constructed accordingly;

**"Selection Criteria"** means the criteria set out in Appendix 3 for the selection of a Loan secured by a Mortgage for inclusion in the Mortgage Pool;

**"Settlement Account"** means an account held by the Counterparty with the Bank for the purposes of processing payments in TARGET2-Ireland or where no such account has been opened, such an account in the name of another entity (a **"Third Party"**) with the Bank as the Counterparty may nominate subject always to the agreement of the Bank and the relevant Third Party to its designation as such;

**"Special Mortgage-Backed € Promissory Note"** or **"Note"** means a Special Mortgage-Backed € Promissory Note in the form set out in Appendix 1 or in such other form as may be agreed from time to time;

**"Standard Documentation"** means, in respect of an English or Welsh Mortgage, a Scottish Mortgage or a Northern Irish Mortgage and, in each case, any Loan secured by it, standard documentation of the Counterparty for such a Mortgage and Loan:

- (a) in such form as has been advised to the Bank prior to the date hereof; or
- (b) in such other form as may be from time to time be agreed in writing by the Counterparty and the Bank;

**"Subsidiary"** shall have the meaning in section 155 of the Companies Act 1963;

**“Substitution Accelerated LPA”** means, in respect of any Substitution Partially Accelerated Note and Substitution Early Maturity Date, the amount of the Liquidity Provided Amount the subject of that Substitution Early Maturity Date;

**“Substitution Accelerated Nominal Amount”** means, in respect of any Substitution Partially Accelerated Note and Substitution Early Maturity Date, such amount of the Nominal Amount, if any, as the Bank determines in its discretion;

**“Substitution Early Maturity Date”** has the meaning given to it in clause 2.15;

**“Substitution Outstanding LPA”** means, in respect of any Substitution Partially Accelerated Note, an amount, as determined by the Bank, equal to the Liquidity Provided Amount in respect thereof as specified therein less the Substitution Accelerated LPA;

**“Substitution Outstanding Nominal Amount”** means, in respect of any Substitution Partially Accelerated Note, an amount, as determined by the Bank, equal to the Nominal Amount less the Substitution Accelerated Nominal Amount;

**“Substitution Partially Accelerated Note”** means a Special Mortgage-Backed € Promissory Note in respect of which a Substitution Early Maturity Date has been designated in respect of part, only, of the Liquidity Provided Amount specified therein;

**“Substitution Replacement Note”** means a Special Mortgage-Backed € Promissory Note completed pursuant to clause 2.15;

**“TARGET2-Ireland”** means the RTGS system of the Bank that forms part of TARGET2;

**“Third Party”** has the meaning given to it in the definition of Settlement Account;

**“this Agreement”** means this Framework Agreement;

**“Valuation Date”** means the date of this Agreement, and in the case of the next following Valuation Date, the date which is the last Business Day of the first calendar month following the date of this Agreement and, in the case of each subsequent Valuation Date, the date which is the last Business Day of each subsequent month, or such other date(s) as the Bank may notify to the Counterparty from time to time;

**“Valuation Period”** means in the case of the first Valuation Period the period commencing on the date of this Agreement and ending on the next following Valuation Date and in the case of each subsequent Valuation Period means the period commencing on the day following a Valuation Date and ending on the next following Valuation Date;

**“Value”** shall have the meaning ascribed to it in clause 5.1.

- 1.2 The headings and the contents page in this Agreement shall not affect its interpretation. Clause and Appendix headings are for ease of reference only.
- 1.3 Words denoting the singular number only shall include the plural number also and *vice versa*. Words denoting one gender only shall include the other gender.
- 1.4 References to clauses and Appendices shall, unless the context otherwise requires, be to clauses and Appendices in this Agreement.
- 1.5 Reference to a **“company”** shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established and reference to a

“person” shall be construed so as to include any individual, firm, company, corporation, undertaking, government, state or agency of a state, or any association or partnership (whether or not having separate legal personality).

1.6 Reference in this Agreement to any statute or statutory provision shall unless otherwise stated be to a statute or statutory provision of or applicable in Ireland and shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted or any statutory instrument, order or regulation made thereunder or under any such statutory amendment, modification or re-enactment. Reference to any European Union legislative provision shall be construed as encompassing, where relevant, reference to:

- (a) the same as it may have been, or may from time to time be, amended, replaced or consolidated;
- (b) any legislative provision amending, replacing or consolidating such provision; and/or
- (c) any legislative provision, order or regulation implementing such provision or made thereunder.

1.7 All certificates required to be provided pursuant to this Agreement shall be certificates signed by a duly authorised representative of the party required to provide such certificates.

1.8 Reference herein to any document, report, operating procedures or agreement shall include reference to such document, report, operating procedures or agreement as varied, supplemented, novated or replaced from time to time.

1.9 Reference to any party to this Agreement shall include its successors and assigns, if and to the extent that succession or assignment is contemplated or permitted herein.

## 2. **Special Mortgage-Backed € Promissory Notes**

2.1 Subject to clauses 2.2 and 2.3, each time:

- (a) a bid by the Counterparty in a tender procedure (as described in Chapter 5 of the General Documentation) is accepted; or
- (b) the Counterparty avails of the credit line facility for intraday credit in TARGET2-Ireland; or
- (c) the Counterparty wishes to make a drawing on an overnight basis under the Marginal Lending Facility,

it may issue to the Bank one or more Special Mortgage-Backed € Promissory Notes of an appropriate Nominal Amount or aggregate Nominal Amount in satisfaction of its obligation to transfer a sufficient amount of eligible assets to settle the Liquidity Provided Amount. The required Nominal Amount(s) corresponding to any Liquidity Provided Amount shall, subject to clause 2.14 and 2.15, be determined in accordance with the applicable risk control procedures of the Bank for the time being for the tender procedure, intraday credit or drawing in question.

2.2 The aggregate Nominal Amount of all Special Mortgage-Backed € Promissory Notes issued by the Counterparty which are outstanding at any one time shall not exceed such amount as may from time to time be notified by the Bank to the Counterparty.

- 2.3 A Special Mortgage-Backed € Promissory Note may have a maturity of whatever period may be necessary to allow the use of such Note as collateral for the relevant Eurosystem Operation, as agreed by the Bank.
- 2.4 The Special Mortgage-Backed € Promissory Notes shall be denominated in euro.
- 2.5 The Special Mortgage-Backed € Promissory Notes:
- (a) will be secured by floating charges over the Mortgage Pool in the form of the Deeds of Charge or in such other form as may be agreed from time to time and may benefit from Alternative Credit Support; and
  - (b) notwithstanding anything to the contrary in any other agreement between the Bank and the Counterparty (in the absence of an express disapplication of this clause 2.5(b)), will not be secured by any Other Deed of Charge.
- 2.6 Each Special Mortgage-Backed € Promissory Note shall be in such amount and for such period as is specified in the relevant Authorisation, subject to the agreement of the Bank, or, in the case of a Replacement Note or Substitution Replacement Note, as determined pursuant to clause 2.14 or 2.15, respectively, and shall have a Maturity Date which is a Business Day. If the Maturity Date in respect of any Special Mortgage-Backed € Promissory Note is not a Business Day then the holder thereof will not be entitled to payment of the amount due until the next following Business Day, but will be entitled to interest at the rate referred to in clause 2.9 for the relevant Special Mortgage-Backed € Promissory Note in respect of such postponement.
- 2.7 The Bank shall be supplied by the Counterparty with and shall maintain in safe keeping a stock of Special Mortgage-Backed € Promissory Notes duly executed by the Counterparty but uncompleted by or on behalf of the Counterparty. Each Special Mortgage-Backed € Promissory Note shall be held by the Bank in trust for the Counterparty until the Bank receives instructions from the Counterparty in the form of an Authorisation to complete same or, in the case of a Replacement Note or Substitution Replacement Note, the Bank completes same in accordance with clause 2.14 or 2.15, respectively. A Special Mortgage-Backed € Promissory Note will become effective upon completion by the Bank in accordance with the terms of the relevant Authorisation, clause 2.14 or clause 2.15, as the case may be. The Counterparty hereby irrevocably authorises the Bank to complete and deliver each Special Mortgage-Backed € Promissory Note in accordance with the relevant Authorisation, clause 2.14 or 2.15, as the case may be, and upon such completion to hold it for the Bank's own account as referred to in and in accordance with the relevant Authorisation, clause 2.14 or 2.15, as the case may be.
- 2.8 Forthwith upon completion of a Special Mortgage-Backed € Promissory Note (other than a Replacement Note or Substitution Replacement Note completed pursuant to clause 2.14 or 2.15, respectively) the Bank shall pay the Liquidity Provided Amount in respect of the Special Mortgage-Backed € Promissory Note to the Counterparty by crediting its Settlement Account with the Bank.
- 2.9 (a) Subject to clause 2.9(b) and (c) and to clause 2.15, on the Maturity Date of a Special Mortgage-Backed € Promissory Note the Counterparty shall be obliged to pay to the Bank the Liquidity Provided Amount corresponding to the Special Mortgage-Backed € Promissory Note together with a sum in respect of interest determined by reference to the following formula:

$$B \times i \times \left( \frac{C}{360} \right)$$

Where:

*B* = the Liquidity Provided Amount corresponding to the Special Mortgage-Backed € Promissory Note;

*C* = the tenor of the Special Mortgage-Backed € Promissory Note in days, including the date of issue but excluding the Maturity Date; and

*i* = the:

(i) fixed interest rate specified in the tender announcement or the fixed rate indexed to the average rate of the Eurosystem main refinancing operations over the life of the relevant Eurosystem Operation, as applicable to the relevant Eurosystem Operation (in the case of a fixed rate tender); or

(ii) the interest rate bid by the Counterparty (in the case of a variable rate tender); or

(iii) the interest rate quoted by the Bank in the case of a drawing under the Marginal Lending Facility,

(in each case, expressed as a decimal) in connection with which the Special Mortgage-Backed € Promissory Note was issued.

(b) On the Optional Early Maturity Date of a Partially Accelerated Note the Counterparty shall be obliged to pay to the Bank the Accelerated LPA together with the amount referred to at clause 2.9(a), calculated as if:

*B* = the Accelerated LPA;

*C* = the period in days from and including the date of issue of the Partially Accelerated Note to but excluding the Optional Early Maturity Date; and

*i* = the fixed rate indexed to the average rate of the Eurosystem main refinancing operations over the life of the relevant Eurosystem 3YR LTRO (expressed as a decimal) in connection with which the Partially Accelerated Note was issued.

(c) On the Substitution Early Maturity Date of a Substitution Partially Accelerated Note the Counterparty shall, subject to clause 2.15, be obliged to pay to the Bank the Substitution Accelerated LPA together with the amount referred to at clause 2.9(a), calculated as if:

*B* = the Substitution Accelerated LPA;

*C* = the period in days from and including the date of issue of the Substitution Partially Accelerated Note to but excluding the Substitution Early Maturity Date; and

*i* = the fixed rate indexed to the average rate of the Eurosystem main refinancing operations over the life of the relevant Eurosystem 3YR LTRO (expressed as a decimal) in connection with which the Substitution Partially Accelerated Note was issued.

2.10 Each Special Mortgage-Backed € Promissory Note will, subject to clause 2.9, be redeemed by the Counterparty on the Maturity Date specified therein and provided that payment is made on that date or as the case may be on the date referred to in clause 2.6 the amount referred to in clause 2.9 as payable in respect of that Maturity Date shall be accepted in redemption thereof. The Bank may require the Counterparty to redeem a Special Mortgage-Backed € Promissory Note prior to its Maturity Date pursuant to clause 8.3. Upon such repayment and redemption the Special Mortgage-Backed € Promissory Note will be cancelled.

2.11 (a) If the Counterparty fails to redeem a Special Mortgage-Backed € Promissory Note on the Maturity Date or as the case may be the date referred to in clause 2.6 it shall pay interest on the amount due thereon from the Maturity Date or as the case may be from the date referred to in clause 2.6 up to the time of actual payment (as well after as before judgement) at the rate per annum which is 2.5% in excess of the higher of the European Overnight Index Average and the rate applicable to the Marginal Lending Facility.

(b) Interest under this clause 2.11 shall accrue daily on the basis of a year of 360 days from and including the Maturity Date or as the case may be the date referred to in clause 2.6 to the earlier of:

(i) the date of payment; and

(ii) the last day of each period of one year,

and (where no payment has been made during that period of a year) shall be due and payable at the end of each such period. So long as the default continues, the rate referred to in clause 2.11(a) shall be calculated on a similar basis at the end of each such period of a year, and interest payable under this clause 2.11 which is unpaid at the end of each such period of a year shall thereafter itself bear interest at the rate provided in this clause 2.11.

2.12 Payments will be subject in all cases to any laws and regulations applicable thereto.

2.13 All amounts payable (whether in respect of principal, interest or otherwise) in respect of the Special Mortgage-Backed € Promissory Notes shall be made by the Counterparty free and clear of any withholding at source or deduction at source for or on account of any present or future taxes, fees, duties, assessments or governmental charges of whatever nature unless the Counterparty is required by the laws or other legal provisions of the European Union or Ireland to make such a payment subject to such deduction or withholding. In the event of any such deduction or withholding the sum payable by the Counterparty in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that after the making of such deduction or withholding the Bank receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the amount which it would have received and so retained if no such deduction or withholding had been made.

2.14 In respect of any Special Mortgage-Backed € Promissory Note the Eurosystem Operation of which is a Eurosystem 3YR LTRO, the Counterparty may by at least one calendar week's prior written notice to the Bank designate any Business Day from and including the Earliest Repayment Date as an optional early maturity date (an "Optional Early Maturity Date") in

respect of all or part of the Liquidity Provided Amount in respect of that Special Mortgage Backed € Promissory Note provided that if an Optional Early Maturity Date is designated in respect of part, only, of the Liquidity Provided Amount it must be designated in respect of an amount thereof which is no less than €1,000,000 (one million euro). In the case of a Partially Accelerated Note, the Counterparty hereby irrevocably authorises the Bank, on payment by the Counterparty of the amount required to be paid by it pursuant to clause 2.9 on the Optional Early Maturity Date, to complete and deliver, and upon such completion to hold for the Bank's own account, a Special Mortgage-Backed € Promissory Note (in respect of that Partially Accelerated Note, the "**Replacement Note**") on the same terms as the Partially Accelerated Note save that the Liquidity Provided Amount and Nominal Amount will be replaced by the Outstanding LPA and Outstanding Nominal Amount, respectively. The Replacement Note shall, upon its completion and delivery in accordance with this clause 2.14, replace the Partially Accelerated Note and the Partially Accelerated Note shall be cancelled.

- 2.15 In respect of any Special Mortgage-Backed € Promissory Note, the parties may from time to time agree (on terms to be agreed) that a specified Valuation Date will be designated as an early maturity date (an "**Substitution Early Maturity Date**") in respect of all or part of the Liquidity Provided Amount in respect of that Special Mortgage Backed € Promissory Note, on the basis that the liquidity represented thereby would continue to be provided, in accordance with the terms of the relevant Eurosystem Operation, by the Bank to the Counterparty pursuant to one or more alternative form(s) of transaction. In the case of a Substitution Partially Accelerated Note, the Counterparty hereby irrevocably authorises the Bank, on payment by the Counterparty of the amount required to be paid by it pursuant to clause 2.9 on the Substitution Early Maturity Date (or the discharge of such payment obligation by such other means including, without limitation, set-off as the parties may agree) to complete and deliver, and upon such completion to hold for the Bank's own account, a Special Mortgage-Backed € Promissory Note (in respect of that Substitution Partially Accelerated Note, the "**Substitution Replacement Note**") on the same terms as the Substitution Partially Accelerated Note save that the Liquidity Provided Amount and Nominal Amount will be replaced by the Substitution Outstanding LPA and Substitution Outstanding Nominal Amount, respectively. The Substitution Replacement Note shall, upon its completion and delivery in accordance with this clause 2.15, replace the Substitution Partially Accelerated Note and the Substitution Partially Accelerated Note shall be cancelled.

### 3. **Administration**

- 3.1 The Counterparty hereby covenants with the Bank that it shall, at all times during the term of this Agreement, administer the Mortgages and all Related Security and Insurance Contracts and all related matters (including, without limitation, the procedures for the redemption thereof by Mortgage Borrowers) in the same manner as it administers all other mortgages (in respect of which it is the mortgagee or security holder and/or beneficial owner) and matters in relation thereto.
- 3.2 During the continuance of the security created by the Deeds of Charge and prior to the Enforcement Date the Counterparty shall have full power, authority and right to do or cause to be done any and all things which the Counterparty may deem necessary, convenient, or incidental, to the Mortgages and all Related Security and Insurance Contracts and all related matters (including, without limitation, the procedures for redemption thereof by Mortgage Borrowers) and/or the management of the Properties charged pursuant to Mortgages and the protection of the interests of the Counterparty and of the Bank as chargee in respect thereof.

### 4. **Information**

- 4.1 The Counterparty hereby covenants with the Bank that it shall maintain records in a computer readable form or otherwise of all information in relation to each Loan secured by a

Mortgage which forms part of the Mortgage Pool necessary to administer and/or enforce each such Loan and Mortgage and shall ensure that on any day each such Loan secured by a Mortgage which forms part of the Mortgage Pool on that date is segregated.

4.2 The Counterparty shall furnish to the Bank in such format(s) or media as the Bank may from time to time require in respect of all Mortgages comprised in the Mortgage Pool a schedule providing the information in respect thereof as specified in Appendix 4 (as such specification may from time to time be amended by written notice from the Bank to the Counterparty or supplemented by guidance issued by the Bank to the Counterparty), on the date of execution of any Deed of Charge and on each Valuation Date and on any other date on which the Bank may so request. Such schedule shall be amended to reflect any additions thereto or releases therefrom made pursuant to clauses 5.2, 5.3 or 6.1 or otherwise. If so requested by the Bank the Counterparty shall furnish, in lieu of or in addition to (as specified by the Bank) such schedule on each such date, a schedule showing only the variations thereto that have been made or arisen since the previous such schedule was delivered.

4.3 The Counterparty shall permit the Bank at any time upon reasonable notice:

- (a) to have access to all books of record, accounts and other relevant records relating to the administration of the Mortgage Pool and related matters in accordance with the provisions of this Agreement, and
- (b) to inspect the Counterparty's records and computer system and the manner in which Mortgages are segregated and the Property Deeds in respect thereof are held.

4.4 The Counterparty shall, at the request of the Bank:

- (a) permit the Bank or any person on its behalf to carry out, or procure the carrying out by a third party or third parties; or
- (b) procure the carrying out by a third party or third parties acceptable to the Bank (in order to provide to the Bank of a report in a form and in substance acceptable to the Bank),

of such audit or other evaluation of:

- (i) the Counterparty's compliance with its obligations (including, without limitation, of the Counterparty's records and computer system and the manner in which Mortgages are segregated and the Property Deeds in respect thereof are held); and/or
- (ii) the accuracy of any information provided by the Counterparty,

under any Finance Document as the Bank may require.

4.5 In the event that compliance by the Counterparty with any obligation that it would, but for this clause 4.5, have pursuant to this Agreement or any Deed of Charge would result in a breach by the Counterparty of any duty of confidentiality owed by it to a Mortgage Borrower or its obligations under the Data Protection Act 1988 of Ireland or the Data Protection Act 1998 of the United Kingdom (in relation to a English or Welsh Mortgage, Scottish Mortgage and Northern Irish Mortgage):

- (a) the Counterparty shall provide to the Bank evidence of the relevant prospective breach in form and substance satisfactory to the Bank (which shall include an opinion of relevant external legal counsel, unless waived by the Bank); and

- (b) the Bank and the Counterparty shall, acting in good faith and in a commercially reasonable manner, negotiate an alternative obligation of the Counterparty that would not result in such a breach but would, in so far as possible, preserve and uphold the legitimate interests and rights of the Bank deriving from the original obligation of the Counterparty.

## 5. Valuation of Mortgage Pool

5.1 The “**Liquidity Value**” of the Mortgage Pool at any time shall mean an amount corresponding to the Value of the Mortgage Pool determined in accordance with the applicable risk control procedures of the Bank at such time (which procedures shall, for the avoidance of doubt and without limitation, include any applicable currency conversion methodology) and the “**Value**” of the Mortgage Pool shall mean the aggregate of:

- (a) the Balances on all Loans secured by Mortgages comprised in the Mortgage Pool on the relevant Valuation Date (which for the avoidance of doubt shall not include any Loans secured by Mortgages repaid or prepaid in full on or prior to such Valuation Date or which cease to be part of the Mortgage Pool whether pursuant to clause 6.2 or otherwise);
- (b) all Further Advances made during the Valuation Period ending on the relevant Valuation Date; and
- (c) all interest accrued on the Loans secured by Mortgages comprised in the Mortgage Pool but which remains unpaid on the relevant Valuation Date;

and with the deduction of:

- (i) all repayments and prepayments of principal in respect of the Loans which the Counterparty estimates it will receive during the next following Valuation Period; and
- (ii) all payments of interest which the Counterparty estimates it will receive during the next following Valuation Period.

5.2 If the Liquidity Value of the Mortgage Pool shall on any Valuation Date be less than the Agreed Mortgage Pool Value, the Counterparty shall forthwith:

- (a) segregate such further Loans as will ensure that the Liquidity Value of the Mortgage Pool is not less than the Agreed Mortgage Pool Value and the Mortgages securing such further Loans shall form part of the Mortgage Pool; or
- (b) provide, or procure the provision of, such credit support (“**Alternative Credit Support**”), other than that set out in clause 5.2(a), for its obligations in respect of the Special Mortgage-Backed € Promissory Notes as the Bank may, in its absolute discretion, agree in writing to accept. For the avoidance of doubt, an acceptance by the Bank of Alternative Credit Support in respect of any Valuation Date shall not constitute a waiver of the right of the Bank to require compliance by the Counterparty with clause 5.2(a) in respect of any other Valuation Date.

5.3 If the Liquidity Value of the Mortgage Pool shall on any Valuation Date exceed the Agreed Mortgage Pool Value and the Bank consents, Loans may be selected by the Counterparty having a value equal to or less than such excess amount and the Loans and the Mortgages securing such Loans shall cease to be part of the Mortgage Pool and cease to be segregated. If the value (as agreed in writing by the Bank and the Counterparty at the time of its provision

and, in the absence of agreement, as determined by the Bank in its absolute discretion) of Alternative Credit Support shall, on any Valuation Date after its provision, exceed the value thereof required by the Bank to be maintained (whether because of an increase in the Liquidity Value of the Mortgage Pool since the provision of such Alternative Credit Support or otherwise), the Bank may, at the request of the Counterparty, consent to the reduction of such Alternative Credit Support accordingly.

5.4 During the subsistence of the security constituted by any Deed of Charge, otherwise than with the prior written consent of the Bank, the Counterparty shall:

- (a) not create or attempt to create or permit to arise or subsist any Encumbrance (as defined therein) on or over the Charged Property or any part thereof; or
- (b) not, otherwise than in the ordinary course of business, sell, transfer, lend or otherwise dispose of the Charged Property or any part thereof or redeem, agree to redeem or accept repayment in whole or in part of any Loan or attempt or agree to do so whether by means of one or a number of transactions related or not and whether at one time or over a period of time.

## 6. Warranties and Representations

6.1 The Counterparty represents, warrants and undertakes to the Bank that, on the date hereof and on each subsequent Valuation Date and (if other than a Valuation Date) any date on which any Loan or Mortgage securing a Loan is segregated so as to form part of the Mortgage Pool, all Loans secured by Mortgages forming part of the Mortgage Pool comply or as the case may be shall comply with the Selection Criteria. If and to the extent that any Loan fails to comply with the Selection Criteria the Counterparty shall remove such Loan and the Mortgage securing such Loan from the Mortgage Pool and replace it with a Loan and a Mortgage securing such Loan which does comply with the Selection Criteria, such substitution being effected in conformity with clause 5.

6.2 In the event of a material breach of the Selection Criteria in respect of any Loan during a Valuation Period the Bank shall be entitled to require such Loan to be replaced forthwith by the Counterparty.

6.3 The Counterparty further warrants and represents to the Bank that on the date hereof:

- (a) it is a body corporate duly organised under the laws of Ireland with power to enter into each of the Finance Documents and to exercise its rights and perform its obligations hereunder and thereunder;
- (b) it has duly taken all corporate and other action and received the consent of any third party that in either case is required
  - (i) to authorise its execution of each such Finance Document and the performance of its obligations thereunder; and
  - (ii) to ensure the validity and enforceability in accordance with their respective terms of each such Finance Document (subject to the principles of equity, all applicable laws relating to insolvency, bankruptcy, court protection, reorganisation or analogous circumstances, the time barring of claims, and the rule that obligations to bear the stamp duty liabilities of others may be void);

- (c) in any proceedings taken in relation to any of the Finance Documents, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process;
- (d) the obligations expressed to be assumed by it in each of the Finance Documents are legal and valid obligations binding on it in accordance with the terms hereof and thereof (subject to the principles of equity, all applicable laws relating to insolvency, bankruptcy, court protection, reorganisation or analogous circumstances, the time barring of claims, and the rule that obligations to bear the stamp duty liabilities of others may be void); and
- (e) it has not taken any corporate action nor have any other steps been taken nor legal proceedings been started or threatened against it for its winding-up, dissolution or re-organisation or for the appointment of a receiver, an examiner, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues.

## 7. **Property Deeds**

- 7.1 The Property Deeds relating to the Mortgage Pool shall be identifiable and distinguishable from the title deeds, life policies and insurance contracts and other documents in relation to other properties and mortgages which are held by or on behalf of or administered by the Counterparty and shall be kept, held and/or dealt with in the same manner as the Counterparty keeps, holds and deals with the property deeds and insurance contracts relating to mortgage loans advanced by it which are not at the relevant time comprised in the Mortgage Pool. However for the avoidance of doubt it is hereby confirmed that there is no requirement for such Property Deeds to be physically segregated.
- 7.2 On or after the Enforcement Date the Counterparty shall deliver the Property Deeds and Insurance Contracts relating to the Mortgage Pool to, or to the order of, the Bank on the written request of the Bank.

## 8. **Events of Default**

- 8.1 For the purposes of this Agreement an “**Event of Default**” shall be treated as occurring at the time specified in clause 8.2 if:
  - (a) any representation or warranty made or deemed to be made or repeated by the Counterparty under any Finance Document was or is incorrect in any material respect when made or deemed to be made or repeated; or
  - (b) the Counterparty defaults in the due and punctual performance of any of the other provisions of the Finance Documents including payment of any Special Mortgage-Backed € Promissory Note on its Maturity Date and (if, in the Bank’s determination, capable of remedy) fails to remedy such default within such period as the Bank may designate (not to exceed 30 days) after notice is given by the Bank requiring such default to be remedied and designating the time period for remedy thereof; or
  - (c) the Counterparty ceases or threatens to cease or carry on its business or any substantial part thereof; or
  - (d) a decision is made by a competent judicial or other authority to implement in relation to the Counterparty or any of its Subsidiaries a procedure for the winding-up of, or the appointment of a liquidator or analogous officer over, the Counterparty or any such Subsidiary, as the case may be, or any other analogous procedure; or

- (e) a decision is made by a competent judicial or other authority to implement a reorganisation measure or other analogous procedure intended to safeguard or restore the financial situation of, and to avoid the making of a decision of the kind referred to in (d) above in relation to, the Counterparty or any of its Subsidiaries; or
- (f) a petition is presented for the appointment of an examiner pursuant to section 2 of the Companies (Amendment) Act 1990 in relation to the Counterparty or any of its Subsidiaries or an examiner is appointed to the Counterparty or any of its Subsidiaries; or
- (g) a petition (not being a petition falling within (f) above or a procedural step falling within (j) below) is filed or presented in respect of the Counterparty or any of its Subsidiaries (other than by the Bank in respect of any obligation under a Finance Document) in any court or before any agency alleging or for the bankruptcy, winding-up or other insolvency of the Counterparty or any of its Subsidiaries (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, liquidation, dissolution or similar relief (other than a solvent reconstruction, amalgamation or reorganisation to which the Bank has given its prior written consent) under any present or future statute, law or regulation, such petition not having been stayed or dismissed within 30 days of its filing; or
- (h) there is appointed a receiver, trustee or analogous officer to the Counterparty or any of its Subsidiaries or over all or any material part of the property of the Counterparty or any of its Subsidiaries, unless the Bank has given its prior written confirmation that the Bank will not serve notice of the occurrence of an Event of Default on the basis of such appointment; or
- (i) a declaration is made by the Counterparty or any of its Subsidiaries in writing of its inability to pay all or any of its debts or to meet its obligations, or a voluntary general agreement or arrangement is entered into by the Counterparty or any of its Subsidiaries with its creditors, or the Counterparty or any of the Subsidiaries is, or is deemed to be, insolvent or is deemed to be unable to pay its debts; or
- (j) procedural steps preliminary to any matter referred to in (d), (e), (f) or (h) above are taken; or
- (k) the Counterparty or any of its Subsidiaries has an authorisation to conduct activities under Directive No. 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field or Directive No. 2004/39/EC of the European Parliament and the Council of 21 April 2004 on markets in financial instruments, suspended or revoked; or
- (l) the Counterparty or any of its Subsidiaries is suspended or expelled from membership of any payment system or arrangement through which payments under monetary policy transactions are made or is suspended or expelled from membership of any securities settlement system used for the settlement of Eurosystem monetary policy operations or any other securities exchange or association or other self-regulatory organisation concerned with dealing in securities, or suspended or prohibited from dealing in securities by any government agency; or
- (m) measures such as are referred to in Section 5 of Title III of Directive No. 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions are taken against the Counterparty or any of its Subsidiaries; or

- (n) an event of default occurs in relation to the Counterparty or any of its Subsidiaries, including any branch of that Counterparty or any such Subsidiary, as the case may be, in any agreement, arrangement or transaction entered into by it including any branch of it with any other member of the Eurosystem for the purpose of effecting monetary policy operations where any other member has exercised its right to close out under any such agreement, arrangement or transaction; or
- (o) any event analogous to any of the events at (d) to (j), inclusive, above occurs in any jurisdiction in relation to the Counterparty or any of its Subsidiaries; or
- (p) the Counterparty ceases to be entitled to operate, or ceases to operate, the Settlement Account or, where the Settlement Account is opened in the name of a Third Party, such Third Party ceases to be so entitled or to so operate or withdraws its consent to the designation thereof as the Settlement Account for the purposes of this Agreement; or
- (q) the Counterparty fails to provide to the Bank any information relevant to the Eurosystem's monetary policy operations, which failure causes severe consequences for the Bank; or
- (r) any of the events falling within sub-paragraphs (a) to (o), inclusive, (q) or (s) to (x), inclusive, of this clause 8.1 occurs where references in those sub-paragraphs to the Counterparty shall be read mutatis mutandis as references to any Credit Support Provider; or
- (s) the Counterparty becomes subject to the freezing of funds and/or other measures imposed by the European Union restricting the Counterparty's ability to use its funds; or
- (t) the Counterparty becomes subject to the freezing of funds and/or other measures imposed by a Member State under Article 75 of the Treaty on the Functioning of the European Union restricting the Counterparty's ability to use its funds; or
- (u) all or a substantial part of the Counterparty's assets are subject to a freezing order, attachment, seizure or any other procedure that is intended to protect the public interest or the rights of the Counterparty's creditors; or
- (v) all or a substantial part of the Counterparty's assets are assigned to another entity; or
- (w) any other impending or existing event the occurrence of which may threaten the performance by the Counterparty of its obligations under any arrangement it entered into for the purpose of effecting monetary policy operations or any other rules applying to the relationship between the Counterparty and any of the central banks of the Eurosystem; or
- (x) an event of default (not materially different from any event of default falling within sub-paragraphs (a) to (w) of this clause 8.1 above) occurs in relation to the Counterparty or any of its Subsidiaries under any agreement concluded with any other member of the Eurosystem entered into for the purposes of the management of the foreign reserves or own funds of any such member of the Eurosystem,

and, except in the case of an event which falls within sub-paragraphs (d) or (o) or (s) (in the case of (o), to the extent that it relates to sub-paragraph (d)), of clause 8.1 above, the Bank serves written notice on the Counterparty stating that such event shall be treated as an Event of Default for the purposes of this Agreement.

8.2 An Event of Default is to be treated as occurring:

- (a) in the case of an event which arises in relation to the Counterparty and falls within sub-paragraphs (d) or (o) (in the case of (o), to the extent that it relates to sub-paragraph (d)) of clause 8.1, at the time when the relevant event occurs;
- (b) in any other case, at the time designated by the Bank for such purpose in a notice:
  - (i) served by the Bank in accordance with clause 10 on the Counterparty;
  - (ii) served not more than three Business Days before the time so designated; and
  - (iii) stating that the relevant event is to be treated as an Event of Default for the purposes of this Agreement.

8.3 If the Counterparty fails to remedy, or (with respect to an Event of Default referred to at clause 8.1(r)) procure the remedy by any relevant Credit Support Provider, of an Event of Default within the period (if any) permitted by the Bank then the Bank may require the Counterparty to redeem all Special Mortgage-Backed € Promissory Notes then in issue, in each case at an amount equal to the aggregate of the Liquidity Provided Amount thereof and interest thereon calculated in accordance with clause 2.9(a) but as if reference to the Maturity Date was to such redemption date. If the Counterparty shall fail to do so forthwith the Bank may declare the security created by the Deeds of Charge, and any Alternative Credit Support, to be enforceable.

## 9. **No Partnership**

It is hereby acknowledged and agreed by the parties that nothing in this Agreement shall be construed as giving rise to any partnership between the parties.

## 10. **Notices**

Any notices to be given pursuant to this Agreement to any of the parties shall be sufficiently served if delivered by hand or sent by post or by facsimile transmission or, solely in respect of an Authorisation, by e-mail and shall be deemed to be given (in the case of delivery by hand) when delivered or (in the case of post) at the expiration of two Business Days after despatch or (in the case of facsimile transmission) when despatched or (in the case of e-mail) when delivered and shall be sent:

- (a) in the case of the Counterparty, to the address appearing at the beginning of this Agreement (facsimile number:                   ; Attn:                   );
- (b) in the case of the Bank, to Central Bank of Ireland, PO Box 11517, Spencer Dock, North Wall Quay, Dublin 1 (facsimile number: 677 0818; e-mail address: assigncollateral@centralbank.ie; Attn: the Head of Payments and Securities Settlements);

or to such other address, facsimile number or e-mail address as may from time to time be notified by either party to the other by written notice in accordance with the provisions of this clause.

**11. Entire Agreement and Variation**

- 11.1 The Finance Documents set out the entire agreement and understanding between the parties in respect of the issue of Special Mortgage-Backed € Promissory Notes, the creation of security over, and the administration of, the Mortgages and the collateral security.
- 11.2 No variation of this Agreement shall be effective unless it is in writing and signed by (or by some person duly authorised by) each of the parties.
- 11.3 The Bank shall, upon receipt of a request to that effect from the Counterparty made in accordance with such procedures and at such intervals as may from time to time be agreed between the Bank and Counterparty, confirm (if such is the case) in writing to the Counterparty or such person(s) as the Counterparty may specify that any floating charge constituted by the Deeds of Charge has not crystallised.

**12. Waiver and Severability**

- 12.1 Exercise or failure to exercise any right under this Agreement shall not, unless otherwise provided herein, constitute a waiver of that or any other right.
- 12.2 If any of the provisions hereof should be or become invalid in whole or in part, the other provisions shall remain in force. The invalid provisions shall, according to the intent and purpose of the Agreement, be replaced by such valid provision which in its economic effect comes as close as legally possible to that of the invalid provision. The same shall apply with respect to involuntary gaps herein.

**13. Assignment**

The Bank may transfer and assign any or all of its rights or obligations under this Agreement and in any or all Special Mortgage-Backed € Promissory Notes (any such Notes being transferred only by endorsement and delivery) and any or all of its rights and interest in the Deeds of Charge to any body corporate as the Bank may from time to time approve in writing, and upon such terms and conditions, as it may think fit. The Counterparty may not transfer and assign its rights and obligations hereunder without the prior written consent of the Bank.

**14. Termination**

- 14.1 This Agreement may at any time be terminated by either party by giving to the other not less than 30 days' prior notice in writing (such termination becoming effective upon expiry of such notice), provided that such termination shall not affect any Special Mortgage-Backed € Promissory Note which is then outstanding, and the provisions of this Agreement shall continue to apply to each Special Mortgage-Backed € Promissory Note until redeemed by the Counterparty.
- 14.2 On the termination of this Agreement the Bank shall release the security created by the Deeds of Charge.

**15. Legal Opinions**

On the date of this Agreement the Counterparty shall procure the delivery to the Bank of one or more opinions from legal advisers acceptable to the Bank, to the effect set out in Appendix 6, and containing such other provisions as the Bank may require. The Counterparty and the Bank may agree that, in respect of any legal opinion required by the Bank:

- (a) the Bank will procure the delivery to it of such opinion; and
- (b) the Counterparty will pay or reimburse to the Bank all the Bank's reasonable costs and expenses, together with any value added tax thereon, incurred in procuring that delivery.

16. **Costs and Expenses**

The Counterparty agrees, in respect of each Finance Document:

- (a) to pay and bear its own costs and expenses incurred in connection therewith (including, without limitation, in connection with any audit or other evaluation or report referred to in clause 4.4);
- (b) to pay and bear the costs and expenses of any Credit Support Provider, or procure that such Credit Support Provider pays and bears its own costs and expenses, incurred in connection therewith; and
- (c) to pay or reimburse to the Bank all the Bank's reasonable costs and expenses (including legal expenses), together with any value added tax thereon, incurred in connection with:
  - (i) the preparation, negotiation, execution and delivery thereof;
  - (ii) the enforcement of any of the Bank's rights thereunder; and
  - (iii) any audit or other evaluation or report referred to in clause 4.4.

17. **Governing Law**

This Agreement and the Special Mortgage-Backed € Promissory Notes shall be governed by and construed in accordance with the laws of Ireland and the parties hereto irrevocably submit to the jurisdiction of the courts of Ireland.

## Appendix 1

### Form of Special Mortgage-Backed € Promissory Note (UK Assets)

Issued in Dublin

[Date]

**FOR VALUE RECEIVED**, the undersigned, [name and address of Counterparty] (the “**Counterparty**”) hereby promises to pay to the Central Bank of Ireland of P.O. Box 559, Dame Street, Dublin 2 or order the following amount and interest thereon (if applicable) on the following date namely:-

Nominal amount:- (security)  
Interest Rate:-  
Maturity Date:-

This Special Mortgage-Backed € Promissory Note is issued pursuant to and is governed by the terms of the Framework Agreement in respect of Special Mortgage-Backed € Promissory Notes (UK Assets) dated *[specify]* (as from time to time amended) entered into between the Counterparty and the Central Bank of Ireland, including without limitation the provisions of clause 13 thereof, as set out below.

NOTE: Liquidity Provided Amount:

**IN WITNESS** whereof the Counterparty has duly executed this Note the day and year above stated.

\_\_\_\_\_  
Authorised Officer(s)

of [Counterparty]

Completed in accordance with [Form of Authorisation][clause 2.14][clause 2.15] on date above stated

\_\_\_\_\_  
Authorised Officer(s)

Central Bank of Ireland

## **Clause 13**

### **Assignment**

The Bank may transfer and assign any or all of its rights or obligations under this Agreement and in any or all Special Mortgage-Backed € Promissory Notes (any such Notes being transferred only by endorsement and delivery) and any or all of its rights and interest in the Deeds of Charge to any body corporate as the Bank may from time to time approve in writing, and upon such terms and conditions, as it may think fit. The Counterparty may not transfer and assign its rights and obligations hereunder without the prior written consent of the Bank.

## Appendix 2

### Form of Authorisation

Authorisation to complete Special Mortgage-Backed € Promissory Note.

Given pursuant to clause 2.7 of the Framework Agreement in respect of Special Mortgage-Backed € Promissory Notes (UK Assets) dated *[specify]*.

Details authorised to be inserted.

Start Date:

Nominal amount of the Special Mortgage-Backed € Promissory Note:

Liquidity Provided Amount:

Interest Rate:

Maturity Date:

Date:

Authorised Signature(s):

### Appendix 3

#### Selection Criteria for inclusion of a Loan secured by a Mortgage in Mortgage Pool

1. The Loan shall be secured by a:
  - (a) first legal mortgage or charge over a freehold or long leasehold residential property in Northern Ireland the title to which is in conformity with the instructions to be followed by solicitors when completing certificates of title for residential mortgage lenders for the time being issued by the Counterparty in the case of Property located in Northern Ireland and if it is not registered, is good and marketable title to the fee simple absolute in possession or a long leasehold term of years in the relevant Property; or if registered, is registered, or is in the course of registration with title absolute in the case of freehold property or absolute or good leasehold title in the case of leasehold property; or
  - (b) first legal mortgage or charge over freehold or long leasehold residential property situated in England or Wales the title to which if it is not registered, is good and marketable title to the fee simple absolute in possession or a long leasehold term of years in the relevant Property; or if it is registered, is registered, or is in the course of registration with title absolute in the case of freehold property or absolute or good leasehold title in the case of leasehold property; or
  - (c) first ranking standard security over heritable (freehold) or long leasehold (meaning in this case any lease which (i) is of more than 20 years in duration executed prior to 1<sup>st</sup> September 1974 and (ii) meets any other minimum requirements of the Counterparty including without limitation, minimum duration remaining, and/or restrictions on the right for the landlord to terminate early) residential property situated in Scotland, which is security for any Loan and in relation to which both (i) the title is in conformity with the instructions to be followed by solicitors when completing certificates of title for residential mortgage lenders for the time being issued by the Counterparty and (ii) without prejudice to the generality of the foregoing, the residential property is located in Scotland, has a valid and marketable title which is:
    - (A) registered in the Land Register of Scotland, with no exclusion of indemnity; or
    - (B) undergoing registration in the Land Register of Scotland with no expectation of there being any exclusion of indemnity; or
    - (C) recorded in the General Register of Sasines.
2. The Mortgage Borrower must comprise one or more natural persons.
3. The consent of each Mortgage Borrower to permit a transfer of or creation of a charge over the Mortgage shall be contained in the Standard Documentation or shall have otherwise been given in writing.
4. Such Loan (unless it is a Further Advance) shall have been advanced not less than 90 days prior to the segregation of the Mortgage for inclusion in the Mortgage Pool.
5. Such Loan shall be in annuity form, not endowment form, and the Mortgage shall be in all material respects in the form of the Standard Documentation.

6. The Mortgage shall not be subject to any Encumbrance (as defined in the Deeds of Charge) and, for the avoidance of doubt, the Counterparty shall have legal and beneficial title to any Mortgage that is a Northern Irish Mortgage or an English or Welsh Mortgage and shall be the owner of any Mortgage that is a Scottish Mortgage.
7. Such Loan shall not have a residual maturity of less than 1 month or greater than 40 years.
8. Such Loan shall have a minimum Balance of greater than £10,000.
9. Such Loan shall not have a fixed period to the next interest reset date greater than 5 years.
10. The income of the Mortgage Borrower shall have been verified prior to the inclusion of the Loan in the Mortgage Pool.
11. The Counterparty shall not, as a matter of policy, include any loan granted to a borrower against which (i) proceedings to obtain payment have been commenced or (ii) an adverse court judgment has been issued during the three year period immediately preceding the granting of the loan. In the event that such loan is identified as having been included in the relevant Mortgage Pool, the relevant loan shall be removed from such Mortgage Pool by the next Valuation Date.
12. Such Loan, the related Mortgage and the Standard Documentation to which they are subject, is not a regulated agreement for the purposes of the Consumer Credit Act 1974 of the United Kingdom and, if it is otherwise subject to the Consumer Credit Act 1974, complies with the Consumer Credit Act 1974 in all respects.

Note: Residential property for the purpose of this Appendix does not include any commercial or non-residential property or any property (intended to be developed as residential property) which is not yet under development.

## Appendix 4

### Information required in respect of each Mortgage

*[All amounts should be reported in GBP (the lawful currency of the United Kingdom)]*

1. Mortgage Borrower - [Refer to System ID Number but not the name and address of the Mortgage Borrower.]
2. Drawdown date
3. Maturity Date of Loan
4. Original Loan Amount
5. Latest Professional Valuation Amount
6. Latest Professional Valuation Date
7. Geographical Location Code<sup>1</sup>
8. Current / Indexed Valuation Amount
9. Current Balance including Accrued Interest of each Loan secured by the Mortgage
10. Loan to Value Ratio [= (18) divided by (5)]
11. Current/Indexed Loan to Value Ratio [= (18) divided by (8)]
12. Repayment Amount
13. In Arrears [= Y if in arrears for more than 65 days; N otherwise ]
14. Arrears Amount
15. Balance for Valuation [= (9) minus (12) minus (14)]
16. Probability of Default (PD from a Central Bank of Ireland approved model)
17. Loss Given Default (LGD from a Central Bank of Ireland approved model)
18. Aggregate of the current Balances including Accrued Interest of all Loans secured by the Mortgage
19. Property ID - [A number to denote all related Loans secured by the Mortgage]

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<sup>1</sup> A code to denote the location of the Property. The unique codes to be used will be communicated by the Bank.

## Appendix 5

### Part 1

#### Form of Deed of Charge in respect of Property in Northern Ireland

#### DEED OF FLOATING CHARGE (SPECIAL MORTGAGE-BACKED € PROMISSORY NOTES)

THIS DEED OF CHARGE is made on [ ] 201[X]

#### BETWEEN:

- (1) [COUNTERPARTY] having its registered [or principal] office at [address] (the "Counterparty"), and
- (2) CENTRAL BANK OF IRELAND of PO Box 559, Dame Street, Dublin 2 (the "Bank") in its capacity as trustee for the Noteholders.

WHEREAS it is proposed that the Counterparty would borrow certain amounts on the security of this Deed of Charge which is issued to the Bank as trustee for the Noteholders.

NOW THIS DEED OF CHARGE WITNESSES AND IT IS HEREBY AGREED AND DECLARED as follows:

#### 1. Definitions and Interpretation

- 1.1 In this Deed of Charge terms defined in the Framework Agreement (as defined herein) shall have the same meanings, and the following expressions shall have the following meanings:

"Charged Property" means the property, assets and rights of the Counterparty for the time being comprised in or subject to the charges contained in clause 3 of this Deed of Charge, and references to the Charged Property include references to any part of it;

"Conveyancing Act" means the Conveyancing Act 1881;

"Criminal Damage Compensation" means any compensation payable as a result of a claim pursuant to the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in respect of a Property subject to a Mortgage;

"Criminal Damage Compensation Claim" means any claim for compensation pursuant to the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in respect of a Property subject to a Mortgage;

"Deed of Postponement" or "Deed of Confirmation" means any agreement, deed or letter of consent and postponement given in connection with a Mortgage whereby any mortgagee of the property who is not a party to the relevant Mortgage, has agreed to postpone his interest (if any) in the relevant Property so that it ranks after that of the Counterparty;

"Drawdown Date" means the date on which any Special Mortgage-Backed € Promissory Note is issued by the Counterparty;

"Encumbrance" means any mortgage, sub-mortgage, charge (whether legal or equitable), sub-charge (whether legal or equitable), pledge, lien, encumbrance, hypothecation, assignment by way of security, right of set-off or other security interest of any kind

whatsoever or any agreement, trust or arrangement having the effect (economic or otherwise) of providing any security interest;

**“Enforcement Date”** means the date on which, following the occurrence of an Event of Default, the Bank declares the security hereby created to be enforceable pursuant to clause 8.3 of the Framework Agreement;

**“Framework Agreement”** means the framework agreement dated the date of this Deed of Charge made between the Bank and the Counterparty for the purpose of regulating the issue of Special Mortgage-Backed € Promissory Notes in respect of which the amounts outstanding thereunder are intended to be secured hereunder, and related matters, and shall include any documents which amend or are supplemental to such agreement;

**“Initial Mortgage Pool”** means the Loans and Mortgages securing such Loans which have been initially selected and segregated by the Counterparty and set out in the Initial Mortgage Schedule to be charged to the Bank pursuant to the Deed of Charge;

**“Initial Mortgage Schedule”** means the schedule supplied by the Counterparty to the Bank setting out the details specified in Appendix 4 to the Framework Agreement (as such specification may from time to time be amended by written notice from the Bank to the Counterparty, or supplemented by guidance issued by the Bank to the Counterparty, in accordance with the terms of the Framework Agreement) of the Initial Mortgage Pool;

**“Insurance Company”** means the provider of any Insurance Contract;

**“Insurance Contract”** means the insurance policies effected by the Mortgage Borrowers from time to time in relation to any Loan in accordance with the Mortgage Conditions;

**“Irish Land and Conveyancing Act”** means the Land and Conveyancing Law Reform Act 2009 of Ireland;

**“Mortgage”** means the first legal mortgage or charge of freehold or long leasehold residential property which is security for any Loan;

**“Noteholders”** means the Bank and any body corporate which the Bank may approve from time to time to which any Special Mortgage-Backed € Promissory Note has been transferred;

**“Property”** means in relation to a Mortgage the freehold property or leasehold property upon which the Loan(s) of the Mortgage Borrower are secured, and the expression “the Properties” shall be construed accordingly;

**“Receiver”** means a receiver appointed under this Deed of Charge or pursuant to statutory powers by the Bank upon the security constituted hereunder becoming enforceable and includes more than one such receiver and any substituted receiver;

**“Related Security”** in relation to a Loan means (i) any guarantee of the obligations of the Mortgage Borrower specified in the Mortgage Conditions for such Loan and (ii) any other document in existence from time to time which is referred to in the Mortgage Conditions as being security for the Loan but not Other Lending together with all right, title, benefit and interest ancillary or supplemental to, and all powers and remedies for enforcing, the above;

**“Secured Obligations”** means all present and future liabilities whatsoever of the Counterparty to any Noteholder represented by a Special Mortgage-Backed € Promissory Note issued in accordance with the terms of the Framework Agreement which become due,

owing or payable by the Counterparty to the Bank under or in respect of, and subject to the terms and conditions of, this Deed of Charge;

**“Special Mortgage-Backed € Promissory Notes”** means special mortgage-backed € promissory notes, being instruments acknowledging indebtedness of the Counterparty, substantially in the form set out in Appendix 1 to the Framework Agreement or in such other form as may be agreed from time to time; and

**“Taxation”** includes any tax, levy, impost, duty, deduction or withholding of any nature which the Counterparty is obliged to pay or account for to any revenue commissioners or any other agency or instrumentality of government in Ireland or the United Kingdom.

1.2 Clause headings are for ease of reference only.

1.3 In this Deed of Charge:

(a) words denoting the singular number only shall include the plural number also and vice versa; and

(b) words denoting one gender only shall include the other gender.

1.4 The words “hereof”, “hereunder” and similar words shall be construed as references to this Deed of Charge as a whole and not limited to the particular clause, sub-clause, paragraph or provision in which the relevant reference appears.

1.5 References to a “company” shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established.

1.6 Reference to any statute or statutory provision (including any subordinate legislation) shall unless otherwise stated be to a statute or statutory provision of or applicable in Northern Ireland and shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted or any statutory instrument, order or regulation made thereunder or under any such statutory amendment, modification or re-enactment.

1.7 Any reference to the Bank includes its permitted successors, transferees and assignees.

## 2. **Covenant to Pay**

The Counterparty covenants with the Bank that it will duly and punctually pay and discharge the Secured Obligations in accordance with their terms.

## 3. **Security**

### *Mortgages, their Related Security and the Insurance Contracts*

3.1 The Counterparty, as legal and beneficial owner and subject in each case to clause 4, as a continuing security for the discharge and payment of the Secured Obligations, hereby:

(a) charges by way of first floating charge to the Bank all its right, title, interest and benefit, present and future, in and to each of the Mortgages and the related Loans forming part of the Mortgage Pool, from time to time and the Counterparty’s interest in the Properties intended to constitute the security for such Loans and the benefit of all covenants relating thereto and any rights or remedies of the Counterparty for

enforcing the same, including, without limitation, the benefit of all Related Security for each Loan;

- (b) charges by way of first floating charge to the Bank all its right, title, interest and benefit, present and future, in the Insurance Contracts, the sums thereby insured and all bonuses and other moneys payable or to become payable under the same and in any Criminal Damage Compensation Claim and any Criminal Damage Compensation together with the full benefit thereof and all powers and provisions contained in or conferred by the same;
- (c) charges by way of first floating charge to the Bank all causes and rights of action, present or future, (and the net proceeds thereof) of the Counterparty against any person in connection with any report, valuation, opinion, certificate, undertaking, consent or other statement of fact or opinion given in connection with any Mortgage forming part of the Mortgage Pool or affecting the Counterparty's decision to enter into any such Mortgage; and
- (d) charges by way of first floating charge to the Bank all its rights, title, interest and the benefit present and future in and to any Deed of Postponement or Deed of Confirmation in relation to any Mortgage forming part of the Mortgage Pool.

#### *Crystallisation of Floating Charge*

3.2 If an Event of Default occurs the floating charge created pursuant to clause 3.1 (the "**Floating Charge**") shall be converted into a fixed charge upon the service by the Bank of a notice to that effect upon the Counterparty.

3.3 If, without the Bank's prior written consent:

- (a) any person levies (or attempts to levy) any distress, attachment, execution or other process against any Charged Property; or
- (b) an administrator is appointed to the Counterparty or the Bank receives notice of intention to appoint an administrator,

then the floating charge created by clause 3.1 shall automatically and immediately, without any requirement for notice, be converted into a fixed charge in respect of such Charged Property.

3.4 Where the floating charge created by clause 3.1 has crystallised under clause 3.3, it may be reconverted into a floating charge by written notice given at any time by the Bank to the Counterparty, in respect of the Charged Property specified in such notice.

#### *No Transfer of Obligations to the Bank or Receiver*

3.5 The Bank and any Receiver appointed pursuant to this Deed of Charge does not, by reason of this Deed of Charge, assume, nor shall the Bank or the Receiver be obliged to perform, any obligation, duty or liability (including, without limitation, the making of Further Advances to Mortgage Borrowers) of any person (including, without limitation, the Counterparty) arising under any contract, agreement or other document included in, or relating to, the Charged Property by reason of this Deed of Charge, nor shall the Bank be obliged to take any action to collect or enforce any such contract, agreement or other document.

### *Further Advances*

- 3.6 Notwithstanding the provisions of clause 3.1, the Bank hereby acknowledges that the Counterparty may from time to time effect Further Advances in respect of Mortgages.

### *Restriction on Notice and Registration*

- 3.7 The Bank undertakes to the Counterparty that prior to the Enforcement Date it will not and it will not require the Counterparty to:
- (a) give or cause to be given any notice of charge or sub-charge of any Mortgage forming part of the Mortgage Pool or its Related Security whether to the relevant Mortgage Borrower, any guarantor, any insurance company or any other person; or
  - (b) take any steps
    - (i) to apply to register the Bank at the Land Registry as registered owner of any Mortgage forming part of the Mortgage Pool having registered title or effect any registration at the Land Registry or Registry of Deeds in respect of this Deed of Charge;
    - (ii) to complete an assignment by way of security of any Mortgage or its Related Security; or
    - (iii) to apply to effect registration at the Registry of Deeds in respect of any Mortgage having unregistered title or to effect any other registration at the Land Registry or Registry of Deeds in respect of such Mortgage or its Related Security.

## **4. Release on Redemption**

Upon the Bank being satisfied that there has been a full and final payment and discharge by the Counterparty of the Secured Obligations, the Bank at the request and cost of the Counterparty shall release or discharge the Charged Property to the Counterparty or any other person entitled thereto. Any payment or realisation in respect of the Secured Obligations which in the reasonable opinion of the Bank is liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably settled or discharged until the expiry of the period during which it may be challenged on any such ground.

## **5. Negative Pledge**

- 5.1 During the subsistence of the security constituted by this Deed of Charge, otherwise than with the prior written consent of the Bank, the Counterparty shall
- (a) not create or attempt to create or permit to arise or subsist any Encumbrance on or over the Charged Property or any part thereof; or
  - (b) not, otherwise than in the ordinary course of business, sell, transfer, lend or otherwise dispose of the Charged Property or any part thereof or redeem, agree to redeem or accept repayment in whole or in part of any Loan or attempt or agree to do so whether by means of one or a number of transactions related or not and whether at one time or over a period of time.

- 5.2 None of the foregoing prohibitions in this clause shall be construed as limiting any powers exercisable by any Receiver appointed by the Bank under or pursuant to this Deed of Charge.

*Priority*

- 5.3 Any Encumbrance over the Charged Property created by the Counterparty after the date of this Deed of Charge (except any Encumbrance in favour of the Bank) shall be expressed to be subject to this Deed of Charge, and shall rank and have priority in relation to the Charged Property after this Deed of Charge.

**6. Upon Enforcement**

- 6.1 All moneys received or recovered by the Bank or any Receiver in respect of the Secured Obligations (including moneys received pursuant to clause 12.10) on or after the Enforcement Date shall be held by the Bank or the Receiver (as applicable), and all moneys received by the Counterparty in respect of the Charged Property (other than moneys received pursuant to this clause 6.1) on or after the Enforcement Date shall forthwith be paid to (and, pending such payment, the Counterparty shall hold such moneys on trust for) the Receiver and shall be paid in accordance with the following order of priority:

- (a) first, in or towards satisfaction, *pro rata* according to their respective terms, of all amounts due and payable to the Bank and the Receiver in respect of their fees, costs and expenses as referred to in clause 9 hereof;
- (b) second, to the Bank for the account of the Noteholders in respect of all amounts due and payable as Secured Obligations; and
- (c) third, the surplus (if any) to the Counterparty.

- 6.2 The provisions of clauses 6.1 and 12.10 shall take effect as and by way of variation of the provisions of sections 22(2), 21(3) and 24(8) of the Conveyancing Act, which provisions as so varied and extended shall be deemed incorporated herein, and as regards section 24(8) as if they related to a receiver of the Charged Property and not merely a receiver of the income thereof.

**7. Continuance of Security**

Without prejudice to the generality of clause 2, this Deed of Charge shall remain in force as a continuing security to the Bank notwithstanding any settlement of account or any other act, event or matter whatsoever, except only the execution by the Bank on behalf of the Noteholders under seal of an absolute and unconditional release or the execution by or on behalf of the Bank of a receipt for all (and not part only) of the Secured Obligations.

**8. Warranties and Covenants by the Counterparty**

- 8.1 The Counterparty warrants to the Bank on the date of this Deed of Charge, each Drawdown Date and each date on which any Loan or Mortgage securing a Loan is segregated so as to form part of the Mortgage Pool that:

- (a) it has taken all necessary steps to enable it to charge as security the Charged Property in accordance with clause 3;
- (b) it has taken no action or steps to prejudice the Bank's right, title and interest in and to the Charged Property;

- (c) it:
  - (i) has valid and marketable title to; and
  - (ii) is the sole legal and beneficial owner of, free of any Encumbrances, adverse deed, decree or diligence in respect of,  
  
the Charged Property; and
- (d) in the case of any Loan that it did not originate, it is the sole legal and beneficial owner, free of any Encumbrances, of all rights, title, interest, benefit and rights of action of a type referred to at clause 3.1(a) to (d) that the originator of that Loan had in respect of that Loan and the related Mortgage.

8.2 The Counterparty covenants with the Bank that:

- (a) it shall not take any steps as a result of which the validity or effectiveness or enforceability of this Deed of Charge or the priority of the security created hereby shall be amended, terminated, postponed or discharged;
- (b) it shall ensure if it is a company to which section 99 or 111 of the Companies Act 1963 in Ireland applies that particulars of this Deed of Charge will be registered in accordance with such section within 21 days of the date hereof and that if it is not such a company but is subject to a corresponding obligation under any other law and/or under its internal constitutional documents such corresponding particulars will be duly registered in accordance with the provisions of such law and/or such documents;
- (c) it shall ensure that the manner of disclosure of the Deed of Charge, and of the negative pledge covenant contained herein, in its annual financial statements shall be in such form as the Bank may reasonably require;
- (d) it shall pay within 30 days of the date hereof any and all stamp duty payable in connection with execution and delivery hereof;
- (e) it shall furnish to the Bank forthwith upon request to that effect from the Bank made upon or after the Enforcement Date, or upon or after service by the Bank of a notice upon the Counterparty pursuant to clause 3.2, notices to the Insurance Companies of the Bank's interest in respect of the Insurance Contracts and to the Criminal Damage Compensation Agency in respect of any Criminal Damage Compensation Claim and shall use its reasonable endeavours to obtain or procure return of acknowledgements to such notices if and when they are issued by the Bank; and
- (f) it shall pay all amounts it is liable to pay in respect of Taxation and local rates upon the due dates for payment thereof (or, in the event of the amount payable being the subject of contest or dispute in good faith, when the amount thereof has been determined).

9. **Fees and Expenses**

The Counterparty covenants with the Bank that it will reimburse, pay or discharge all costs, charges, liabilities and expenses properly incurred by the Bank, the Receiver or any attorney, manager, agent or delegate appointed by the Bank or any Receiver under this Deed of Charge in connection with:

- (a) the perfection or protection of the security over the Mortgage Pool constituted by this Deed of Charge where permitted or required in accordance with clause 3; and
- (b) the exercise, or the attempted or purported exercise, or the consideration of the exercise, by or on behalf of the Bank or the Receiver of any of the powers of the Bank or the Receiver where such exercise is permitted pursuant to the provisions hereof,

together with any value added tax or similar tax charged or chargeable in respect thereof.

## 10. **Liability**

The Counterparty shall have no liability for any obligation of a Mortgage Borrower under any Loan or Mortgage or any Related Security forming part of the Mortgage Pool and nothing herein shall constitute a guarantee, or similar obligation, by the Counterparty of any such Loan or Mortgage or Related Security therefor or of any Mortgage Borrower or any other person.

## 11. **The Bank**

11.1 Notwithstanding anything contained in this Deed of Charge, the exercise by the Bank of the powers and rights conferred on it by virtue of the provisions of Part IV of the Conveyancing Act as amended by the Conveyancing Act 1911 upon the Enforcement Date this Deed of Charge shall become immediately enforceable and the powers conferred by this Deed of Charge shall become immediately exercisable.

11.2 The restrictions on the power of sale contained in sections 19(1)(i), 20, 21(4), 21(6) and 21(7) of the Conveyancing Act and section 5(2) of the Conveyancing Act 1911 shall not apply to this Deed of Charge. The provisions of the Conveyancing Act relating to the power of sale and the other powers conferred by sections 19(1)(i), 20, 21(4), 21(6) and 21(7) of the Conveyancing Act and section 5(2) of the Conveyancing Act 1911 (without the restrictions contained therein) are hereby extended (as if such extensions were contained in the Conveyancing Act as amended by the Conveyancing Act 1911) to authorise the Bank at its absolute discretion and upon such terms as it may think fit:

- (a) to dispose of the Charged Property, or any interest in the same, and to do so for shares, debentures or any other securities whatsoever, or in consideration of an agreement to pay all or part of the purchase price at a later date or dates, or an agreement to make periodical payments, whether or not the agreement is secured by an Encumbrance or a guarantee, or for such other consideration whatsoever as the Bank may think fit, and also to grant any option to purchase, and to effect exchanges, and nothing shall preclude the Bank from making any disposal to any person it thinks fit;
- (b) with a view to, or in connection with, the disposal of the Charged Property, to carry out any transaction, scheme or arrangement which the Bank may in its absolute discretion consider appropriate;
- (c) to take possession of, get in and collect the Charged Property;
- (d) to appoint and engage employees, managers, agents and advisers upon such terms as to remuneration and otherwise and for such periods as it may determine, and to dismiss them;
- (e) in connection with the exercise, or the proposed exercise, of any of its powers to borrow or raise money from any person, without security or on the security of the

Charged Property (either in priority to this security or otherwise) and generally in such manner and on such terms as it may think fit;

- (f) to bring, defend, submit to arbitration, negotiate, compromise, abandon and settle any claims and proceedings concerning the Charged Property;
- (g) to transfer all or any of the Charged Property to any other body corporate or company, whether or not formed or acquired for the purpose and whether or not a Subsidiary or associated company of the Bank or a company in which the Bank has an interest;
- (h) generally to carry out, or cause or authorise to be carried out, any transaction, scheme or arrangement whatsoever, whether similar or not to any of the foregoing, in relation to the Charged Property which it may consider expedient as effectually as if it were solely and absolutely entitled to the Charged Property;
- (i) in connection with the exercise of any of its powers, to execute or do, or cause or authorise to be executed or done, on behalf of or in the name of the Counterparty or otherwise, as it may think fit, all documents, acts or things in relation to the Charged Property which it may consider appropriate; and
- (j) to pay and discharge out of the profits and income of the Charged Property and the moneys to be made by it in carrying on any such business as aforesaid the expenses incurred in the exercise of any of the powers conferred by this clause 11.2 or otherwise in respect of the Charged Property and all outgoings which it shall think fit to pay.

11.3 The Bank shall be entitled to rely on the opinion or advice of any professional or financial or other advisers selected by it which is given in connection with this Deed of Charge and shall not be liable to the Counterparty for any of the consequences of such reliance or for relying on any communication or document believed by it to be genuine and correct and to have been communicated or signed by the person by whom it purports to be communicated or signed.

11.4 The Bank shall (save as expressly otherwise provided herein) as regards all rights, powers, authorities and discretions vested in it by this Deed of Charge, or by operation of law, have complete discretion as to the exercise or non-exercise thereof.

11.5 Any consent given by the Bank for the purposes of this Deed of Charge may be given on such terms and subject to such conditions (if any) as the Bank thinks fit and, notwithstanding anything to the contrary contained herein may be given retrospectively.

11.6 The Bank shall not be under any obligation to effect or to require any other person to maintain insurance in respect of any of the Charged Property. If the Bank in its absolute discretion effects insurance in respect of the Charged Property it shall not be subject to the requirements contained in sections 19(1)(ii) and 23 of the Conveyancing Act.

## 12. Receiver

12.1 At any time on or after the Enforcement Date the Bank may appoint such person or persons as it thinks fit to be receiver or receivers (to act jointly or severally) of the Charged Property.

12.2 The restrictions contained in sections 19(1)(iii) and 24(1) to (7) of the Conveyancing Act shall not apply to this Deed of Charge.

- 12.3 The Bank may remove the Receiver appointed by it whether or not appointing another in his place, and the Bank may also appoint another receiver if the Receiver resigns or is removed from office.
- 12.4 The exclusion of any part of the Charged Property from the appointment of the Receiver shall not preclude the Bank from subsequently extending his appointment (or that of the Receiver replacing him) to that part.
- 12.5 The Receiver shall, so far as the law permits, be the agent of the Counterparty and the Counterparty shall be solely responsible for his acts and defaults and liable on any contracts or engagements made or entered into by him; and in no circumstances whatsoever shall the Bank be in any way responsible for any misconduct, negligence or default of the Receiver.
- 12.6 The remuneration of the Receiver may be fixed by the Bank (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise) and section 24(6) of the Conveyancing Act shall not apply to the commission and/or remuneration of a Receiver appointed pursuant to this Deed of Charge, but such remuneration shall be payable by the Counterparty alone. Without prejudice to the foregoing, the Bank may, but shall not be obliged to, pay such remuneration or any part thereof. The Counterparty agrees that it will pay to the Bank an amount equal to any such payment made by it, together with the Bank's cost of funding such payment until such payment by the Counterparty, which liability of the Counterparty shall, for the avoidance of doubt, form part of the Secured Obligations.
- 12.7 The Receiver may be invested by the Bank with such of the powers, authorities and discretions exercisable by the Bank under this Deed of Charge as the Bank may think fit and this shall include all powers rights and discretions conferred by law, including those conferred on a Receiver by the Conveyancing Act and on a Receiver under the Insolvency (NI) Order 1989, in particular those set out in Schedule I to that Order and in addition to and without limiting those powers every Receiver may, with or without the concurrence of any other person:
- (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Charged Property without the need to observe any of the provisions of section 18 of the Conveyancing Act and section 3 of the Conveyancing Act 1911 in such manner and generally on such terms and conditions as he/she shall think fit in his/her absolute and unfettered discretion and any such sale or disposition may be for cash, shares, stock, bonds, debentures or other securities and investments of any kind or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of the Counterparty;
  - (b) promote or procure the incorporation of any new company (whether or not a subsidiary of the Counterparty), subscribe for or otherwise acquire shares, stock, debentures, loan stock or other securities in any such company in name of the Counterparty, or the Receiver or its or his/her nominee or trustee, and procure the purchase, lease, licence of acquisition of all or any of the Charged Property by any such company for a consideration in cash, shares, stock, debentures, loan stock or other securities, shares of profits of sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such company, payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
  - (c) sever any fixtures from any freehold or leasehold property and/or sell them separately;

- (d) effect any arrangement or compromise with the Bank or other person as he/she shall think fit;
- (e) effect all repairs, renewals and improvements to the Charged Property and take out, renew or increase insurances on such terms and against such risks as he/she shall think fit;
- (f) appoint agents or managers, for the foregoing purposes at such remuneration as he/she may determine;
- (g) pay the reasonable administrative charges of the Bank in respect of time spent by its agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Counterparty;
- (h) commence and/or complete any building operations upon any freehold or leasehold Charged Property and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he/she may in his/her absolute discretion think fit;
- (i) do all such other acts and things he/she may consider to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property;
- (j) generally, without prejudice to the other provisions of this clause to exercise all the rights, powers and discretions in respect of the Charged Property it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Charged Property and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Obligations; and
- (k) in respect of any of the Charged Property situated in or governed by the law of any foreign jurisdiction to exercise in addition to the foregoing powers, all the powers conferred by the Insolvency (NI) Order 1989 or any other enactment or rule of law on receivers (or analogous officers) in such jurisdiction,

and, insofar as the laws of Ireland apply to the Charged Property or any part of it or any of the security interests created by this Deed or the appointment of the Receiver, exercise in addition to the foregoing powers all the powers conferred by the Irish Land and Conveyancing Act (as modified by clause 20).

- 12.8 The Receiver shall in the exercise of his powers, authorities and discretions conform to any lawful regulations and directions from time to time made and given by the Bank.
- 12.9 The Bank may from time to time and at any time require any such Receiver to give security for the due performance of his duties as such Receiver and may fix the nature and amount of the security to be so given but the Bank shall not be bound in any case to require any such security.
- 12.10 Save so far as otherwise directed by the Bank all moneys from time to time received by such Receiver shall be paid over to the Bank to be held by it upon the terms and subject to the provisions of clause 6.1.
- 12.11 The Bank may pay over to such Receiver any moneys constituting part of the Charged Property to the intent that the same may be applied for the purposes of this Deed of Charge by such Receiver and the Bank may from time to time determine what funds the Receiver

shall be at liberty to keep in hand with a view to the performance of his duties as such Receiver.

12.12 The provisions of this clause 12 shall take effect as and by way of variation to the provisions of sections 19(1)(iii) and 24(1) to (7) of the Conveyancing Act which provisions as so varied and extended shall be deemed incorporated herein as if they related to a Receiver of the Charged Property and not merely a receiver of the income thereof.

**13. Protection of Third Parties**

13.1 The statutory powers of sale and of appointing a receiver which are conferred upon the Bank or the Receiver as varied and extended by this Deed of Charge and all other powers under this Deed of Charge shall in favour of any purchaser be deemed to arise and be exercisable immediately after the execution of this Deed of Charge.

13.2 No purchaser from, or other person dealing with, the Bank and/or the Receiver shall be concerned to enquire whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable, or whether the Secured Obligations remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise or purported exercise of any such power; and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters and all the protections for purchasers contained in the Conveyancing Act shall apply to any person purchasing from or dealing with a Receiver or the Bank.

13.3 The receipt of the Bank or the Receiver shall be an absolute and conclusive discharge to a purchaser or such person and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Bank or the Receiver.

**14. Protection of the Bank and Receiver**

14.1 Neither the Bank nor any Receiver shall be liable in respect of any loss or damage which arises out of the exercise or attempted or purported exercise of, or the failure to exercise, any of their respective powers, unless such loss or damage is caused by its or his negligence, wilful default, fraud or breach of obligations under this Deed of Charge. The provisions of this clause 14.1 shall be applicable also to any delegate, agent or sub-delegate of the Bank as is mentioned in clause 14.3.

14.2 Without prejudice to clause 14.1, entry into possession of the Charged Property shall not render the Bank or the Receiver liable to account as mortgagee in possession or to be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable; and if and whenever the Bank or the Receiver enters into possession of the Charged Property, it shall be entitled at any time to go out of such possession.

14.3 The Bank may, in the execution of all or any of the trusts, powers authorities and discretions vested in it by this Deed of Charge act by responsible officers or a responsible officer for the time being of the Bank. The Bank may also whenever it thinks expedient whether by power of attorney or otherwise, for a period not exceeding 12 months, delegate to any person or persons all or any of the trusts, rights, powers, duties, authorities and discretions vested in it by this Deed of Charge or appoint any agent in respect thereof. Any such delegation or appointment may be made upon such terms and conditions and subject to such regulations (including power to sub-delegate) as the Bank may think fit. The Bank shall give prompt notice to the Counterparty of the appointment of any delegate or agent as aforesaid and shall procure that any delegate shall also give prompt notice of the appointment of any sub-delegate to the Counterparty.

- 14.4 The Bank shall not, and no director, officer or employee of the Bank shall, be in any way precluded from making any contracts or entering into any transactions in the ordinary course of business with the Borrower.
- 14.5 The powers conferred by this Deed of Charge upon the Bank shall be in addition to any powers which from time to time be vested in it by general law.
15. **Further Assurances**
- 15.1 The Counterparty further covenants with the Bank and every Receiver from time to time upon written demand to execute, at its own cost, any document or do any act or thing which (a) the Bank may reasonably specify (subject to clause 3.7) with a view to perfecting or protecting any charge or security created or intended to be created by this Deed of Charge or its priority, or as may be necessary or reasonable to give full effect to the arrangements contemplated by this Deed of Charge or (b) the Bank or Receiver may reasonably specify with a view to facilitating the exercise, or the proposed exercise, of any of their respective powers.
- 15.2 The Counterparty hereby by way of security for the performance of its obligations under this Deed of Charge irrevocably appoints the Bank whether or not a Receiver has been appointed, and separately also the Receiver, to be the attorney of the Counterparty with effect on and from the Enforcement Date to do any acts, matters or things which the Bank considers in each case necessary or desirable for the protection or preservation of the Bank's interest in the Mortgages forming part of the Mortgage Pool and their Related Security or which ought to be done under the provisions of this Deed of Charge and in its name or otherwise and on its behalf and as its act and deed to sign, seal, execute, deliver, perfect, enter into and do all documents, deeds, and/or instruments, acts and things which the Counterparty may or ought to do under the covenants and provisions contained in this Deed of Charge and generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed of Charge or by any statute or common law on the Bank or any Receiver or which may be required or which the Bank shall deem fit for carrying any sale, lease, charge, mortgage or dealing by the Bank or by any Receiver into effect or for giving to the Bank or any Receiver the full rights and benefit of this Deed of Charge and generally to use the name of the Counterparty in the exercise of all or any of the powers, authorities or discretions conferred on the Bank or any Receiver and the Counterparty hereby ratifies and confirms and agrees to ratify and confirm whatsoever any action any such attorney shall do or purport to do by virtue of this clause 15.2 and all money properly expended by any such attorney shall be deemed to be expenses incurred by the Bank hereunder.
16. **Other Security, etc.**
- 16.1 This security is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, any other Encumbrance, right of recourse or other right whatsoever which the Bank may now or at any time hereafter hold or have (or would apart from this security hold or have) as regards the Counterparty or any other person in respect of the Secured Obligations. Notwithstanding the aforesaid, the Secured Obligations will not, in the absence of an express disapplication of clause 2.5(b) of the Framework Agreement, be secured by any Other Deed of Charge.
- 16.2 Notwithstanding anything to the contrary contained in the Conveyancing Act or, where applicable, the Irish Land and Conveyancing Act, the Bank reserves the right to consolidate mortgage securities without restriction.
- 16.3 The Counterparty shall not take any action in respect of the Charged Property, this Deed of Charge or any monies, obligations or liabilities hereby covenanted to be paid or discharged.

16.4 The powers which this Deed of Charge confers on the Bank and the Receiver are cumulative, without prejudice to their respective powers under any other security, right or remedy which the Bank and/or the Receiver may now or at any time hereafter hold for all or any part of the Secured Obligations, or the general law, and may be exercised as often as the Bank or the Receiver thinks appropriate. The Bank or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever; and the Counterparty acknowledges that the respective powers of the Bank and the Receiver shall in no circumstances whatsoever be suspended, waived or otherwise prejudiced by anything other than an express waiver or variation in writing.

16.5 No failure or delay by any party hereto in exercising any right, power, remedy or privilege under this Deed of Charge or available at law shall impair such right, power, remedy or privilege or operate as a waiver thereto. The single or partial exercise of any right, power or remedy under this Deed of Charge or at law shall not preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege under this Deed of Charge or at law. The rights, powers, remedies and privileges provided in this Deed of Charge are cumulative and not exclusive of any rights and remedies provided by law.

#### 17. **Modification, Invalidity and Transfer**

17.1 No amendment, modification or variation of this Deed of Charge shall be effective unless it is in writing and executed by or on behalf of each of the parties hereto.

17.2 If any of the provisions of this Deed of Charge becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions therein shall not in any way be affected or impaired. The invalid provisions shall, according to the intent and purpose of this Deed of Charge, be replaced by such valid provision which in its economic effect comes as close as legally possible to that of the invalid provision. The same shall apply with respect to involuntary gaps herein.

17.3 The Bank may transfer and assign this Deed of Charge and in any or all of its rights and interest herein to any body corporate as the Bank may from time to time approve in writing and upon such terms and conditions, as it may think fit.

#### 18. **Safe Custody of Documents**

18.1 The Bank hereby undertakes with the Counterparty for the safe custody of such documents of title relating to the Charged Property of which it retains possession or control.

18.2 The parties agree that in the event of the loss or destruction of, or injury to, the documents of title relating to the Charged Property, the Bank shall have no liability to the Counterparty:

(a) if the loss, destruction or injury occurred:

(i) prior to the actual receipt of the documents of title in question by the Bank from the Counterparty or the Counterparty's solicitor; or

(ii) after the documents of title in question have been given by the Bank to some other person at the written request of the Counterparty and before the documents have been received back by the Bank,

(b) for any damage suffered by the Counterparty as a result of the loss or destruction of, or injury to, the documents of title in question where such damages:

(i) do not directly and naturally result from that loss, destruction or injury; or

- (ii) relate to loss of profit or expected profit from the Counterparty's business or from the development of the Charged Property.

18.3 This clause 18 shall, to the extent competent under applicable law, be regarded as an undertaking for safe custody of documents of title given under section 9 of the Conveyancing Act and section 84 of the Irish Land and Conveyancing Act.

19. **Avoidance of Payments**

No assurance, security or payment which may be avoided or adjusted under any applicable law, and no release, settlement or discharge given or made by the Bank or any Receiver on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Bank or any Receiver to recover from the Counterparty (including any moneys which it may be compelled by due process of law to refund pursuant to the provisions of any law relating to liquidation, bankruptcy, insolvency or creditors' rights generally and any costs payable by it to or otherwise incurred in connection with such process) or to enforce the security created by or pursuant to this Deed of Charge to the full extent of the Secured Obligations.

20. **Irish law provisions**

20.1 In the event:

- (a) that the laws of Ireland apply to:
  - (i) the Charged Property or any part of it; or
  - (ii) any of the security interests created by this Deed; or
- (b) of the appointment in Ireland of a receiver, liquidator, examiner or similar officer to the Counterparty or over any or all of its assets,

the provisions of Chapter 3 (Obligations, powers and rights of mortgagee) of Part 10 (Mortgages) of the Irish Land and Conveyancing Act (as varied by the other provisions of this clause 20) and the other provisions of this clause 20 shall (notwithstanding anything to the contrary contained in this Deed but, for the avoidance of doubt, without prejudice to any rights and powers otherwise afforded to the Bank or any Receiver pursuant to this Deed) apply to this Deed.

20.2 The provisions of sections 96(1)(c) (Powers and rights generally), 97 (Taking possession), 99(1) (Mortgagee in possession), 101 (Applications under sections 97 and 100), 103(2) (Obligations on selling), 106(3) (Mortgagee's receipts), 107 (Application of proceeds of sale) of the Irish Land and Conveyancing Act shall not apply to this Deed.

20.3 The restrictions and any requirements to give notice to the Counterparty contained in section 100 (Power of sale) of the Irish Land and Conveyancing Act shall not apply to this Deed.

20.4 The Counterparty shall not be entitled to take any action in respect of the Charged Property pursuant to section 94 (Court order for sale) of the Irish Land and Conveyancing Act.

20.5 The restrictions contained in section 108(1) of the Irish Land and Conveyancing Act shall not apply to this Deed.

20.6 In the case of powers conferred on the Receiver by the Irish Land and Conveyancing Act, such powers shall apply without the restrictions contained in the Irish Land and Conveyancing Act.

- 20.7 Section 108(7) of the Irish Land and Conveyancing Act shall not apply to the commission and/or remuneration of any Receiver appointed pursuant to this Deed.
- 20.8 The provisions of clauses 6.1 and 12.10 shall take effect as and by way of variation to the provisions of sections 106(3), 107 and 109 of the Irish Land and Conveyancing Act which provisions as so varied and extended shall be deemed incorporated herein and as regards section 109 as if they related to a receiver of the Charged Property and not merely a receiver of the income thereof.
- 20.9 All the protection to buyers contained in sections 104, 105 and 106(1) of the Irish Land and Conveyancing Act shall apply to any person purchasing from or dealing with the Receiver or the Bank. For the purposes of this clause 20.9, "**buyer**" includes any person acquiring for money or money's worth, any lease of, or encumbrance over, or any other interest or right whatsoever in relation to, the Charged Property.

## 21. **Governing Law and Jurisdiction**

- 21.1 This Deed of Charge and any non-contractual obligations arising from or in connection with it shall be governed by and construed in accordance with the laws of Northern Ireland.
- 21.2 The Courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) which may arise in connection with the creation, validity, effect, interpretation or performance of this Deed of Charge or the legal relationships established herein or otherwise arising in connection herewith (including, without limitation, any non-contractual obligations arising from or in connection with this Deed of Charge), and for such purposes the parties hereto irrevocably submit to the non-exclusive jurisdiction of the Northern Irish Courts.

**IN WITNESS WHEREOF** the parties hereto have caused this Deed of Charge to be executed and delivered on the day and year first above written.

The common seal  
of **[Counterparty]**  
was affixed to this Deed of Charge  
and this Deed of Charge was delivered:

Director ..... Full Name .....  
(Signature)

Director/Secretary ..... Full Name .....  
(Signature)

The common seal  
of **CENTRAL BANK OF IRELAND**  
was affixed to this Deed of Charge  
and this Deed of Charge was delivered:

Witness:

Occupation:

Address:

## Part 2

### Form of Deed of Charge in respect of Property in Scotland

#### FLOATING CHARGE (SPECIAL MORTGAGE-BACKED € PROMISSORY NOTES)

BY:

- (1) [COUNTERPARTY] having its registered [or principal] office at [address] (the "Counterparty"),

in favour of:

- (2) CENTRAL BANK OF IRELAND of PO Box 559, Dame Street, Dublin 2 in its capacity as trustee for the Noteholders (the "Bank").

WHEREAS it is proposed that the Counterparty would borrow certain amounts on the security of this Floating Charge (this "Floating Charge") which is granted to the Bank as trustee for the Noteholders.

NOW THIS FLOATING CHARGE WITNESSES AND IT IS HEREBY AGREED AND DECLARED as follows:

#### 1. Definitions and Interpretation

- 1.1 In this Floating Charge terms defined in the Framework Agreement (as defined herein) shall have the same meanings, and the following expressions shall have the following meanings:

"Act" means the Insolvency Act 1986 as amended by the Insolvency Act 2000 and the Enterprise Act 2002 or, where the context so requires, any of those enactments;

"Charged Property" means the property, assets and rights of the Counterparty for the time being comprised in or subject to charge under this Floating Charge, and references to the Charged Property include references to any part of it;

"Drawdown Date" means the date on which any Special Mortgage-Backed € Promissory Note is issued by the Counterparty;

"Encumbrance" means any standard security mortgage, sub-mortgage, charge, sub-charge, pledge, lien, encumbrance, hypothecation, assignment or assignation by way of security, right of set-off or other security interest of any kind whatsoever or any agreement, trust or arrangement having the effect (economic or otherwise) of providing any security interest;

"Enforcement Date" means the date on which, following the occurrence of an Event of Default, the Bank declares the security hereby created to be enforceable pursuant to clause 8.3 of the Framework Agreement;

"Floating Charge" means these presents (and, as the context may require or imply, the floating charge hereby created) as amended, supplemented, novated, extended or restated from time to time;

"Framework Agreement" means the framework agreement dated the date of this Floating Charge made between the Bank and the Counterparty for the purpose of regulating the issue of Special Mortgage-Backed € Promissory Notes in respect of which the amounts outstanding

thereunder are intended to be secured hereunder, and related matters, and shall include any documents which amend or are supplemental to such agreement;

**“Initial Mortgage Pool”** means the Loans and Mortgages securing such Loans which have been initially selected and segregated by the Counterparty and set out in the Initial Mortgage Schedule to be charged to the Bank pursuant to this Floating Charge;

**“Initial Mortgage Schedule”** means the schedule supplied by the Counterparty to the Bank setting out the details specified in Appendix 4 to the Framework Agreement (as such specification may from time to time be amended by written notice from the Bank to the Counterparty, or supplemented by guidance issued by the Bank to the Counterparty, in accordance with the terms of the Framework Agreement) of the Initial Mortgage Pool;

**“Insurance Company”** means the provider of any Insurance Contract;

**“Insurance Contract”** means the insurance policies effected by the Mortgage Borrowers from time to time in relation to any Loan in accordance with the Mortgage Conditions;

**“Irish Land and Conveyancing Act”** means the Land and Conveyancing Law Reform Act 2009 of Ireland;

**“Letter of Postponement”** means any agreement, deed or letter of postponement or consent or ranking agreement given in connection with a Mortgage whereby any mortgagee of the property who is not a party to the relevant Mortgage, has agreed to postpone his interest (if any) in the relevant Property so that it ranks after that of the Counterparty;

**“Mortgage”** means the first ranking standard security over the heritable or long leasehold (within the meaning set out in paragraph 1(d) of Appendix 3 to the Framework Agreement) residential property which is located in Scotland and which is security for any Loan;

**“Noteholders”** means the Bank and any body corporate which the Bank may approve from time to time to which any Special Mortgage-Backed € Promissory Note has been transferred;

**“Property”** means in relation to a Mortgage the heritable property or long leasehold property upon which the Loan(s) of the Mortgage Borrower are secured, and the expression **“the Properties”** shall be construed accordingly;

**“Receiver”** means any receiver appointed in respect of the Charged Property under this Floating Charge and includes joint receivers and any substituted receivers;

**“Registers of Scotland”** means the Land Registers of Scotland and/or the General Register of Sasines (as applicable);

**“Related Security”** in relation to a Loan means (i) any guarantee of the obligations of the Mortgage Borrower specified in the Mortgage Conditions for such Loan and (ii) any other document in existence from time to time which is referred to in the Mortgage Conditions as being security for the Loan but not Other Lending together with all right, title, benefit and interest ancillary or supplemental to, and all powers and remedies for enforcing, the above;

**“Secured Obligations”** means all present and future liabilities whatsoever of the Counterparty to any Noteholder represented by a Special Mortgage-Backed € Promissory Note issued in accordance with the terms of the Framework Agreement which become due, owing or payable by the Counterparty to the Bank under or in respect of, and subject to the terms and conditions of, this Floating Charge;

**“Special Mortgage-Backed € Promissory Notes”** means special mortgage-backed € promissory notes, being instruments acknowledging indebtedness of the Counterparty, substantially in the form set out in Appendix 1 to the Framework Agreement or in such other form as may be agreed from time to time; and

**“Taxation”** includes any tax, levy, impost, duty, deduction or withholding of any nature which the Counterparty is obliged to pay or account for to any revenue commissioners or any other agency or instrumentality of government in Ireland or the United Kingdom.

- 1.2 Clause headings are for ease of reference only.
- 1.3 In this Floating Charge:
  - (a) words denoting the singular number only shall include the plural number also and vice versa; and
  - (b) words denoting one gender only shall include the other gender.
- 1.4 The words “hereof”, “hereunder” and similar words shall be construed as references to this Floating Charge as a whole and not limited to the particular clause, sub-clause, paragraph or provision in which the relevant reference appears.
- 1.5 References to a “company” shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established.
- 1.6 Reference to any statute or statutory provision (including any subordinate legislation), shall unless otherwise stated be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted or any statutory instrument, order or regulation made thereunder or under any such statutory amendment, modification or re-enactment.
- 1.7 Any reference to the Bank includes its permitted successors, transferees and assignees.

## 2. **Undertaking to Pay**

The Counterparty undertakes to the Bank that it will duly and punctually pay and discharge the Secured Obligations in accordance with their terms.

## 3. **Security**

### *Mortgages, their Related Security and the Insurance Contracts*

- 3.1 The Counterparty, as owner of the Charged Property and as a continuing security for the discharge and payment of the Secured Obligations hereby grants a floating charge to the Bank over:
  - (a) all its right, title, interest and benefit, present and future, in and to each of the Mortgages and the related Loans forming part of the Mortgage Pool, from time to time and the Counterparty’s interest in the Properties intended to constitute the security for such Loans and the benefit of all undertakings relating thereto and any rights or remedies of the Counterparty for enforcing the same, including, without limitation, the benefit of all Related Security for each Loan;
  - (b) all its right, title, interest and benefit, present and future, in the Insurance Contracts, the sums thereby insured and all bonuses and other moneys payable or to become

payable under the same together with the full benefit thereof and all powers and provisions contained in or conferred by the same;

- (c) all rights of action, present or future, (and the net proceeds thereof) of the Counterparty against any person in connection with any report, valuation, opinion, certificate, undertaking, consent or other statement of fact or opinion given in connection with any Mortgage forming part of the Mortgage Pool or affecting the Counterparty's decision to enter into any such Mortgage; and
- (d) all its rights, title, interest and benefit present and future in and to any Letter of Postponement in relation to any Mortgage forming part of the Mortgage Pool.

#### *No Transfer of Obligations to the Bank or Receiver*

- 3.2 The Bank and any Receiver appointed pursuant to this Floating Charge does not, by reason of this Floating Charge, assume, nor shall the Bank or the Receiver be obliged to perform, any obligation, duty or liability (including, without limitation, the making of Further Advances to Mortgage Borrowers) of any person (including, without limitation, the Counterparty) arising under any contract, agreement or other document included in, or relating to, the Charged Property by reason of this Floating Charge, nor shall the Bank be obliged to take any action to collect or enforce any such contract, agreement or other document.

#### *Further Advances*

- 3.3 Notwithstanding the provisions of clause 3.1, the Bank acknowledges that the Counterparty may from time to time effect Further Advances in respect of Mortgages.

#### **4. Release on Redemption**

Upon the Bank being satisfied that there has been a full and final payment and discharge by the Counterparty of the Secured Obligations, the Bank at the request and cost of the Counterparty shall release or discharge the Charged Property to the Counterparty or any other person entitled thereto. Any payment or realisation in respect of the Secured Obligations which in the reasonable opinion of the Bank is liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably settled or discharged until the expiry of the period during which it may be challenged on any such ground.

#### **5. Negative Pledge and Ranking**

- 5.1 During the subsistence of the security created by this Floating Charge, otherwise than with the prior written consent of the Bank, the Counterparty shall
- (a) not create or attempt to create or permit to arise or subsist any Encumbrance on or over the Charged Property or any part thereof; or
  - (b) not, otherwise than in the ordinary course of business, sell, transfer, lend or otherwise dispose of the Charged Property or any part thereof or redeem, agree to redeem or accept repayment in whole or in part of any Loan or attempt or agree to do so whether by means of one or a number of transactions related or not and whether at one time or over a period of time.
- 5.2 Unless otherwise agreed in writing by the Bank and subject to section 464(2) of the Companies Act 1985 this Floating Charge shall rank in priority to any fixed security or other

floating charge over the Charged Property created by the Counterparty after its execution of this Floating Charge.

5.3 None of the foregoing prohibitions in this clause shall be construed as limiting any powers exercisable by any Receiver appointed by the Bank under or pursuant to this Floating Charge.

## 6. **Enforcement**

### *Enforceable*

6.1 This Floating Charge shall be enforceable immediately upon, or at any time after, the Enforcement Date.

### *Appointment of Receiver*

6.2 At any time after this Floating Charge has become enforceable, the Bank shall be entitled to appoint one or more persons as a Receiver or Receivers in respect of the Charged Property, or apply to the Court for such appointment.

6.3 The appointment of a Receiver or Receivers shall be effected by the Bank by written instrument or notice in accordance with and in such form as may be prescribed under the Act. If any such person so appointed as Receiver is removed from office by the Court or otherwise ceases to act, the Bank shall be entitled (subject to the provisions of the Act) to appoint a replacement in the same manner.

### *Powers of Receiver*

6.4 A Receiver appointed under this Floating Charge shall have the following powers in addition to those specified in Schedule 2 of the Act:

- (a) to promote or procure the incorporation of any new company (whether or not a subsidiary of the Counterparty), to transfer any part of the Charged Property to such company for any form of consideration (including shares, debentures, loan stock or loan capital in such company), and/or to subscribe for or otherwise acquire shares, debentures, loan stock or loan capital in such company in name of the Counterparty, or the Receiver, or its or his/her nominee or trustee;
- (b) generally, without prejudice to the other provisions of this clause to exercise all the rights, powers and discretions in respect of the Charged Property it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Charged Property and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Obligations; and
- (c) in respect of any of the Charged Property situated in England and Wales (or any other jurisdiction) to exercise in addition to the foregoing powers, all the powers conferred by the Act or any other enactment or rule of law on receivers or receivers and managers (or analogous officers) in that jurisdiction,

and insofar as the laws of Ireland apply to the Charged Property or any part of it or any of the security interests created by this Floating Charge or the appointment of the Receiver, in addition to the foregoing powers, all the powers conferred by the Irish Land and Conveyancing Act (as modified by clause 18).

- 6.5 The Receiver shall, so far as the law permits, be the agent of the Counterparty and except as otherwise provided in the Act, the Counterparty shall be solely responsible for his acts and defaults and liable on any contracts or engagements made or entered into by him; and in no circumstances whatsoever shall the Bank be in any way responsible for any misconduct, negligence or default of the Receiver.
- 6.6 The remuneration of the Receiver may (to the extent competent by applicable law) be fixed by the Bank (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise) but such remuneration shall be payable by the Counterparty alone. Without prejudice to the foregoing, the Bank may, but shall not be obliged to, pay such remuneration or any part thereof. The Counterparty agrees that it will pay to the Bank an amount equal to any such payment made by it, together with the Bank's cost of funding such payment until such payment by the Counterparty, which liability of the Counterparty shall, for the avoidance of doubt, form part of the Secured Obligations.
- 6.7 The Receiver shall in the exercise of his powers, authorities and discretions conform to any lawful regulations and directions from time to time made and given by the Bank.
- 6.8 The Bank may from time to time and at any time require any such Receiver to give security for the due performance of his duties as such Receiver and may fix the nature and amount of the security to be so given but the Bank shall not be bound in any case to require any such security.
- 6.9 All moneys received or recovered by the Bank or any Receiver in respect of the Secured Obligations on or after the Enforcement Date shall be held by the Bank or the Receiver (as applicable), and all moneys received by the Counterparty in respect of the Charged Property (other than moneys received pursuant to this clause 6.2) on or after the Enforcement Date shall forthwith be paid to (and, pending such payment, the Counterparty shall hold such moneys on trust for) the Receiver and shall be paid in accordance with the following order of priority:
- (a) first, in or towards satisfaction, *pro rata* according to their respective terms, of all amounts due and payable to the Bank and the Receiver in respect of their fees, costs and expenses as referred to in clause 9 hereof;
  - (b) second, to the Bank for the account of the Noteholders in respect of all amounts due and payable as Secured Obligations; and
  - (c) third, the surplus (if any) to the Counterparty.

## 7. **Continuance of Security**

Without prejudice to the generality of clause 2, this Floating Charge shall remain in force as a continuing security to the Bank notwithstanding any settlement of account or any other act, event or matter whatsoever, except only the execution by the Bank on behalf of the Noteholders under seal or otherwise of an absolute and unconditional release or the execution by or on behalf of the Bank of a receipt for all (and not part only) of the Secured Obligations.

## 8. **Warranties and Undertakings by the Counterparty**

- 8.1 The Counterparty warrants to the Bank on the date of this Floating Charge, each Drawdown Date and each date on which any Loan or Mortgage securing a Loan is segregated so as to form part of the Mortgage Pool that:

- (a) it has taken all necessary steps to enable it to charge as security the Charged Property in accordance with clause 3, and that it has taken no action or steps to prejudice the Bank's right, title and interest in and to the Charged Property;
- (b) the Charged Property does not comprise the whole (or substantially the whole) of the Counterparty's property;
- (c) it:
  - (i) has valid and marketable title to; and
  - (ii) is the sole absolute unencumbered proprietor of, free of any Encumbrances, adverse deed, decree or diligence in respect of,

the Charged Property; and
- (d) in the case of any Loan that it did not originate, it is the sole absolute, unencumbered proprietor, free of any Encumbrances, of all rights, title, interest, benefit and rights of action of a type referred to at clause 3.1(a) to (d) that the originator of that Loan had in respect of that Loan and the related Mortgage.

8.2 The Counterparty undertakes to the Bank that:

- (a) it shall not take any steps as a result of which the validity or effectiveness or enforceability of this Floating Charge or the ranking of the security created hereby shall be amended, terminated, postponed or discharged;
- (b) it shall ensure if it is a company to which section 99 or 111 of the Companies Act 1963 in Ireland applies that particulars of this Floating Charge will be registered in accordance with such section within 21 days of the date hereof and that if it is not such a company but is subject to a corresponding obligation under any other law and/or under its internal constitutional documents such corresponding particulars will be duly registered in accordance with the provisions of such law and/or such documents;
- (c) it shall ensure that the manner of disclosure of this Floating Charge, and of the negative pledge undertaking contained herein, in its annual financial statements shall be in such form as the Bank may reasonably require;
- (d) it shall pay within 30 days of the date hereof any and all stamp duty payable in connection with execution and delivery hereof; and
- (e) it shall pay all amounts it is liable to pay in respect of Taxation and local rates upon the due dates for payment thereof (or, in the event of the amount payable being the subject of contest or dispute in good faith, when the amount thereof has been determined).

9. **Fees and Expenses**

The Counterparty undertakes to the Bank that it will reimburse, pay or discharge all costs, charges, liabilities and expenses properly incurred by the Bank, the Receiver or any attorney, agent or delegate appointed by the Bank or any Receiver under this Floating Charge in connection with:

- (a) the perfection or protection of the security over the Mortgage Pool constituted by this Floating Charge where permitted or required in accordance with clause 3; and
- (b) the exercise, or the attempted or purported exercise, or the consideration of the exercise, by or on behalf of the Bank or the Receiver of any of the powers of the Bank or the Receiver where such exercise is permitted pursuant to the provisions hereof,

together with any value added tax or similar tax charged or chargeable in respect thereof.

## 10. **Liability**

The Counterparty shall have no liability for any obligation of a Mortgage Borrower under any Loan or Mortgage or any Related Security forming part of the Mortgage Pool and nothing herein shall constitute a guarantee, or similar obligation, by the Counterparty of any such Loan or Mortgage or Related Security therefor or of any Mortgage Borrower or any other person.

## 11. **The Bank**

- 11.1 The Bank shall be entitled to rely on the opinion or advice of any professional or financial or other advisers selected by it which is given in connection with this Floating Charge and shall not be liable to the Counterparty for any of the consequences of such reliance or for relying on any communication or document believed by it to be genuine and correct and to have been communicated or signed by the person by whom it purports to be communicated or signed.
- 11.2 The Bank shall (save as expressly otherwise provided herein) as regards all rights, powers, authorities and discretions vested in it by this Floating Charge, or by operation of law, have complete discretion as to the exercise or non-exercise thereof.
- 11.3 Any consent given by the Bank for the purposes of this Floating Charge may be given on such terms and subject to such conditions (if any) as the Bank thinks fit and, notwithstanding anything to the contrary contained herein may be given retrospectively.
- 11.4 The Bank shall not be under any obligation to effect or to require any other person to maintain insurance in respect of any of the Charged Property.

## 12. **Protection of Third Parties**

- 12.1 The powers of sale and of appointing a receiver which are conferred upon the Bank or the Receiver as varied and extended by this Floating Charge and all other powers under this Floating Charge shall in favour of any purchaser be deemed to arise and be exercisable immediately after the execution of this Floating Charge.
- 12.2 No purchaser from, or other person dealing with, the Bank and/or the Receiver shall be concerned to enquire whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable, or whether the Secured Obligations remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise or purported exercise of any such power; and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.
- 12.3 The receipt of the Bank or the Receiver shall be an absolute and conclusive discharge to a purchaser or such person and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Bank or the Receiver.

**13. Protection of the Bank and Receiver**

- 13.1 Neither the Bank nor any Receiver shall be liable in respect of any loss or damage which arises out of the exercise or attempted or purported exercise of, or the failure to exercise, any of their respective powers, unless such loss or damage is caused by its or his negligence, wilful default, fraud or breach of obligations under this Floating Charge. The provisions of this clause 13.1 shall be applicable also to any delegate, agent or sub-delegate of the Bank as is mentioned in clause 13.3.
- 13.2 Without prejudice to clause 13.1, entry into possession of the Charged Property shall not render the Bank or the Receiver liable to account as mortgagee or security holder in possession or to be liable for any loss on realisation or for any default or omission for which a mortgagee or security holder in possession might be liable; and if and whenever the Bank or the Receiver enters into possession of the Charged Property, it shall be entitled at any time (to the extent competent under applicable law) to go out of such possession.
- 13.3 The Bank may, in the execution of all or any of the trusts, powers, authorities and discretions vested in it by this Floating Charge act by responsible officers or a responsible officer for the time being of the Bank. The Bank may also whenever it thinks expedient whether by power of attorney or otherwise, for a period not exceeding 12 months, delegate to any person or persons all or any of the trusts, rights, powers, duties, authorities and discretions vested in it by this Floating Charge or appoint any agent in respect thereof. Any such delegation or appointment may be made upon such terms and conditions and subject to such regulations (including power to sub-delegate) as the Bank may think fit. The Bank shall give prompt notice to the Counterparty of the appointment of any delegate or agent as aforesaid and shall procure that any delegate shall also give prompt notice of the appointment of any sub-delegate to the Counterparty.
- 13.4 The Bank shall not, and no director, officer or employee of the Bank shall, be in any way precluded from making any contracts or entering into any transactions in the ordinary course of business with the Borrower.
- 13.5 The powers conferred by this Floating Charge upon the Bank shall be in addition to any powers which from time to time be vested in it by general law.

**14. Further Assurances**

- 14.1 The Counterparty further undertakes to the Bank and every Receiver from time to time upon written demand to execute, at its own cost, any document or do any act or thing which (a) the Bank may reasonably specify (subject to clause 4) with a view to perfecting or protecting any charge or security created or intended to be created by this Floating Charge or its ranking, or as may be necessary or reasonable to give full effect to the arrangements contemplated by this Floating Charge or (b) the Bank or Receiver may reasonably specify with a view to facilitating the exercise, or the proposed exercise, of any of their respective powers.
- 14.2 The Counterparty hereby irrevocably appoints the Bank whether or not a Receiver has been appointed, and separately also the Receiver, to be the attorney of the Counterparty with effect on and from the Enforcement Date to do any acts, matters or things which the Bank considers in each case necessary or desirable for the protection or preservation of the Bank's interest in the Mortgages forming part of the Mortgage Pool and their Related Security or which ought to be done under the provisions of this Floating Charge and in its name or otherwise and on its behalf to sign, seal, execute, deliver, perfect, enter into and do all documents, deeds and/or instruments, acts and things which the Counterparty may or ought to do under the undertakings and provisions contained in this Floating Charge and generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or

pursuant to this Floating Charge or by any statute or common law on the Bank or any Receiver or which may be required or which the Bank shall deem fit for carrying any sale, lease, charge, mortgage or dealing by the Bank or by any Receiver into effect or for giving to the Bank or any Receiver the full rights and benefit of this Floating Charge and generally to use the name of the Counterparty in the exercise of all or any of the powers, authorities or discretions conferred on the Bank or any Receiver and the Counterparty hereby ratifies and confirms and agrees to ratify and confirm whatsoever any action any such attorney shall do or purport to do by virtue of this clause 14.2 and all money properly expended by any such attorney shall be deemed to be expenses incurred by the Bank hereunder.

**15. Other Security, etc.**

15.1 This security is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, any other Encumbrance, right of recourse or other right whatsoever which the Bank may now or at any time hereafter hold or have (or would apart from this security hold or have) as regards the Counterparty or any other person in respect of the Secured Obligations. Notwithstanding the aforesaid, the Secured Obligations will not, in the absence of an express disapplication of clause 2.5(b) of the Framework Agreement, be secured by any Other Floating Charge.

15.2 The powers which this Floating Charge confers on the Bank and the Receiver are cumulative, without prejudice to their respective powers under any other security, right or remedy which the Bank and/or the Receiver may now or at any time hereafter hold for all or any part of the Secured Obligations, or the general law, and may be exercised as often as the Bank or the Receiver thinks appropriate. The Bank or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever; and the Counterparty acknowledges that the respective powers of the Bank and the Receiver shall in no circumstances whatsoever be suspended, waived or otherwise prejudiced by anything other than an express waiver or variation in writing.

15.3 No failure or delay by any party hereto in exercising any right, power, remedy or privilege under this Floating Charge or available at law shall impair such right, power, remedy or privilege or operate as a waiver thereto. The single or partial exercise of any right, power or remedy under this Floating Charge or at law shall not preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege under this Floating Charge or at law. The rights, powers, remedies and privileges provided in this Floating Charge are cumulative and not exclusive of any rights and remedies provided by law.

**16. Modification, Invalidity and Transfer**

16.1 No amendment, modification or variation of this Floating Charge shall be effective unless it is in writing and executed by or on behalf of the Bank and the Counterparty.

16.2 If any of the provisions of this Floating Charge becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions therein shall not in any way be affected or impaired. The invalid provisions shall, according to the intent and purpose of this Floating Charge, be replaced by such valid provision which in its economic effect comes as close as legally possible to that of the invalid provision. The same shall apply with respect to involuntary gaps herein.

16.3 The Bank may transfer and assign this Floating Charge and in any or all of its rights and interest herein to any company as the Bank may from time to time approve in writing and upon such terms and conditions, as it may think fit.

17. **Avoidance of Payments**

No assurance, security or payment which may be avoided or adjusted under any applicable law, and no release, settlement or discharge given or made by the Bank or any Receiver on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Bank or any Receiver to recover from the Counterparty (including any moneys which it may be compelled by due process of law to refund pursuant to the provisions of any law relating to liquidation, bankruptcy, insolvency or creditors' rights generally and any costs payable by it to or otherwise incurred in connection with such process) or to enforce the security created by or pursuant to this Floating Charge to the full extent of the Secured Obligations.

18. **Irish law provisions**

18.1 In the event:

- (a) that the laws of Ireland apply to:
  - (i) the Charged Property or any part of it; or
  - (ii) any of the security interests created by this Floating Charge; or
- (b) of the appointment in Ireland of a receiver, liquidator, examiner or similar officer to the Counterparty or over any or all of its assets,

the provisions of Chapter 3 (Obligations, powers and rights of mortgagee) of Part 10 (Mortgages) of the Irish Land and Conveyancing Act (as varied by the other provisions of this clause 18) and the other provisions of this clause 18 shall (notwithstanding anything to the contrary contained in this Floating Charge but, for the avoidance of doubt, without prejudice to any rights and powers otherwise afforded to the Bank or any Receiver pursuant to this Floating Charge) apply to this Floating Charge.

18.2 The provisions of sections 96(1)(c) (Powers and rights generally), 97 (Taking possession), 99(1) (Mortgagee in possession), 101 (Applications under sections 97 and 100), 103(2) (Obligations on selling), 106(3) (Mortgagee's receipts), 107 (Application of proceeds of sale) of the Irish Land and Conveyancing Act shall not apply to this Floating Charge.

18.3 The restrictions and any requirements to give notice to the Counterparty contained in sections 100 (Power of sale) of the Irish Land and Conveyancing Act shall not apply to this Floating Charge.

18.4 The Counterparty shall not be entitled to take any action in respect of the Charged Property pursuant to section 94 (Court order for sale) of the Irish Land and Conveyancing Act.

18.5 The restrictions contained in section 108(1) of the Irish Land and Conveyancing Act shall not apply to this Floating Charge.

18.6 In the case of powers conferred on the Receiver by the Irish Land and Conveyancing Act, such powers shall apply without the restrictions contained in the Irish Land and Conveyancing Act.

18.7 Section 108(7) of the Irish Land and Conveyancing Act shall not apply to the commission and/or remuneration of any Receiver appointed pursuant to this Floating Charge.

18.8 The provisions of clause 6.9 shall take effect as and by way of variation to the provisions of sections 106(3), 107 and 109 of the Irish Land and Conveyancing Act which provisions as so

varied and extended shall be deemed incorporated herein and as regards section 109 as if they related to a receiver of the Charged Property and not merely a receiver of the income thereof.

18.9 All the protection to buyers contained in sections 104, 105 and 106(1) of the Irish Land and Conveyancing Act shall apply to any person purchasing from or dealing with the Receiver or the Bank. For the purposes of this clause 18.9, “**buyer**” includes any person acquiring for money or money’s worth, any lease of, or encumbrance over, or any other interest or right whatsoever in relation to, the Charged Property.

18.10 Notwithstanding anything to the contrary contained in the Irish Land and Conveyancing Act, the Bank reserves the right to consolidate mortgage securities without restriction.

**19. Governing Law and Jurisdiction**

19.1 This Floating Charge and any non-contractual obligations arising from or in connection with it shall be governed by and construed in accordance with the laws of Scotland.

19.2 The Courts of Scotland shall have non-exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) which may arise in connection with the creation, validity, effect, interpretation or performance of this Floating Charge or the legal relationships established herein or otherwise arising in connection herewith (including, without limitation, any non-contractual obligations arising from or in connection with this Floating Charge), and for such purposes the parties hereto irrevocably submit to the non-exclusive jurisdiction of the Scottish Courts.

**IN WITNESS WHEREOF** these presents consisting of this and the [ ]<sup>2</sup> preceding pages are executed as follows and delivered:-

The common seal  
of **[Counterparty]**  
was affixed to this Floating Charge  
and this Floating Charge was delivered:

Director ..... Full Name .....  
(Signature)

Director/Secretary ..... Full Name .....  
(Signature)

The common seal  
of **CENTRAL BANK OF IRELAND**  
was affixed to this Floating Charge  
and this Floating Charge was delivered:

Witness:

Occupation:

Address:

\_\_\_\_\_

<sup>2</sup> Number of pages to be inserted in the execution draft.

### Part 3

#### Form of Deed of Charge in respect of Property in England and Wales

THIS DEED OF CHARGE is made on [ ] 201[X]

**BETWEEN:**

- (1) [COUNTERPARTY] having its registered [or principal] office at [address] (the "Counterparty"), and
- (2) CENTRAL BANK OF IRELAND of PO Box 559, Dame Street, Dublin 2 in its capacity as trustee for the Noteholders (the "Bank").

WHEREAS it is proposed that the Counterparty would borrow certain amounts on the security of this Deed of Charge which is issued to the Bank as trustee for the Noteholders.

NOW THIS DEED OF CHARGE WITNESSES AND IT IS HEREBY AGREED AND DECLARED as follows:

**1. Definitions and Interpretation**

- 1.1 In this Deed of Charge terms defined in the Framework Agreement (as defined herein) shall have the same meanings, and the following expressions shall have the following meanings:

"Charged Property" means the property, assets and rights of the Counterparty for the time being comprised in or subject to the charges contained in clause 3 of this Deed of Charge, and references to the Charged Property include references to any part of it;

"Deed of Charge" means these presents as amended, supplemented, novated, extended or restated from time to time;

"Deed of Postponement" or "Deed of Confirmation" means any agreement, deed or letter of consent and postponement given in connection with a Mortgage whereby any mortgagee of the property who is not a party to the relevant Mortgage, has agreed to postpone his interest (if any) in the relevant Property so that it ranks after that of the Counterparty;

"Drawdown Date" means the date on which any Special Mortgage-Backed € Promissory Note is issued by the Counterparty;

"Encumbrance" means any mortgage, sub-mortgage, charge (whether legal or equitable), sub-charge (whether legal or equitable), pledge, lien, encumbrance, hypothecation, assignment by way of security, right of set-off or other security interest of any kind whatsoever or any agreement, trust or arrangement having the effect (economic or otherwise) of providing any security interest;

"Enforcement Date" means the date on which, following the occurrence of an Event of Default, the Bank declares the security hereby created to be enforceable pursuant to clause 8.3 of the Framework Agreement;

"Framework Agreement" means the framework agreement dated the date of this Deed of Charge made between the Bank and the Counterparty for the purpose of regulating the issue of Special Mortgage-Backed € Promissory Notes in respect of which the amounts outstanding

thereunder are intended to be secured hereunder, and related matters, and shall include any documents which amend or are supplemental to such agreement;

**“Initial Mortgage Pool”** means the Loans and Mortgages securing such Loans which have been initially selected and segregated by the Counterparty and set out in the Initial Mortgage Schedule to be charged to the Bank pursuant to the Deed of Charge;

**“Initial Mortgage Schedule”** means the schedule supplied by the Counterparty to the Bank setting out the details specified in Appendix 4 to the Framework Agreement (as such specification may from time to time be amended by written notice from the Bank to the Counterparty, or supplemented by guidance issued by the Bank to the Counterparty, in accordance with the terms of the Framework Agreement) of the Initial Mortgage Pool;

**“Insurance Company”** means the provider of any Insurance Contract;

**“Insurance Contract”** means the insurance policies effected by the Mortgage Borrowers from time to time in relation to any Loan in accordance with the Mortgage Conditions;

**“Irish Land and Conveyancing Act”** means the Land and Conveyancing Law Reform Act 2009 of Ireland;

**“Mortgage”** means the first legal mortgage or charge of freehold or long leasehold residential property which is located in England or Wales and which is security for any Loan;

**“Noteholders”** means the Bank and any body corporate which the Bank may approve from time to time to which any Special Mortgage-Backed € Promissory Note has been transferred;

**“Property”** means in relation to a Mortgage the freehold property or leasehold property upon which the Loan(s) of the Mortgage Borrower are secured, and the expression **“the Properties”** shall be construed accordingly;

**“Receiver”** means any one or more persons, individually or together with individual persons appointed as a receiver under or pursuant to this Deed of Charge in respect of all or any part of the Charged Property and includes any substituted receiver;

**“Related Security”** in relation to a Loan means (i) any guarantee of the obligations of the Mortgage Borrower specified in the Mortgage Conditions for such Loan and (ii) any other document in existence from time to time which is referred to in the Mortgage Conditions as being security for the Loan but not Other Lending together with all right, title, benefit and interest ancillary or supplemental to, and all powers and remedies for enforcing, the above;

**“Secured Obligations”** means all present and future liabilities whatsoever of the Counterparty to any Noteholder represented by a Special Mortgage-Backed € Promissory Note issued in accordance with the terms of the Framework Agreement which become due, owing or payable by the Counterparty to the Bank under or in respect of, and subject to the terms and conditions of, this Deed of Charge;

**“Special Mortgage-Backed € Promissory Notes”** means special mortgage-backed € promissory notes, being instruments acknowledging indebtedness of the Counterparty, substantially in the form set out in Appendix 1 to the Framework Agreement or in such other form as may be agreed from time to time; and

**“Taxation”** includes any tax, levy, impost, duty, deduction or withholding of any nature which the Counterparty is obliged to pay or account for to any revenue commissioners or any other agency or instrumentality of government in Ireland or the United Kingdom.

- 1.2 Clause headings are for ease of reference only.
- 1.3 In this Deed of Charge:
- (a) words denoting the singular number only shall include the plural number also and vice versa; and
  - (b) words denoting one gender only shall include the other gender.
- 1.4 The words "hereof", "hereunder" and similar words shall be construed as references to this Deed of Charge as a whole and not limited to the particular clause, sub-clause, paragraph or provision in which the relevant reference appears.
- 1.5 References to a "company" shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established.
- 1.6 Reference to any statute or statutory provision (including any subordinate legislation) shall unless otherwise stated be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted or any statutory instrument, order or regulation made thereunder or under any such statutory amendment, modification or re-enactment.
- 1.7 Any reference to the Bank includes its permitted successors, transferees and assignees.

## 2. **Covenant to Pay**

The Counterparty covenants with the Bank that it will duly and punctually pay and discharge the Secured Obligations in accordance with their terms.

## 3. **Security**

### *Mortgages, their Related Security and the Insurance Contracts*

- 3.1 The Counterparty, as legal and beneficial owner and subject in each case to clause 4, as a continuing security for the discharge and payment of the Secured Obligations, hereby charges by way of first floating charge to the Bank:
- (a) all its right, title, interest and benefit, present and future, in and to each of the Mortgages and the related Loans forming part of the Mortgage Pool, from time to time and the Counterparty's interest in the Properties intended to constitute the security for such Loans and the benefit of all covenants relating thereto and any rights or remedies of the Counterparty for enforcing the same, including, without limitation, the benefit of all Related Security for each Loan;
  - (b) all its right, title, interest and benefit, present and future, in the Insurance Contracts, the sums thereby insured and all bonuses and other moneys payable or to become payable under the same together with the full benefit thereof and all powers and provisions contained in or conferred by the same;
  - (c) all causes and rights of action, present or future, (and the net proceeds thereof) of the Counterparty against any person in connection with any report, valuation, opinion, certificate, undertaking, consent or other statement of fact or opinion given in connection with any Mortgage forming part of the Mortgage Pool or affecting the Counterparty's decision to enter into any such Mortgage; and

- (d) all its rights, title, interest and the benefit present and future in and to any Deed of Postponement or Deed of Confirmation in relation to any Mortgage forming part of the Mortgage Pool.

#### *Crystallisation of Floating Charge by Notice*

- 3.2 The Bank may at any time by written notice to the Counterparty convert the floating charge created by clause 3.1 (the "**Floating Charge**") into a fixed charge as regards all or any part of the Charged Property specified in such notice (and if no Charged Property is so specified, such notice shall take effect in respect of all of the Charged Property) upon occurrence of an Event of Default.

#### *Automatic crystallisation*

- 3.3 If, without the Bank's prior written consent:
  - (a) any person levies (or attempts to levy) any distress, attachment, execution or other process against any Charged Property; or
  - (b) an administrator is appointed to the Counterparty or the Bank receives notice of intention to appoint an administrator,

then the floating charge created by clause 3.1 shall automatically and immediately, without any requirement for notice, be converted into a fixed charge in respect of such Charged Property.

#### *Reconversion*

- 3.4 Where the floating charge created by clause 3.1 has crystallised under clause 3.2 or clause 3.3, it may be reconverted into a floating charge by written notice given at any time by the Bank to the Counterparty, in respect of the Charged Property specified in such notice.

#### *No Transfer of Obligations to the Bank or Receiver*

- 3.5 The Bank and any Receiver appointed pursuant to this Floating Charge does not, by reason of this Deed of Charge, assume, nor shall the Bank or the Receiver be obliged to perform, any obligation, duty or liability (including, without limitation, the making of Further Advances to Mortgage Borrowers) of any person (including, without limitation, the Counterparty) arising under any contract, agreement or other document included in, or relating to, the Charged Property by reason of this Deed of Charge, nor shall the Bank be obliged to take any action to collect or enforce any such contract, agreement or other document.

#### *Further Advances*

- 3.6 Notwithstanding the provisions of clause 3.1, the Bank hereby acknowledges that the Counterparty may from time to time effect Further Advances in respect of Mortgages.

#### *Restriction on Notice and Registration*

- 3.7 The Bank undertakes to the Counterparty that prior to the Enforcement Date it will not and it will not require the Counterparty to:
  - (a) give or cause to be given any notice of charge or sub-charge of any Mortgage forming part of the Mortgage Pool or its Related Security whether to the relevant Mortgage Borrower, any guarantor, any insurance company or any other person; or

- (b) take any steps
  - (i) to apply to register the Bank at the Land Registry as proprietor of any Mortgage forming part of the Mortgage Pool having registered title or effect any registration at the Land Registry in respect of this Deed of Charge;
  - (ii) to complete an assignment by way of security of any Mortgage or its Related Security; or
  - (iii) to apply to effect registration at the Land Registry in respect of any Mortgage having unregistered title or to effect any other registration at the Land Registry in respect of such Mortgage or its Related Security.

#### 4. **Release on Redemption**

Upon the Bank being satisfied that there has been a full and final payment and discharge by the Counterparty of the Secured Obligations, the Bank at the request and cost of the Counterparty shall release or discharge the Charged Property to the Counterparty or any other person entitled thereto. Any payment or realisation in respect of the Secured Obligations which in the reasonable opinion of the Bank is liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably settled or discharged until the expiry of the period during which it may be challenged on any such ground.

#### 5. **Negative Pledge**

5.1 During the subsistence of the security constituted by this Deed of Charge, otherwise than with the prior written consent of the Bank, the Counterparty shall:-

- (a) not create or attempt to create or permit to arise or subsist any Encumbrance on or over the Charged Property or any part thereof; or
- (b) not, otherwise than in the ordinary course of business, sell, transfer, lend or otherwise dispose of the Charged Property or any part thereof or redeem, agree to redeem or accept repayment in whole or in part of any Loan or attempt or agree to do so whether by means of one or a number of transactions related or not and whether at one time or over a period of time.

5.2 None of the foregoing prohibitions in this clause shall be construed as limiting any powers exercisable by any Receiver appointed by the Bank under or pursuant to this Deed of Charge.

#### *Priority*

5.3 Any Encumbrance over the Charged Property created by the Counterparty after the date of this Deed of Charge (except any Encumbrance in favour of the Bank shall be expressed to be subject to this Deed of Charge, and shall rank and have priority in relation to the Charged Property after this Deed of Charge.

#### 6. **Enforcement**

##### *Enforceable*

6.1 This Deed of Charge shall become enforceable, and the power of sale and other powers conferred by section 101 of the Law of Property Act 1925, as varied and extended by this Deed of Charge, shall be exercisable immediately upon or at any time after:

- (a) an Event of Default occurring; or
- (b) the Counterparty requesting the Bank to appoint a Receiver.

*Law of Property Act*

6.2 The powers conferred by section 101 of the Law of Property Act 1925, as varied and extended by this Deed of Charge, shall be deemed to have arisen immediately upon execution of this Deed of Charge, and sections 93, 103 and 109 of that Act shall not apply to this Deed of Charge, but the statutory power of sale shall not be exercisable until the security created by this Deed of Charge has become enforceable.

*Rights upon enforcement*

6.3 At any time after this Deed of Charge has become enforceable, the Bank shall be entitled, without any notice to, demand on or consent of the Counterparty, either in its own name or in name of the Counterparty or otherwise, and in such manner and on such terms and conditions as it thinks fit, to take possession of and realise the Charged Property and apply the proceeds of realisation in or towards payment or satisfaction of the Secured Obligations in accordance with clause 8.2, and in particular, without limiting the generality:

- (a) to do all things it may consider necessary or expedient for the realisation of the Charged Property or incidental to the exercise of any of the rights conferred on it under or in connection with this Deed, the Law of Property Act 1925 or the Insolvency Act 1986; and
- (b) generally to exercise all the rights powers and discretions in respect of the Charged Property it would be entitled to exercise if it were the absolute owner of the Charged Property (including, without limitation, all the powers given to trustees by law in respect of securities or property subject to a trust).

*Extension of powers of sale*

6.4 The statutory powers of sale, leasing and accepting surrenders exercisable by the Bank by virtue of this Deed of Charge are extended so as to authorise the Bank (whether in its own name or in name of the Counterparty) to:

- (a) grant a lease of any freehold or leasehold property vested in the Counterparty or in which it has an interest on such terms and conditions as the Bank shall think fit; and
- (b) sever any fixtures from any freehold or leasehold property vested in the Counterparty and sell them separately.

*Relationship to Receiver*

6.5 All rights, powers and discretions expressly and impliedly conferred on a Receiver by this Deed of Charge or by law may be exercised by the Bank in respect of any Charged Property after this Deed of Charge becomes enforceable, without first appointing a Receiver and notwithstanding that a Receiver may have been appointed.

**7. Appointment of Receiver**

*Appointment*

- 7.1 At any time after this Deed of Charge has become enforceable the Bank shall be entitled to appoint one or more persons as a Receiver or Receivers in respect of Charged Property.
- 7.2 The appointment of a Receiver or Receivers shall be effected by the Bank by written instrument or notice in accordance with and in such form as may be prescribed under the Insolvency Act 1986. If any such person so appointed as Receiver is removed from office or otherwise ceases to act, the Bank shall be entitled (subject to the provisions of the Insolvency Act 1986) to appoint a replacement in the same manner.

*Power to act separately*

- 7.3 Where more than one Receiver is appointed, the appointees shall have power to act separately unless the Bank shall specify to the contrary.

*Receiver's remuneration*

- 7.4 The Bank may from time to time determine the remuneration of a Receiver and the maximum rate specified in section 109(6) of the Law of Property Act 1925 shall not apply.

*Removal of Receiver*

- 7.5 The Bank may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Charged Property of which he/she is the Receiver.

*Further appointments of Receiver*

- 7.6 Appointment of a Receiver hereunder shall not preclude:
- (a) the Bank from making any subsequent appointment of a Receiver over all or any Charged Property over which a Receiver has not previously been appointed or has ceased to act; or
  - (b) the appointment of an additional Receiver to act while the first Receiver continues to act.

*Receiver's agency*

- 7.7 Every Receiver shall be the agent of the Counterparty (which shall be solely liable for his/her acts, defaults and remuneration) unless and until the Counterparty goes into liquidation, after which time he/she shall act as principal and shall not become the agent of the Bank.

*Relationship with the Bank*

- 7.8 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed of Charge (either expressly or impliedly) or by law on a Receiver may after this Deed of Charge becomes enforceable be exercised by the Bank in relation to any Charged Property without first appointing a Receiver, and notwithstanding the appointment of a Receiver.

**8. Powers of Receiver**

- 8.1 Every Receiver may exercise, in relation to the Charged Property over which he/she is appointed, all the powers, rights and discretions conferred by law, including those conferred on a Receiver by the Law of Property Act 1925, and on a receiver under the Insolvency Act 1986, in particular those set out in Schedule 1 to that Act and in addition to and without

limiting such powers, every Receiver may, with or without the concurrence of any other person:

- (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Charged Property without the need to observe any of the provisions of sections 99 and 100 of the Law of Property Act 1925 in such manner and generally on such terms and conditions as he/she shall think fit in his/her absolute and unfettered discretion and any such sale or disposition may be for cash, shares, stock, bonds, debentures or other securities and investments of any kind or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of the Counterparty;
- (b) promote or procure the incorporation of any new company (whether or not a subsidiary of the Counterparty), subscribe for or otherwise acquire shares, stock, debentures, loan stock or other securities in any such company in name of the Counterparty, or the Receiver or its or his/her nominee or trustee, and procure the purchase, lease, licence of acquisition of all or any of the Charged Property by any such company for a consideration in cash, shares, stock, debentures, loan stock or other securities, shares of profits of sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such company, payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- (c) sever any fixtures from any freehold or leasehold property and/or sell them separately;
- (d) effect any arrangement or compromise with the Bank or other person as he/she shall think fit;
- (e) effect all repairs, renewals and improvements to the Charged Property and take out, renew or increase insurances on such terms and against such risks as he/she shall think fit;
- (f) appoint agents or managers, for the foregoing purposes at such remuneration as he/she may determine;
- (g) pay the reasonable administrative charges of the Bank in respect of time spent by its agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Counterparty;
- (h) commence and/or complete any building operations upon any freehold or leasehold Charged Property and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he/she may in his/her absolute discretion think fit;
- (i) do all such other acts and things he/she may consider to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property;
- (j) generally, without prejudice to the other provisions of this clause to exercise all the rights, powers and discretions in respect of the Charged Property it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Charged

Property and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Obligations; and

- (k) in respect of any of the Charged Property situated in or governed by the law of any foreign jurisdiction to exercise in addition to the foregoing powers, all the powers conferred by the Insolvency Act 1986 or any other enactment or rule of law on receivers (or analogous officers) in such jurisdiction,

and insofar as the laws of Ireland apply to the Charged Property or any part of it or any of the security interests created by this Deed or the appointment of the Receiver, exercise in addition to the foregoing powers, all the powers conferred by the Irish Land and Conveyancing Act (as modified by clause 21).

8.2 All moneys received or recovered by the Bank or any Receiver in respect of the Secured Obligations on or after the Enforcement Date shall be held by the Bank or the Receiver (as applicable), and all moneys received by the Counterparty in respect of the Charged Property (other than moneys received pursuant to this clause 6) on or after the Enforcement Date shall forthwith be paid to (and, pending such payment, the Counterparty shall hold such moneys on trust for) the Receiver and shall be paid in accordance with the following order of priority:

- (a) first, in or towards satisfaction, *pro rata* according to their respective terms, of all amounts due and payable to the Bank and the Receiver in respect of their fees, costs and expenses as referred to in clause 11 hereof;
- (b) second, to the Bank for the account of the Noteholders in respect of all amounts due and payable as Secured Obligations; and
- (c) third, the surplus (if any) to the Counterparty.

## 9. Continuation of Security

Without prejudice to the generality of clause 2, this Deed of Charge shall remain in force as a continuing security to the Bank notwithstanding any settlement of account or any other act, event or matter whatsoever, except only the execution by the Bank on behalf of the Noteholders under seal or otherwise of an absolute and unconditional release or the execution by or on behalf of the Bank of a receipt for all (and not part only) of the Secured Obligations.

## 10. Warranties and Covenants by the Counterparty

10.1 The Counterparty warrants to the Bank on the date of this Deed of Charge, each Drawdown Date and each date on which any Loan or Mortgage securing a Loan is segregated so as to form part of the Mortgage Pool that:

- (a) it has taken all necessary steps to enable it to charge as security the Charged Property in accordance with clause 3, and that it has taken no action or steps to prejudice the Bank's right, title and interest in and to the Charged Property;
- (b) the Charged Property does not comprise the whole (or substantially the whole) of the Counterparty's property;
- (c) it:
  - (i) has valid and marketable title to; and

- (ii) is the sole legal and beneficial owner of, free of any Encumbrances, adverse deed, decree or diligence in respect of,

the Charged Property; and

- (d) in the case of any Loan that it did not originate, it is the sole legal and beneficial owner, free of any Encumbrances, of all rights, title, interest, benefit and rights of action of a type referred to at clause 3.1(a) to (d) that the originator of that Loan had in respect of that Loan and the related Mortgage.

10.2 The Counterparty covenants with the Bank that:

- (a) it shall not take any steps as a result of which the validity or effectiveness or enforceability of this Deed of Charge or the priority of the security created hereby shall be amended, terminated, postponed or discharged;
- (b) it shall ensure if it is a company to which section 99 or 111 of the Companies Act 1963 in Ireland applies that particulars of this Deed of Charge will be registered in accordance with such section within 21 days of the date hereof and that if it is not such a company but is subject to a corresponding obligation under any other law and/or under its internal constitutional documents such corresponding particulars will be duly registered in accordance with the provisions of such law and/or such documents;
- (c) it shall ensure that the manner of disclosure of the Deed of Charge, and of the negative pledge covenant contained herein, in its annual financial statements shall be in such form as the Bank may reasonably require;
- (d) it shall pay within 30 days of the date hereof any and all stamp duty payable in connection with execution and delivery hereof;
- (e) it shall furnish to the Bank forthwith upon request to that effect from the Bank made upon or after the Enforcement Date, or upon or after service by the Bank of a notice upon the Counterparty pursuant to clause 3.2, notices to the Insurance Companies of the Bank's interest in respect of the Insurance Contracts and shall use its reasonable endeavours to obtain or procure return of acknowledgements to such notices if and when they are issued by the Bank; and
- (f) it shall pay all amounts it is liable to pay in respect of Taxation and local rates upon the due dates for payment thereof (or, in the event of the amount payable being the subject of contest or dispute in good faith, when the amount thereof has been determined).

11. **Fees and Expenses**

The Counterparty covenants with the Bank that it will reimburse, pay or discharge all costs, charges, liabilities and expenses properly incurred by the Bank, the Receiver or any attorney, manager, agent or delegate appointed by the Bank or any Receiver under this Deed of Charge in connection with:

- (a) the perfection or protection of the security over the Mortgage Pool constituted by this Deed of Charge where permitted or required in accordance with clause 3; and

- (b) the exercise, or the attempted or purported exercise, or the consideration of the exercise, by or on behalf of the Bank or the Receiver of any of the powers of the Bank or the Receiver where such exercise is permitted pursuant to the provisions hereof,

together with any value added tax or similar tax charged or chargeable in respect thereof.

**12. Liability**

The Counterparty shall have no liability for any obligation of a Mortgage Borrower under any Loan or Mortgage or any Related Security forming part of the Mortgage Pool and nothing herein shall constitute a guarantee, or similar obligation, by the Counterparty of any such Loan or Mortgage or Related Security therefor or of any Mortgage Borrower or any other person.

**13. The Bank**

13.1 The Bank shall be entitled to rely on the opinion or advice of any professional or financial or other advisers selected by it which is given in connection with this Deed of Charge and shall not be liable to the Counterparty for any of the consequences of such reliance or for relying on any communication or document believed by it to be genuine and correct and to have been communicated or signed by the person by whom it purports to be communicated or signed.

13.2 The Bank shall (save as expressly otherwise provided herein) as regards all rights, powers, authorities and discretions vested in it by this Deed of Charge, or by operation of law, have complete discretion as to the exercise or non-exercise thereof.

13.3 Any consent given by the Bank for the purposes of this Deed of Charge may be given on such terms and subject to such conditions (if any) as the Bank thinks fit and, notwithstanding anything to the contrary contained herein may be given retrospectively.

13.4 The Bank shall not be under any obligation to effect or to require any other person to maintain insurance in respect of any of the Charged Property.

**14. Protection of Third Parties**

14.1 The statutory powers of sale and of appointing a receiver which are conferred upon the Bank or the Receiver as varied and extended by this Deed of Charge and all other powers under this Deed of Charge shall in favour of any purchaser be deemed to arise and be exercisable immediately after the execution of this Deed of Charge.

14.2 No purchaser from, or other person dealing with, the Bank and/or the Receiver shall be concerned to enquire whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable, or whether the Secured Obligations remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise or purported exercise of any such power; and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters. All the protection to purchasers contained in sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with the Bank or any Receiver or its or his/her nominee or delegate as if the Secured Obligations had become due and the statutory powers of sale in relation to the Charged Property had arisen on the date of this Deed of Charge.

14.3 The receipt of the Bank or the Receiver shall be an absolute and conclusive discharge to a purchaser or such person and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Bank or the Receiver.

**15. Protection of the Bank and Receiver**

- 15.1 Neither the Bank nor any Receiver shall be liable in respect of any loss or damage which arises out of the exercise or attempted or purported exercise of, or the failure to exercise, any of their respective powers, unless such loss or damage is caused by its or his negligence, wilful default, fraud or breach of obligations under this Deed of Charge. The provisions of this clause 15.1 shall be applicable also to any delegate, agent or sub-delegate of the Bank as is mentioned in clause 15.3.
- 15.2 Without prejudice to clause 15.1, entry into possession of the Charged Property shall not render the Bank or the Receiver liable to account as mortgagee in possession or to be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable; and if and whenever the Bank or the Receiver enters into possession of the Charged Property, it shall be entitled at any time to go out of such possession.
- 15.3 The Bank may, in the execution of all or any of the trusts, powers authorities and discretions vested in it by this Deed of Charge act by responsible officers or a responsible officer for the time being of the Bank. The Bank may also whenever it thinks expedient whether by power of attorney or otherwise, for a period not exceeding 12 months, delegate to any person or persons all or any of the trusts, rights, powers, duties, authorities and discretions vested in it by this Deed of Charge or appoint any agent in respect thereof. Any such delegation or appointment may be made upon such terms and conditions and subject to such regulations (including power to sub-delegate) as the Bank may think fit. The Bank shall give prompt notice to the Counterparty of the appointment of any delegate or agent as aforesaid and shall procure that any delegate shall also give prompt notice of the appointment of any sub-delegate to the Counterparty.
- 15.4 The Bank shall not, and no director, officer or employee of the Bank shall, be in any way precluded from making any contracts or entering into any transactions in the ordinary course of business with the Borrower.
- 15.5 The powers conferred by this Deed of Charge upon the Bank shall be in addition to any powers which from time to time be vested in it by general law.

**16. Further Assurances**

- 16.1 The Counterparty further covenants with the Bank and every Receiver from time to time upon written demand to execute, at its own cost, any document or do any act or thing which (a) the Bank may reasonably specify (subject to clause 3.7) with a view to perfecting or protecting any charge or security created or intended to be created by this Deed of Charge or its priority, or as may be necessary or reasonable to give full effect to the arrangements contemplated by this Deed of Charge or (b) the Bank or Receiver may reasonably specify with a view to facilitating the exercise, or the proposed exercise, of any of their respective powers.
- 16.2 The obligations of the Counterparty under this Deed shall be in addition to and not in substitution for the covenants for further assurance deemed to be included herein by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.
- 16.3 The Counterparty hereby by way of security for the performance of its obligations under this Deed of Charge irrevocably appoints the Bank whether or not a Receiver has been appointed, and separately also the Receiver, to be the attorney of the Counterparty with effect on and from the Enforcement Date to do any acts, matters or things which the Bank considers in each case necessary or desirable for the protection or preservation of the Bank's interest in the Mortgages forming part of the Mortgage Pool and their Related Security or which ought to be done under the provisions of this Deed of Charge and in its name or otherwise and on its

behalf and as its act and deed to sign, seal, execute, deliver, perfect, enter into and do all documents, deeds, and/or instruments, acts and things which the Counterparty may or ought to do under the covenants and provisions contained in this Deed of Charge and generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed of Charge or by any statute or common law on the Bank or any Receiver or which may be required or which the Bank shall deem fit for carrying any sale, lease, charge, mortgage or dealing by the Bank or by any Receiver into effect or for giving to the Bank or any Receiver the full rights and benefit of this Deed of Charge and generally to use the name of the Counterparty in the exercise of all or any of the powers, authorities or discretions conferred on the Bank or any Receiver and the Counterparty hereby ratifies and confirms and agrees to ratify and confirm whatsoever any action any such attorney shall do or purport to do by virtue of this clause 16.3 and all money properly expended by any such attorney shall be deemed to be expenses incurred by the Bank hereunder.

**17. Other Security, etc.**

17.1 This security is in addition to, and shall neither be merged in, nor in any way exclude or prejudice, any other Encumbrance, right of recourse or other right whatsoever which the Bank may now or at any time hereafter hold or have (or would apart from this security hold or have) as regards the Counterparty or any other person in respect of the Secured Obligations. Notwithstanding the aforesaid, the Secured Obligations will not, in the absence of an express disapplication of clause 2.5(b) of the Framework Agreement, be secured by any Other Deed of Charge.

17.2 The powers which this Deed of Charge confers on the Bank and the Receiver are cumulative, without prejudice to their respective powers under any other security, right or remedy which the Bank and/or the Receiver may now or at any time hereafter hold for all or any part of the Secured Obligations, or the general law, and may be exercised as often as the Bank or the Receiver thinks appropriate. The Bank or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever; and the Counterparty acknowledges that the respective powers of the Bank and the Receiver shall in no circumstances whatsoever be suspended, waived or otherwise prejudiced by anything other than an express waiver or variation in writing.

17.3 No failure or delay by any party hereto in exercising any right, power, remedy or privilege under this Deed of Charge or available at law shall impair such right, power, remedy or privilege or operate as a waiver thereto. The single or partial exercise of any right, power or remedy under this Deed of Charge or at law shall not preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege under this Deed of Charge or at law. The rights, powers, remedies and privileges provided in this Deed of Charge are cumulative and not exclusive of any rights and remedies provided by law.

**18. Modification, Invalidity and Transfer**

18.1 No amendment, modification or variation of this Deed of Charge shall be effective unless it is in writing and executed by or on behalf of each of the parties hereto.

18.2 If any of the provisions of this Deed of Charge becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions therein shall not in any way be affected or impaired. The invalid provisions shall, according to the intent and purpose of this Deed of Charge, be replaced by such valid provision which in its economic effect comes as close as legally possible to that of the invalid provision. The same shall apply with respect to involuntary gaps herein.

18.3 The Bank may transfer and assign this Deed of Charge and in any or all of its rights and interest herein to any company as the Bank may from time to time approve in writing and upon such terms and conditions, as it may think fit.

**19. Safe Custody of Documents**

19.1 The Bank hereby undertakes with the Counterparty for the safe custody of such documents of title relating to the Charged Property of which it retains possession or control.

19.2 The parties agree that in the event of the loss or destruction of, or injury to, the documents of title relating to the Charged Property, the Bank shall have no liability to the Counterparty:

(a) if the loss, destruction or injury occurred:

(i) prior to the actual receipt of the documents of title in question by the Bank from the Counterparty or the Counterparty's solicitor; or

(ii) after the documents of title in question have been given by the Bank to some other person at the written request of the Counterparty and before the documents have been received back by the Bank,

(b) for any damage suffered by the Counterparty as a result of the loss or destruction of, or injury to, the documents of title in question where such damages:

(i) do not directly and naturally result from that loss, destruction or injury; or

(ii) relate to loss of profit or expected profit from the Counterparty's business or from the development of the Charged Property.

19.3 This clause 19 shall, to the extent competent under applicable law, be regarded as an undertaking for safe custody of documents of title given under section 84 of the Irish Land and Conveyancing Act.

**20. Avoidance of Payments**

No assurance, security or payment which may be avoided or adjusted under any applicable law, and no release, settlement or discharge given or made by the Bank or any Receiver on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Bank or any Receiver to recover from the Counterparty (including any moneys which it may be compelled by due process of law to refund pursuant to the provisions of any law relating to liquidation, bankruptcy, insolvency or creditors' rights generally and any costs payable by it to or otherwise incurred in connection with such process) or to enforce the security created by or pursuant to this Deed of Charge to the full extent of the Secured Obligations.

**21. Irish law provisions**

21.1 In the event:

(a) that the laws of Ireland apply to:

(i) the Charged Property or any part of it; or

(ii) any of the security interests created by this Deed; or

- (b) of the appointment in Ireland of a receiver, liquidator, examiner or similar officer to the Counterparty or over any or all of its assets,

the provisions of Chapter 3 (Obligations, powers and rights of mortgagee) of Part 10 (Mortgages) of the Irish Land and Conveyancing Act (as varied by the other provisions of this clause 21) and the other provisions of this clause 21 shall (notwithstanding anything to the contrary contained in this Deed but, for the avoidance of doubt, without prejudice to any rights and powers otherwise afforded to the Bank or any Receiver pursuant to this Deed) apply to this Deed.

- 21.2 The provisions of sections 96(1)(c) (Powers and rights generally), 97 (Taking possession), 99(1) (Mortgagee in possession), 101 (Applications under sections 97 and 100), 103(2) (Obligations on selling), 106(3) (Mortgagee's receipts), 107 (Application of proceeds of sale) of the Irish Land and Conveyancing Act shall not apply to this Deed.
- 21.3 The restrictions and any requirements to give notice to the Counterparty contained in sections 100 (Power of sale) of the Irish Land and Conveyancing Act shall not apply to this Deed.
- 21.4 The Counterparty shall not be entitled to take any action in respect of the Charged Property pursuant to section 94 (Court order for sale) of the Irish Land and Conveyancing Act.
- 21.5 The restrictions contained in section 108(1) of the Irish Land and Conveyancing Act shall not apply to this Deed.
- 21.6 In the case of powers conferred on the Receiver by the Irish Land and Conveyancing Act, such powers shall apply without the restrictions contained in the Irish Land and Conveyancing Act.
- 21.7 Section 108(7) of the Irish Land and Conveyancing Act shall not apply to the commission and/or remuneration of any Receiver appointed pursuant to this Deed.
- 21.8 The provisions of clause 8.2 shall take effect as and by way of variation to the provisions of sections 106(3), 107 and 109 of the Irish Land and Conveyancing Act which provisions as so varied and extended shall be deemed incorporated herein and as regards section 109 as if they related to a receiver of the Charged Property and not merely a receiver of the income thereof.
- 21.9 All the protection to buyers contained in sections 104, 105 and 106(1) of the Irish Land and Conveyancing Act shall apply to any person purchasing from or dealing with the Receiver or the Bank. For the purposes of this clause 21.9, "buyer" includes any person acquiring for money or money's worth, any lease of, or encumbrance over, or any other interest or right whatsoever in relation to, the Charged Property.
- 21.10 Notwithstanding anything to the contrary contained in the Irish Land and Conveyancing Act, the Bank reserves the right to consolidate mortgage securities without restriction.

## 22. **Effect as a Deed**

This Deed is intended to take effect as a deed notwithstanding that it may have been executed by the Bank under hand only.

23. **Governing Law and Jurisdiction**

23.1 This Deed of Charge and any non-contractual obligations arising from or in connection with it shall be governed by and construed in accordance with the laws of England and Wales.

23.2 The Courts of England and Wales shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) which may arise in connection with the creation, validity, effect, interpretation or performance of this Deed of Charge or the legal relationships established herein or otherwise arising in connection herewith (including, without limitation, any non-contractual obligations arising from or in connection with this Deed of Charge), and for such purposes the parties hereto irrevocably submit to the non-exclusive jurisdiction of the English and Welsh Courts.

**EXECUTED AND DELIVERED** as a deed by the Counterparty and the Bank on the date and year first above written.

The common seal  
of **[Counterparty]**  
was affixed to this Deed of Charge  
and this Deed of Charge was delivered:

Director ..... Full Name .....  
(Signature)

Director/Secretary ..... Full Name .....  
(Signature)

The common seal  
of **CENTRAL BANK OF IRELAND**  
was affixed to this Deed of Charge  
and this Deed of Charge was delivered:

Witness:

Occupation:

Address:

## Appendix 6

### Material to be Contained in Legal Opinion(s)

#### 1. Basis of Opinion

For the purpose of this Opinion, we have examined the following:

- (a) copies of the following documents namely:
  - (i) a Framework Agreement in respect of Special Mortgage-Backed € Promissory Notes dated today made between the Counterparty and the Bank (the “**Framework Agreement**”);
  - (ii) [a][Deed[s] of Charge dated today made between the Counterparty and the Bank][Floating Charge dated today created by the Counterparty in favour of the Bank over the assets therein specified]<sup>3</sup> (the “**Deed[s] of Charge**”)<sup>4</sup>; and
  - (iii) a standard form of Special Mortgage-Backed € Promissory Note (the form of which is appended to the Framework Agreement) which it is intended would be issued from time to time by the Counterparty to the Bank (any so issued, collectively the “**Notes**” and the Framework Agreement, the Deed[s] of Charge and the Notes being the “**Transaction Documents**”); and
- (b) copies of the Counterparty’s standard [home loan facility letters, mortgages and other ancillary documents] as detailed in the Schedule annexed to this Opinion (the “**Standard Documentation**”).

Capitalised terms used in this Opinion and not defined herein have the meanings given to them in the Transaction Documents.

#### 2. Opinion

On the basis described in Section 1 above we are of the opinion as follows:

##### **Incorporation/valid existence**

- (a) The Counterparty is a [specify] duly [incorporated] under the laws of Ireland and is a separate legal entity, subject to suit in its own name. The Counterparty is validly existing under the laws of Ireland and no steps have been taken or are being taken to appoint a receiver, examiner or liquidator over it or to wind it up.<sup>5</sup>

##### **Corporate capacity/ authorisations**

- (b) The Counterparty has all necessary corporate capacity to enter into the Transaction Documents and to undertake and perform the obligations expressed to be assumed by it thereunder, and the execution and, where relevant, delivery by the Counterparty of the Transaction Documents and the performance of its obligations

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<sup>3</sup> Latter reference is for the Scots law Floating Charge.

<sup>4</sup> The opinion given under the laws of the jurisdiction of incorporation of the Counterparty must cover all Deeds of Charge/Floating Charge.

<sup>5</sup> To be given in respect of the laws of the jurisdiction of incorporation of the Counterparty.

thereunder by the Counterparty has been duly authorised in accordance with the [constitutive documents] of the Counterparty.<sup>6</sup>

#### **Due execution**

- (c) Each of the Transaction Documents which have to date been executed has been duly executed on behalf of the Counterparty.<sup>7</sup>

#### **Enforceability**

- (d) The obligations on the part of the Counterparty under the Transaction Documents are valid and legally binding on and are in a form capable of enforcement against the Counterparty under the laws of *[specify]* in the courts of *[specify]*, in accordance with their terms.<sup>8</sup>

#### **Regulatory/other authorisations and consents**

- (e) The execution and delivery by the Counterparty of the Transaction Documents which have to date been executed[, or of any documents in the form of the Standard Documentation (“**Relevant Documents**”),]<sup>9</sup> and the performance by the Counterparty of its obligations under those Transaction Documents [and Relevant Documents]<sup>10</sup> does not require on the part of the Counterparty any consent, licence, approval, authorisation or exemptions to be obtained from any governmental, judicial, banking, fiscal or other public or regulatory body or official or authority in *[specify]* and none of the Transaction Documents [or Relevant Documents]<sup>11</sup> require to be filed, recorded, registered or notarised with or by any such body or authority.<sup>12</sup>

#### **Security**

- (f) The creation of the Deed of Charge constitutes a valid floating charge over the assets specified therein in favour of the Bank.<sup>13</sup>

#### **Mortgage Borrower authorisations and consents**

- (g) The Standard Documentation of the Counterparty does not contain any restrictions in relation to the entry into and performance by the Counterparty of the Transaction Documents.<sup>14</sup>

#### **Taxes**

- (h) No stamp duties or similar taxes are payable on the Transaction Documents in *[specify]*.<sup>15</sup>

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<sup>6</sup> To be given in respect of the laws of the jurisdiction of incorporation of the Counterparty.

<sup>7</sup> To be given in respect of the laws of the jurisdiction of incorporation of the Counterparty.

<sup>8</sup> To be given in respect of the laws of each relevant jurisdiction (Ireland, England/Wales, Scotland, Northern Ireland).

<sup>9</sup> See footnote 12.

<sup>10</sup> See footnote 12.

<sup>11</sup> See footnote 12.

<sup>12</sup> To be given in respect of the laws of each relevant jurisdiction (England/Wales, Scotland, Northern Ireland, jurisdiction of incorporation of Counterparty) save that, solely in the case of the Relevant Documents, it need not be given in respect of the laws of the jurisdiction of incorporation of Counterparty.

<sup>13</sup> To be given in respect of the laws of each jurisdiction whose laws govern a Deed of Charge and where property is located (England/Wales, Scotland, Northern Ireland).

<sup>14</sup> To be given in respect of the laws of each jurisdiction whose laws govern a Deed of Charge and where property is located (England/Wales, Scotland, Northern Ireland).

Yours faithfully

.....

**This is the Schedule referred to in the foregoing Legal Opinion by [ ] addressed to  
Central Bank of Ireland.**

**Standard Documentation**

*[List all standard documentation reviewed.]*

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<sup>15</sup> To be given in respect of the laws of each jurisdiction whose laws govern a Deed of Charge and where property is located (England/Wales, Scotland, Northern Ireland).

**IN WITNESS** whereof the parties hereto have executed this Agreement the day and year first above written.

**EXECUTED** on behalf of

**[COUNTERPARTY]**

\_\_\_\_\_  
\_\_\_\_\_

**EXECUTED** on behalf of  
**CENTRAL BANK  
OF IRELAND:**

\_\_\_\_\_  
\_\_\_\_\_