



**Registration of a Charge**

Company Name: **E D & F MAN HOLDINGS LIMITED**

Company Number: **03909548**



XB17YLFM

Received for filing in Electronic Format on the: **04/04/2022**

**Details of Charge**

Date of creation: **31/03/2022**

Charge code: **0390 9548 0014**

Persons entitled: **COOPERATIEVE RABOBANK U.A.**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **ALLEN & OVERY LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3909548

Charge code: 0390 9548 0014

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st March 2022 and created by E D & F MAN HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th April 2022 .

Given at Companies House, Cardiff on 8th April 2022

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



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

**EXECUTION VERSION**

**SUPPLEMENTAL AND CONFIRMATORY SECURITY  
AGREEMENT  
(BROKERAGE INTERCOMPANY DEBT AND XYZ  
SETTLEMENT CLAIM)**

**DATED** 31 March **2022**

**BETWEEN**

**E D & F MAN HOLDINGS LIMITED**

**E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC**

**and**

**COÖPERATIEVE RABOBANK U.A.  
as Security Agent**

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THIS DEED is dated 31 March 2022 and is made

**BETWEEN:**

- (1) **E D & F MAN HOLDINGS LIMITED**, a company incorporated in England and Wales, the registered office of which is 3 London Bridge Street, London SE1 9SG, United Kingdom (**Holdings**);
- (2) **E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC**, a company incorporated in England and Wales, the registered office of which is 3 London Bridge Street, London SE1 9SG, United Kingdom (the **Receivables Chargor**, and together with Holdings, the **Chargors**); and
- (3) **COÖPERATIEVE RABOBANK U.A.** (as security agent and trustee for the Secured Parties (as defined in the Intercreditor Agreement (as defined below)) (the **Security Agent**).

**BACKGROUND:**

- (A) Under English law governed security agreements each dated 11 September 2020, each existing chargor created security over certain of its assets as security for, among other things, the present and future liabilities and obligations at any time due, owing or incurred by any member of the Consolidated Group under or in respect of the New Money RCF Documents and Secured Term Documents (each as defined in the Original Intercreditor Agreement) including the Existing Secured Term Loan, Existing Notes, Existing NPA and the Existing RCF (each as defined in the Refinancing Implementation Deed). Under the Original Brokerage Security Agreement, these obligations and liabilities were “Core Secured Obligations”, each as defined in the Original Intercreditor Agreement and “Secured Obligations” as defined in the Original Brokerage Security Agreement.
- (B) Pursuant to the Refinancing Implementation Deed, amongst other matters, (i) the Original Intercreditor Agreement has been amended and restated on or around the date of this Deed; and (ii) the Existing Secured Term Loan, Existing Notes, Existing NPA and the Existing RCF have been amended and restated in accordance with the Refinancing Implementation Deed. The obligations and liabilities thereunder were “Core Secured Obligations” under and as defined in the Original Intercreditor Agreement and, as amended and restated in accordance with the Refinancing Implementation Deed, comprise Secured Obligations under the Original Brokerage Security Agreement and this Deed.
- (C) Pursuant to the Refinancing Implementation Deed and the transactions contemplated therein, the Parties have agreed that the security created under the Original Brokerage Security Agreement will no longer secure the “Core Secured Obligations” (as defined in the Original Intercreditor Agreement) other than the Secured Obligations (as defined below).
- (D) The Parties consider that the security created by each Chargor under the Original Brokerage Security Agreement continues to secure payment of the Secured Obligations (as defined below), but enter into this Deed in case it does not.
- (E) This Deed is supplemental to the Original Brokerage Security Agreement.
- (F) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Deed:

**Act** means the Law of Property Act 1925.

**Assigned Receivable** means all amounts owing to the Receivables Chargor from time to time from E D & F Man Capital Markets Limited, E D & F Man Capital Markets Holdings Limited and E D & F Man Financial Services Holdings Limited and each of their Subsidiaries, including the amounts owing between the Receivables Chargor and the debtors listed in Schedule 2 (Details of Assigned Receivables).

**Claims Beneficial Interest** means any beneficial interest of Holdings in the claims (and proceeds of the claims) against the alleged perpetrators of the metals fraud which is the subject of the ANZ Agreement.

**Enforcement Trigger** means that an Event of Default has occurred under any Secured Debt Document and notice of such Event of Default has been given (while it is continuing) in accordance with the provisions of any Secured Debt Document.

**FinCo Facilities** means the Senior FinCo Facility, the Series B1 Notes, the Junior FinCo Loan Facility and the Series B2 Notes.

**Intercreditor Agreement** means the intercreditor agreement dated 11 September 2020 as amended and restated pursuant to the Refinancing Implementation Deed (and as further amended, amended and restated, or supplemented from time to time) between, among others, the Parent and Coöperatieve Rabobank U.A. as security agent and intercreditor agent.

**Legal Reservations** has the meaning given to that term, prior to the Senior FinCo Discharge Date, in the Senior FinCo Facility Agreement and following the Senior FinCo Discharge Date, the Junior FinCo Facility Agreement.

**MCM** means E D & F Man Capital Markets Limited.

**MCM Agreement** means the inter-group agreement dated 29 September 2017 between (among others) Holdings and MCM, relating to the metals fraud which is the subject of the ANZ Agreement.

**Obligor** means an “Obligor” under and as defined in each of the FinCo Facilities.

**Original Brokerage Security Agreement** means the security agreement in relation to receivables and various other assets dated 11 September 2020 between, among others, the Intercreditor Agent and the Parent.

**Original Intercreditor Agreement** means the intercreditor agreement originally dated 11 September 2020 between, among others, the Parent and Coöperatieve Rabobank U.A. as core security agent and intercreditor agent.

**Party** means a party to this Deed.

**Receiver** means a receiver or receiver and manager or administrative receiver, in each case appointed under this Deed.

**Refinancing Implementation Deed** has the meaning given to that term in the Intercreditor Agreement.

**Secured Obligations** means the Liabilities (excluding any Liabilities arising under MCM Brokerage Documents) and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Consolidated Group and by each Debtor to any Secured Party under the Senior FinCo Finance Documents, the Junior FinCo Finance Documents, the Series B1 Notes Documents, the Series B2 Notes Documents and the Commodities RCF Documents and the ANZ Payment Obligation.

**Secured Parties** means the ANZ Parties, the Security Agent, the Intercreditor Agent, any Receiver or Delegate, each Senior FinCo Creditor, each Junior FinCo Creditor and each Commodities RCF Creditor in each case from time to time but, in the case of each Senior FinCo Creditor, each Junior FinCo Creditor and each Commodities RCF Creditor, in each case only if it is a party to, or has acceded to, the Intercreditor Agreement, in the appropriate capacity, pursuant to clause 23.6 (Creditor Accession Undertaking) of the Intercreditor Agreement.

**Security** means a mortgage, land charge, charge, pledge, lien, assignment (by way of security) or transfer for security purposes, retention of title arrangement or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect created, evidenced or conferred by or under this Deed.

**Security Asset** means any asset of a Chargor which is, or is expressed to be, subject to any Security created by this Deed or by the Original Brokerage Security Agreement.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all outstanding Commitments have been cancelled.

## **1.2 Construction**

- (a) Capitalised terms defined in the Intercreditor Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) The provisions of clause 1.2 (Construction) of the Intercreditor Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Intercreditor Agreement shall be construed as references to this Deed.
- (c) Unless a contrary indication appears, any reference in this Deed to:
  - (i) any **rights** in respect of an asset includes:
    - (A) all amounts and proceeds paid or payable;
    - (B) all rights to make any demand or claim; and
    - (C) all powers, remedies, causes of action, security, guarantees and indemnities,in each case, in respect of or derived from that asset;
  - (ii) the term **this Security** means any Security created by this Deed; and

- (iii) an agreement, instrument or other document to which it is a party includes any agreement, instrument or other document issued in the relevant person's favour or of which it otherwise has the benefit (in whole or in part).
- (d) Any covenant of a Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (e) If the Security Agent considers that an amount paid to a Secured Party under a Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.

### **1.3 Third party rights**

- (a) Unless expressly provided to the contrary in a Debt Document, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of a Debt Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

## **2. AMENDMENTS TO THE ORIGINAL BROKERAGE SECURITY AGREEMENT AND CONFIRMATION OF THE ORIGINAL BROKERAGE SECURITY AGREEMENT**

### **2.1 Amendments to the Original Brokerage Security Agreement**

On and from the date of this Deed, the Parties agree to make the amendments to the Original Brokerage Security Agreement as set out in mark-up at Schedule 1 (Amended Original Brokerage Security Agreement).

### **2.2 Confirmation of the Original Brokerage Security Agreement**

Each Chargor, on and from the date of this Deed:

- (a) confirms its acceptance of the Original Brokerage Security Agreement as amended by this Deed;
- (b) agrees that it is bound by the terms of the Original Brokerage Security Agreement as amended by this Deed; and
- (c) confirms that any Security created by it under the Original Brokerage Security Agreement as amended by this Deed extends to the Secured Obligations.

## **3. CREATION OF SECURITY**

- (a) Each Chargor shall pay or discharge the Secured Obligations in the manner, and at the times, provided for in the Debt Documents.
- (b) All the security created under this Deed:

- (i) is created in favour of the Security Agent;
  - (ii) is created over present and future assets of each Chargor;
  - (iii) is security for the payment, discharge and performance of all the Secured Obligations; and
  - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (c) The Security Agent holds the benefit of this Deed on trust for the Secured Parties.
- (d) If the rights of a Chargor under a document cannot be secured without the consent of a party to that document or satisfaction of some other condition:
- (i) that Chargor shall notify the Security Agent promptly;
  - (ii) this Security shall constitute security over all proceeds and other amounts which that Chargor may receive, or has received, under that document but exclude that Chargor's other rights under the document until that Chargor obtains the required consent or satisfies the relevant condition;
  - (iii) unless the Security Agent otherwise requires, that Chargor shall use its reasonable endeavours to obtain the required consent or satisfy the relevant condition; and
  - (iv) if that Chargor obtains the required consent or satisfies the relevant condition:
    - (A) that Chargor shall notify the Security Agent promptly; and
    - (B) all of that Chargor's rights under the document shall immediately be secured in accordance with this Deed.

### **3.2 Assigned Receivables**

- (a) The Receivables Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the Assigned Receivables as continuing security for the payment and discharge of all the Secured Obligations.
- (b) Until the occurrence of an Enforcement Trigger, the Receivables Chargor shall be entitled to receive and discharge any of the receivables described in paragraph (a) above in the ordinary course of business.

### **3.3 MCM Agreement**

Holdings assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the MCM Agreement as continuing security for the payment and discharge of all the Secured Obligations.

### **3.4 Claims Beneficial Interest**

Holdings charges by way of a first fixed charge all of its rights in respect of the Claims Beneficial Interest as continuing security for the payment and discharge of all the Secured Obligations.

## **4. RESTRICTIONS ON DEALINGS**

No Chargor shall:

- (a) create or permit to subsist any Security over any Security Asset; or
- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Security Asset,

where prohibited by the Debt Documents or this Deed.

## **5. REPRESENTATIONS**

### **5.1 Representations**

Subject to the Legal Reservations, each Chargor makes the representations and warranties in this Clause 5 to each Secured Party.

### **5.2 No filing or stamp Taxes**

Subject to the Legal Reservations, under the laws of its Relevant Jurisdictions, it is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority in any of those jurisdictions or that any stamp, registration, notarial or similar tax or fee be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of particulars of this Deed at Companies House in England and Wales under section 859A of the Companies Act 2006, which registrations, filings will be made promptly after the date of this Deed.

### **5.3 Nature of security**

This Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

### **5.4 Times for making representations**

- (a) The representations and warranties in this Deed (including in this Clause 5) are made by each relevant Chargor on the date of this Deed.
- (b) The representations and warranties under this Deed are deemed to be made by each relevant Chargor by reference to the facts and circumstances then existing on the date of each Utilisation Request, each Utilisation Date and the first day of each Interest Period.

## **6. ASSIGNED RECEIVABLES**

### **6.1 Nature of security**

The Receivables Chargor represents and warrants to each Secured Party that:

- (a) it is the sole legal and beneficial owner of the Assigned Receivables; and
- (b) the Assigned Receivables are free of any Security (except any Security created by or pursuant to the Security Documents (as defined in the Intercreditor Agreement)) and any other rights or interests in favour of third parties; and
- (c) subject to the Legal Reservations, this Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

## **6.2 Notices of assignment**

The Receivables Chargor shall:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 4 (Form of Notice for Assigned Receivables), on each person listed as a debtor in Schedule 2 (Details of Assigned Receivables); and
- (b) ensure that each person receiving such a notice promptly acknowledges that notice, substantially in the form of Part 2 of Schedule 4 (Form of Notice for Assigned Receivables) unless such person is party to the Intercreditor Agreement as a Debtor.

## **7. MCM AGREEMENT**

### **7.1 Representations**

Holdings represents and warrants to each Secured Party that:

- (a) no amount payable to it under the MCM Agreement is subject to any right of set-off or similar right;
- (b) the MCM Agreement is its legal, valid, binding and enforceable obligation;
- (c) it is not in default of any of its obligations under the MCM Agreement;
- (d) there is no prohibition on assignment in, or other restriction on the creation of security by Holdings over, the MCM Agreement;
- (e) its entry into and performance of this Deed will not conflict with any term of the MCM Agreement; and
- (f) its rights in respect of the MCM Agreement are free of any Security (except for those created by or pursuant to the Security Documents) and any other rights or interests in favour of third parties.

### **7.2 Preservation**

Holdings shall not, without the prior consent of the Security Agent:

- (a) amend or waive any term of the MCM Agreement which might jeopardise the Security created by this Deed, or terminate, the MCM Agreement; or
- (b) take any action which might jeopardise the existence or enforceability of the MCM Agreement.

### **7.3 Pursuit and information**

Holdings shall:

- (a) duly and promptly perform its obligations, and diligently pursue its rights, under the MCM Agreement; and
- (b) supply the Security Agent and any Receiver with a copy of the MCM Agreement and any information and documentation relating to the MCM Agreement requested by the Security Agent or any Receiver.

#### **7.4 Notices of assignment**

Holdings shall:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 3 (Forms of letter for MCM Agreement), on each counterparty to the MCM Agreement which is not party to the Intercreditor Agreement as a Debtor; and
- (b) ensure that each person receiving such a notice promptly acknowledges that notice, substantially in the form of Part 2 of Schedule 3 (Forms of letter for MCM Agreement).

### **8. CLAIMS BENEFICIAL INTEREST**

#### **8.1 Preservation**

- (a) Holdings shall not, without the prior consent of the Security Agent:
  - (i) amend or waive any Claims Beneficial Interest; or
  - (ii) take any action which might jeopardise the existence or enforceability of any Claims Beneficial Interest.
- (b) Neither paragraph (a) above nor anything else in this Deed shall prevent Holdings, before the occurrence of an Enforcement Trigger, from applying the proceeds of any Claims Beneficial Interest in satisfaction of its obligations under the ANZ Agreement.

#### **8.2 Pursuit and information**

Holdings shall:

- (a) duly and promptly perform its obligations, and diligently pursue its rights, in relation to any Claims Beneficial Interest; and
- (b) supply the Security Agent and any Receiver with any information and documentation relating to any Claims Beneficial Interest requested by the Security Agent or any Receiver.

### **9. WHEN SECURITY BECOMES ENFORCEABLE**

#### **9.1 Enforcement Trigger**

This Security shall become immediately enforceable upon the occurrence of an Enforcement Trigger.

#### **9.2 Discretion**

After this Security has become enforceable, the Security Agent may enforce all or any part of this Security in any manner it sees fit or as instructed in accordance with the Intercreditor Agreement.

#### **9.3 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act, as amended by this Deed, shall be immediately exercisable at any time after this Security has become enforceable.

## **10. ENFORCEMENT OF SECURITY**

### **10.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

### **10.2 No liability as mortgagee in possession**

Neither the Security Agent nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### **10.3 Privileges**

The Security Agent and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that section 103 of the Act does not apply.

### **10.4 Protection of third parties**

No person (including a purchaser) dealing with the Security Agent or a Receiver or their agents need enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Debt Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

### **10.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Security Agent may:
  - (i) redeem any prior Security against any Security Asset;
  - (ii) procure the transfer of that Security to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer (and any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on each Chargor).
- (b) Each Chargor shall pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## **10.6 Contingencies**

If this Security is enforced at a time when no amount is due under the Debt Documents but at a time when amounts may or will become due, the Security Agent (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

## **10.7 Financial collateral**

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of each Chargor under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Security Agent may after this Security has become enforceable appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) Where any financial collateral is appropriated:
  - (i) if it is cash, its value will be the amount standing to the credit of the relevant account on the date of appropriation plus any accrued but uncredited interest;
  - (ii) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
  - (iii) in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent adviser, investment bank or accountancy firm of national standing selected by it,

and each Secured Party shall give credit for the proportion of the value of the financial collateral appropriated to its use.

## **11. RECEIVER**

### **11.1 Appointment of Receiver**

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
  - (i) this Security has become enforceable; or
  - (ii) each Chargor so requests the Security Agent in writing at any time.
- (b) Any appointment under paragraph (a) above shall be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

### **11.2 Removal**

The Security Agent may by writing under its hand remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **11.3 Remuneration**

The Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by law (including under section 109(6) of the Act) shall not apply.

### **11.4 Agent of each Chargor**

- (a) A Receiver will be deemed to be the agent of each Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. Each Chargor shall be responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (b) No Secured Party shall incur any liability (either to a Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **11.5 Relationship with Security Agent**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

## **12. POWERS OF RECEIVER**

### **12.1 General**

- (a) A Receiver has all the rights, powers and discretions set out below in this Clause 12 in addition to those conferred on it by any law. This includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### **12.2 Possession**

A Receiver may take immediate possession of, get in and realise any Security Asset.

### **12.3 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which it thinks fit.
- (b) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which it thinks fit.

### **12.4 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

### **12.5 Delegation**

A Receiver may delegate its powers in accordance with this Deed.

## **12.6 Other powers**

A Receiver may:

- (a) do all other acts and things which it may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which it would be capable of exercising if it were the absolute beneficial owner of that Security Asset; and
- (c) use the name of each Chargor for any of the above purposes.

## **13. APPLICATION OF PROCEEDS**

All amounts from time to time received or recovered by the Security Agent or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of this Security shall be held by the Security Agent and applied in the following order of priority:

- (a) in or towards payment of or provision for the Secured Obligations in accordance with the terms of the Intercreditor Agreement; and
- (b) in payment of the surplus (if any) to each Chargor or other person entitled to it.

This Clause 13 is subject to the payment of any claims having priority over this Security. This Clause 13 does not prejudice the right of any Secured Party to recover any shortfall from each Chargor.

## **14. EXPENSES AND INDEMNITY**

Each Chargor shall:

- (a) immediately on demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and
- (b) keep each Secured Party indemnified against any failure or delay in paying those costs or expenses,  
  
in each case other than arising from the Security Agent's or relevant Secured Party's gross negligence, wilful default or fraud.

## **15. DELEGATION**

### **15.1 Power of Attorney**

The Security Agent or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion exercisable by it under this Deed.

## **15.2 Terms**

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent or that Receiver (as the case may be) may think fit.

## **15.3 Liability**

Neither the Security Agent nor any Receiver shall be bound to supervise, or will be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any delegate or sub-delegate.

## **16. FURTHER ASSURANCES**

(a) Each Chargor shall promptly, at its own expense, take whatever action the Security Agent or a Receiver may require for:

- (i) creating, perfecting or protecting any security over any Security Asset; or
- (ii) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

(b) The action that may be required under paragraph (a) above includes (without limitation):

- (i) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance in respect of any asset, whether to the Security Agent, its nominee or any other person; or
- (ii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may consider necessary or desirable.

## **17. POWER OF ATTORNEY**

Each Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of each Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all lawful acts and things, in each case, which may be required or which any attorney may, in its absolute discretion, deem necessary for carrying out any obligation of each Chargor under or pursuant to this Deed or generally for enabling the Security Agent or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 17.

## **18. PRESERVATION OF SECURITY**

### **18.1 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

## **18.2 Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 18, would reduce, release or prejudice any of its obligations under this Deed including (without limitation and whether or not known to it or any Secured Party):

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment of any Debt Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Debt Document or other document or security;
- (f) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Debt Document or any other document or security; or
- (g) any insolvency, resolution or similar proceedings.

## **18.3 Chargor intent**

- (a) Without prejudice to the generality of Clause 18.2 (Waiver of defences), each Chargor acknowledges that the Debt Documents may from time to time be amended.
- (b) Each Chargor confirms its intention that:
  - (i) any amendment to a Debt Document is within the scope of the Secured Obligations and this Security; and
  - (ii) the Secured Obligations and this Security extend to any amount payable by each Chargor under or in connection with a Debt Document as amended.
- (c) Each Chargor agrees that the confirmations in paragraph (b) above apply regardless of:
  - (i) why or how a Debt Document is amended (including the extent of the amendment and any change in or addition to the parties);
  - (ii) whether any amount payable by an Obligor under or in connection with the amended Debt Document in any way relates to any amount that would or may have been payable had the amendment not taken place;
  - (iii) the extent to which each Chargor's liability under this Deed (whether present or future, actual or contingent), or any right it may have as a result of entering into or performing its obligations under this Deed, changes or may change as a result of the amendment; and
  - (iv) whether each Chargor was aware of or consented to the amendment.

#### **18.4 Immediate recourse**

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from each Chargor under this Deed. This waiver applies irrespective of any law or provision of a Debt Document to the contrary.

#### **18.5 Appropriations**

Each Secured Party (or any trustee or agent on its behalf) may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or trustee or agent) in respect of the Secured Obligations or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and each Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from each Chargor or on account of each Chargor's liability under this Deed.

#### **18.6 Deferral of Chargor's rights**

Unless the Security Period has expired or the Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other person who has provided security or a guarantee in respect of any Obligor's obligations under the Debt Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Debt Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which each Chargor has granted security under this Deed;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with the terms of this Deed.

## **18.7 Additional Security**

- (a) This Security is in addition to and is not in any way prejudiced by any other security or guarantee now or subsequently held by any Secured Party.
- (b) No prior security held by any Secured Party (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

## **18.8 Security held by each Chargor**

No Chargor shall, without the prior consent of the Security Agent, hold any security from any other Obligor in respect of any Chargor's liability under this Deed. Each Chargor shall hold any security held by it in breach of this provision on trust for the Security Agent.

## **19. MISCELLANEOUS**

### **19.1 Continuing Security**

This Security is a continuing security and shall extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part.

### **19.2 Tacking**

Each Secured Party shall perform its obligations under the Debt Documents (including any obligation to make available further advances).

### **19.3 New Accounts**

- (a) If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with each Chargor.
- (b) If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Obligations.

### **19.4 Currencies**

For the purpose of exercising any right to apply the Assigned Receivables against the Secured Obligations, if all or any part of the Assigned Receivables and the Secured Obligations are in different currencies, the Security Agent may convert either amount at a market rate of exchange in its usual course of business.

### **19.5 Notice to Chargor**

This Deed constitutes notice in writing to each Chargor of any charge or assignment by way of security that may at any time be created or made under any Security Document by any member of the Group in respect of any obligation or liability under any agreement, instrument or other document to which that member of the Group is a party.

### **19.6 Security Agent**

The Security Agent executes this Deed in the exercise of the powers and authority conferred upon and vested in it in the Intercreditor Agreement, and will exercise its powers and authority under this

Deed in the manner provided for in the Intercreditor Agreement. In so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Intercreditor Agreement (and, in the event of any inconsistency between this Deed and the Intercreditor Agreement in respect of such matters, the Intercreditor Agreement shall prevail).

## **20. RELEASE**

At the end of the Security Period, the Security Agent shall, at the request and cost of each Chargor, take whatever action is necessary to release the Security Assets from this Security.

## **21. NOTICES**

Communications under this Deed shall be made in accordance with clause 28 (Notices) of the Intercreditor Agreement.

## **22. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of any Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law, and may be waived only in writing and specifically.

## **23. ENFORCEMENT**

### **23.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, to the extent allowed by law:
  - (i) no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction; and
  - (ii) the Secured Parties may take concurrent proceedings in any number of jurisdictions.

### **23.2 Waiver of immunity**

Each Chargor irrevocably and unconditionally:

- (a) waives all rights of immunity to which it or its assets may be entitled;
- (b) agrees not to claim any immunity from:
  - (i) proceedings brought in any jurisdiction against it or its assets by a Secured Party in relation to a Dispute;

- (ii) recognition or enforcement in any jurisdiction of any judgment or order given in relation to a Dispute; or
- (iii) execution, attachment or other legal process in any jurisdiction against it or its assets in relation to a Dispute,

and, in each case, to ensure that no such claim is made on its behalf;

- (c) submits to the jurisdiction of any court in relation to the recognition of any judgment or order given in relation to a Dispute; and
- (d) consents generally to the enforcement in any jurisdiction of any judgment or order given in relation to a Dispute and the giving of any relief in any jurisdiction, whether before or after final judgment, including, without limitation:
  - (i) relief by way of interim or final injunction or order for specific performance or recovery of any assets; and
  - (ii) execution, attachment or other legal process against any assets (irrespective of their use or intended use).

## **24. BAIL-IN**

### **24.1 Contractual recognition of bail-in**

Notwithstanding any other term of any Debt Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Debt Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Debt Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

### **24.2 Bail-in definitions**

In this Clause 24:

**Article 55 BRRD** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**Bail-In Action** means the exercise of any Write-down and Conversion Powers.

**Bail-In Legislation** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**EEA Member Country** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**EU Bail-In Legislation Schedule** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**Resolution Authority** means any body which has authority to exercise any Write-down and Conversion Powers.

**UK Bail-In Legislation** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**Write-down and Conversion Powers** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
- (c) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that Bail-In Legislation.

## **25. SUPPLEMENTAL SECURITY**

- (a) All the security created under this Deed is created in addition to and does not affect the security created by the Original Brokerage Security Agreement.
- (b) Where this Deed purports to create a first fixed Security, that Security will be a second ranking Security subject to the equivalent Security created by the Original Brokerage Security Agreement (to the extent applicable) until such time as the Security created by the Original Brokerage Security Agreement ceases to have effect.
- (c) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Original Brokerage Security Agreement for so long as the same asset or right is purported to be assigned (subject to a proviso for re-assignment on redemption) again under this Deed, that second assignment will take effect as a fixed charge over that right or asset and will automatically take effect as an assignment if the relevant Security created by the Original Brokerage Security Agreement ceases to have effect at a time when this Deed still has effect.
- (d) The terms of the Original Brokerage Security Agreement are supplemented by the terms of this Deed and shall be read *mutatis mutandis* in accordance with the terms of this Deed and in the event of any inconsistency between the terms of this Deed and the terms of the Original Brokerage Security Agreement, the terms of this Deed shall prevail.
- (e) Save as otherwise amended by this Deed (inclusive) above, the Original Brokerage Security Agreement will remain in full force and effect.
- (f) This Deed is designated a Debt Document and a Security Document.
- (g) Except to the extent expressly stated in this Deed, no waiver is given by this Deed, and the Secured Parties expressly reserve all their rights and remedies in respect of any breach of, or other Default under, the Original Brokerage Security Agreement.

## **26. COUNTERPARTS**

This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

## **27. GOVERNING LAW**

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

**THIS DEED** has been executed and delivered as a deed on the date stated at the beginning of this Deed.

**SCHEDULE 1**

**AMENDED ORIGINAL BROKERAGE SECURITY AGREEMENT**

**SECURITY AGREEMENT**  
**(BROKERAGE INTERCOMPANY DEBT AND XYZ SETTLEMENT CLAIM)**

DATED 11 SEPTEMBER 2020  
AS AMENDED ON 31 March 2022.

BETWEEN

**E D & F MAN HOLDINGS LIMITED**

**E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC**

and

**COÖPERATIEVE RABOBANK U.A.**  
as Core Security Agent

This Deed is entered into subject to the terms of the Intercreditor Agreement  
(as defined herein)

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THIS DEED is dated 11 September 2020 (as amended on 31 March 2022) and made BETWEEN:

- (1) E D & F MAN HOLDINGS LIMITED, a company incorporated in England and Wales, the registered office of which is 3 London Bridge Street, London SE1 9SG, United Kingdom (Holdings);
- (2) E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC, a company incorporated in England and Wales, the registered office of which is 3 London Bridge Street, London SE1 9SG, United Kingdom (the Receivables Chargor, and together with Holdings, the Chargors); and
- (3) COÖPERATIEVE RABOBANK U.A. (the ~~Core~~ Security Agent) as agent and trustee for the Secured Parties (as defined below).

#### BACKGROUND:

- (A) Each Chargor enters into this Deed in connection with the Intercreditor Agreement (as defined below).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this Deed:

**Act** means the Law of Property Act 1925.

**Assigned Receivable** means all amounts owing to the Receivables Chargor from time to time from E D & F Man Capital Markets Limited, E D & F Man Capital Markets Holdings Limited and E D & F Man Financial Services Holdings Limited and each of their Subsidiaries, including the amounts owing between the Receivables Chargor and the debtors listed in Schedule 1 (Details of Assigned Receivables).

**Claims Beneficial Interest** means any beneficial interest of Holdings in the claims (and proceeds of the claims) against the alleged perpetrators of the metals fraud which is the subject of the ANZ Agreement.

**Enforcement Trigger** means that an Event of Default has occurred under any Secured Debt Document and notice of such Event of Default has been given (while it is continuing) in accordance with the provisions of any Secured Debt Document.

**FinCo Facilities** means the Senior FinCo Facility, the Series B1 Notes, the Junior FinCo Loan Facility and the Series B2 Notes.

**Intercreditor Agreement** means the intercreditor agreement dated ~~on or about the date of this Deed and made~~ 11 September 2020 (as amended, and restated from time to time including most recently pursuant to the Refinancing Implementation Deed) between, among others, E D & F Man Holdings Limited as parent ~~the Parent~~ and Coöperatieve Rabobank U.A. as ~~security agent and intercreditor agent~~.

Legal Reservations has the meaning given to that term, prior to the Senior FinCo Discharge Date, in the Senior FinCo Facility Agreement and following the Senior FinCo Discharge Date, the Junior FinCo Facility Agreement.

**MCM** means E D & F Man Capital Markets Limited.

**MCM Agreement** means the inter-group agreement dated 29 September 2017 between (among others) Holdings and MCM, relating to the metals fraud which is the subject of the ANZ Agreement.

Obligor means an “Obligor” under and as defined in each of the FinCo Facilities.

**Party** means a party to this Deed.

**Receiver** means a receiver or receiver and manager or administrative receiver, in each case, appointed under this Deed.

Refinancing Implementation Deed has the meaning given to that term in the Intercreditor Agreement.

**Secured Obligations** means the ~~Core Secured Obligations~~ Liabilities (excluding any Liabilities arising under MCM Brokerage Documents) and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Consolidated Group and by each Debtor to any Secured Party under the Senior FinCo Finance Documents, the Junior FinCo Finance Documents, the Series B1 Notes Documents, the Series B2 Notes Documents and the Commodities RCF Documents and the ANZ Payment Obligation.

**Secured Parties** means the ~~Core Security Agent, the Borrowing Base Security Agent, the Intercreditor Agent, the Core Creditors, the Secured Creditors in respect of the Borrowing Base Liabilities, the Secured Creditors in respect of the LC Liabilities, the ANZ Parties, the Hedge Counterparties and ANZ Parties, the Security Agent, the Intercreditor Agent, any Receiver or Delegate~~ (, each from time to time) Senior FinCo Creditor, each Junior FinCo Creditor and each Commodities RCF Creditor in each case from time to time but, in the case of each Senior FinCo Creditor, each Junior FinCo Creditor and each Commodities RCF Creditor, in each case only if it is a party to, or has acceded to, the Intercreditor Agreement, in the appropriate capacity, pursuant to clause 23.6 (Creditor Accession Undertaking) of the Intercreditor Agreement.

**Security Asset** means any asset of each Chargor which is, or is expressed to be, subject to any Security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

## **1.2 Construction**

- (a) Capitalised terms defined in the Intercreditor Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) The provisions of clause 1.2 (Construction) of the Intercreditor Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Intercreditor Agreement shall be construed as references to this Deed.
- (c) Unless a contrary indication appears, any reference in this Deed to:

- (i) any **rights** in respect of an asset includes:
  - (A) all amounts and proceeds paid or payable;
  - (B) all rights to make any demand or claim; and
  - (C) all powers, remedies, causes of action, security, guarantees and indemnities,
 in each case, in respect of or derived from that asset;
- (ii) the term **this Security** means any Security created by this Deed; and
- (iii) an agreement, instrument or other document to which it is a party includes any agreement, instrument or other document issued in the relevant person's favour or of which it otherwise has the benefit (in whole or in part).
- (d) Any covenant of a Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (e) If the ~~Core~~ Security Agent considers that an amount paid to a Secured Party under a Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.

### **1.3 Third party rights**

- (a) Unless expressly provided to the contrary in a Debt Document, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of a Debt Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

## **2. CREATION OF SECURITY**

### **2.1 General**

- (a) Each Chargor shall pay or discharge the Secured Obligations in the manner, and at the times, provided for in the Debt Documents.
- (b) All the security created under this Deed:
  - (i) is created in favour of the ~~Core~~ Security Agent;
  - (ii) is created over present and future assets of each Chargor;
  - (iii) is security for the payment, discharge and performance of all the Secured Obligations; and

- (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (c) The ~~Core~~ Security Agent holds the benefit of this Deed on trust for the Secured Parties.
- (d) If the rights of a Chargor under a document cannot be secured without the consent of a party to that document or satisfaction of some other condition:
  - (i) that Chargor shall notify the ~~Core~~ Security Agent promptly;
  - (ii) this Security shall constitute security over all proceeds and other amounts which that Chargor may receive, or has received, under that document but exclude that Chargor's other rights under the document until that Chargor obtains the required consent or satisfies the relevant condition;
  - (iii) unless the ~~Core~~ Security Agent otherwise requires, that Chargor shall use its reasonable endeavours to obtain the required consent or satisfy the relevant condition; and
  - (iv) if that Chargor obtains the required consent or satisfies the relevant condition:
    - (A) that Chargor shall notify the ~~Core~~ Security Agent promptly; and
    - (B) all of that Chargor's rights under the document shall immediately be secured in accordance with this Deed.

## 2.2 Assigned Receivables

- (a) The Receivables Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the Assigned Receivables as continuing security for the payment and discharge of all the Secured Obligations.
- (b) Until the occurrence of an Enforcement Trigger, the Receivables Chargor shall be entitled to receive and discharge any of the receivables described in paragraph (a) above in the ordinary course of business.

## 2.3 MCM Agreement

Holdings assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of the MCM Agreement as continuing security for the payment and discharge of all the Secured Obligations.

## 2.4 Claims Beneficial Interest

Holdings charges by way of a first fixed charge all of its rights in respect of the Claims Beneficial Interest as continuing security for the payment and discharge of all the Secured Obligations.

## 3. RESTRICTIONS ON DEALINGS

No Chargor shall:

- (a) create or permit to subsist any Security over any Security Asset; or

- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Security Asset,

where prohibited by the Debt Documents or this Deed.

#### **4. REPRESENTATIONS**

##### **4.1 Representations**

Subject to the Legal Reservations, each Chargor makes the representations and warranties in this Clause 4 to each Secured Party.

##### **4.2 No filing or stamp Taxes**

Subject to the Legal Reservations, under the laws of its Relevant Jurisdictions, it is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority in any of those jurisdictions or that any stamp, registration, notarial or similar tax or fee be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of particulars of this Deed at Companies House in England and Wales under section 859A of the Companies Act 2006, which registrations, filings will be made promptly after the date of this Deed.

##### **4.3 Times for making representations**

- (a) The representations and warranties in this Deed (including in this Clause 4) are made by each Chargor on the date of this Deed.
- (b) The representations and warranties under this Deed are deemed to be made by each Chargor by reference to the facts and circumstances then existing on the date of each Utilisation Request, each Utilisation Date and the first day of each Interest Period.

#### **5. ASSIGNED RECEIVABLES**

##### **5.1 Nature of security**

The Receivables Chargor represents and warrants to each Secured Party that:

- (a) it is the sole legal and beneficial owner of the Assigned Receivables; and
- (b) the Assigned Receivables are free of any Security (except any Security created by or pursuant to the Security Documents (as defined in the Intercreditor Agreement)) and any other rights or interests in favour of third parties; and
- (c) subject to the Legal Reservations, this Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

##### **5.2 Notices of assignment**

The Receivables Chargor shall:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 3 (Form of Notice for Assigned Receivables), on each person listed as a debtor in Schedule 1 (Assigned Receivables) ~~but which is not party to the Intercreditor Agreement as a Debtor~~; and

- (b) ensure that each person receiving such a notice promptly acknowledges that notice, substantially in the form of Part 2 of Schedule 3 (Forms of Notice for Assigned Receivables) unless such person is party to the Intercreditor Agreement as a Debtor.

## **6. MCM AGREEMENT**

### **6.1 Representations**

Holdings represents and warrants to each Secured Party that:

- (a) no amount payable to it under the MCM Agreement is subject to any right of set-off or similar right;
- (b) the MCM Agreement is its legal, valid, binding and enforceable obligation;
- (c) it is not in default of any of its obligations under the MCM Agreement;
- (d) there is no prohibition on assignment in, or other restriction on the creation of security by Holdings over, the MCM Agreement;
- (e) its entry into and performance of this Deed will not conflict with any term of the MCM Agreement; and
- (f) its rights in respect of the MCM Agreement are free of any Security (except for those created by or pursuant to the Security Documents) and any other rights or interests in favour of third parties.

### **6.2 Preservation**

Holdings shall not, without the prior consent of the ~~Core~~ Security Agent:

- (a) amend or waive any term of the MCM Agreement which might jeopardise the Security created by this Deed, or terminate, the MCM Agreement; or
- (b) take any action which might jeopardise the existence or enforceability of the MCM Agreement.

### **6.3 Pursuit and information**

Holdings shall:

- (a) duly and promptly perform its obligations, and diligently pursue its rights, under the MCM Agreement; and
- (b) supply the ~~Core~~ Security Agent and any Receiver with a copy of the MCM Agreement and any information and documentation relating to the MCM Agreement requested by the ~~Core~~ Security Agent or any Receiver.

### **6.4 Notices of assignment**

Holdings shall:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 2 (Forms of letter for the MCM Agreement), on each counterparty to the MCM Agreement which is not party to the Intercreditor Agreement as a Debtor; and
- (b) ensure that each person receiving such a notice promptly acknowledges that notice, substantially in the form of Part 2 of Schedule 2 (Forms of letter for the MCM Agreement).

## **7. CLAIMS BENEFICIAL INTEREST**

### **7.1 Preservation**

- (a) Holdings shall not, without the prior consent of the ~~Core~~ Security Agent:
  - (i) amend or waive any Claims Beneficial Interest; or
  - (ii) take any action which might jeopardise the existence or enforceability of any Claims Beneficial Interest.
- (b) Neither paragraph (a) above nor anything else in this Deed shall prevent Holdings, before the occurrence of an Enforcement Trigger, from applying the proceeds of any Claims Beneficial Interest in satisfaction of its obligations under the ANZ Agreement.

### **7.2 Pursuit and information**

Holdings shall:

- (a) duly and promptly perform its obligations, and diligently pursue its rights, in relation to any Claims Beneficial Interest; and
- (b) supply the ~~Core~~ Security Agent and any Receiver with any information and documentation relating to any Claims Beneficial Interest requested by the ~~Core~~ Security Agent or any Receiver.

## **8. WHEN SECURITY BECOMES ENFORCEABLE**

### **8.1 Enforcement Trigger**

This Security shall become immediately enforceable upon the occurrence of an Enforcement Trigger.

### **8.2 Discretion**

After this Security has become enforceable, the ~~Core~~ Security Agent may enforce all or any part of this Security in any manner it sees fit or as instructed in accordance with the Intercreditor Agreement.

### **8.3 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act, as amended by this Deed, shall be immediately exercisable at any time after this Security has become enforceable.

## **9. ENFORCEMENT OF SECURITY**

### **9.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

### **9.2 No liability as mortgagee in possession**

Neither the ~~Core~~ Security Agent nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### **9.3 Privileges**

The ~~Core~~ Security Agent and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that section 103 of the Act does not apply.

### **9.4 Protection of third parties**

No person (including a purchaser) dealing with the ~~Core~~ Security Agent or a Receiver or their agents need enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the ~~Core~~ Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Debt Documents; or
- (d) how any money paid to the ~~Core~~ Security Agent or to that Receiver is to be applied.

### **9.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the ~~Core~~ Security Agent may:
  - (i) redeem any prior Security against any Security Asset;
  - (ii) procure the transfer of that Security to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer (and any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on each Chargor).
- (b) Each Chargor shall pay to the ~~Core~~ Security Agent, immediately on demand, the costs and expenses incurred by the ~~Core~~ Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## 9.6 Contingencies

If this Security is enforced at a time when no amount is due under the Debt Documents but at a time when amounts may or will become due, the ~~Core~~ Security Agent (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

## 9.7 Financial collateral

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of each Chargor under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the ~~Core~~ Security Agent may after this Security has become enforceable appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) Where any financial collateral is appropriated:
- (i) if it is cash, its value will be the amount standing to the credit of the relevant account on the date of appropriation plus any accrued but uncredited interest;
  - (ii) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
  - (iii) in any other case, its value will be such amount as the ~~Core~~ Security Agent reasonably determines having taken into account advice obtained by it from an independent adviser, investment bank or accountancy firm of national standing selected by it,

and each Secured Party shall give credit for the proportion of the value of the financial collateral appropriated to its use.

## 10. RECEIVER

### 10.1 Appointment of Receiver

- (a) Except as provided below, the ~~Core~~ Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
- (i) this Security has become enforceable; or
  - (ii) each Chargor so requests the ~~Core~~ Security Agent in writing at any time.
- (b) Any appointment under paragraph (a) above shall be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- (d) The ~~Core~~ Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

### 10.2 Removal

The ~~Core~~ Security Agent may by writing under its hand remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **10.3 Remuneration**

The ~~Core~~ Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by law (including under section 109(6) of the Act) shall not apply.

### **10.4 Agent of each Chargor**

- (a) A Receiver will be deemed to be the agent of each Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. Each Chargor shall be responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (b) No Secured Party shall incur any liability (either to a Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **10.5 Relationship with ~~Core~~ Security Agent**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the ~~Core~~ Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

## **11. POWERS OF RECEIVER**

### **11.1 General**

- (a) A Receiver has all the rights, powers and discretions set out below in this Clause 11 in addition to those conferred on it by any law. This includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### **11.2 Possession**

A Receiver may take immediate possession of, get in and realise any Security Asset.

### **11.3 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which it thinks fit.
- (b) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which it thinks fit.

### **11.4 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

## **11.5 Delegation**

A Receiver may delegate its powers in accordance with this Deed.

## **11.6 Other powers**

A Receiver may:

- (a) do all other acts and things which it may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which it would be capable of exercising if it were the absolute beneficial owner of that Security Asset; and
- (c) use the name of each Chargor for any of the above purposes.

## **12. APPLICATION OF PROCEEDS**

All amounts from time to time received or recovered by the ~~Core~~ Security Agent or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of this Security shall be held by the ~~Core~~ Security Agent and applied in the following order of priority:

- (a) in or towards payment of or provision for the Secured Obligations in accordance with the terms of the Intercreditor Agreement; and
- (b) in payment of the surplus (if any) to each Chargor or other person entitled to it.

This Clause 12 is subject to the payment of any claims having priority over this Security. This Clause 12 does not prejudice the right of any Secured Party to recover any shortfall from each Chargor.

## **13. EXPENSES AND INDEMNITY**

Each Chargor shall:

- (a) immediately on demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and
- (b) keep each Secured Party indemnified against any failure or delay in paying those costs or expenses,  
  
in each case other than arising from the ~~Core~~ Security Agent's or relevant Secured Party's gross negligence, wilful default or fraud.

## **14. DELEGATION**

### **14.1 Power of Attorney**

The ~~Core~~ Security Agent or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion exercisable by it under this Deed.

## 14.2 Terms

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the ~~Core~~ Security Agent or that Receiver (as the case may be) may think fit.

## 14.3 Liability

Neither the ~~Core~~ Security Agent nor any Receiver shall be bound to supervise, or will be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any delegate or sub-delegate.

## 15. FURTHER ASSURANCES

(a) Each Chargor shall promptly, at its own expense, take whatever action the ~~Core~~ Security Agent or a Receiver may require for:

- (i) creating, perfecting or protecting any security over any Security Asset; or
- (ii) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable, by the ~~Core~~ Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

(b) The action that may be required under paragraph (a) above includes (without limitation):

- (i) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance in respect of any asset, whether to the ~~Core~~ Security Agent, its nominee or any other person; or
- (ii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the ~~Core~~ Security Agent may consider necessary or desirable.

## 16. POWER OF ATTORNEY

Each Chargor, by way of security, irrevocably and severally appoints the ~~Core~~ Security Agent, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of each Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all lawful acts and things, in each case, which may be required or which any attorney may, in its absolute discretion, deem necessary for carrying out any obligation of each Chargor under or pursuant to this Deed or generally for enabling the ~~Core~~ Security Agent or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 16.

## 17. PRESERVATION OF SECURITY

### 17.1 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

## **17.2 Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 17, would reduce, release or prejudice any of its obligations under this Deed including (without limitation and whether or not known to it or any Secured Party):

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment of any Debt Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Debt Document or other document or security;
- (f) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Debt Document or any other document or security; or
- (g) any insolvency, resolution or similar proceedings.

## **17.3 Chargor intent**

- (a) Without prejudice to the generality of Clause 17.2 (Waiver of defences), each Chargor acknowledges that the Debt Documents may from time to time be amended.
- (b) Each Chargor confirms its intention that:
  - (i) any amendment to a Debt Document is within the scope of the Secured Obligations and this Security; and
  - (ii) the Secured Obligations and this Security extend to any amount payable by each Chargor under or in connection with a Debt Document as amended.
- (c) Each Chargor agrees that the confirmations in paragraph (b) above apply regardless of:
  - (i) why or how a Debt Document is amended (including the extent of the amendment and any change in or addition to the parties);
  - (ii) whether any amount payable by an Obligor under or in connection with the amended Debt Document in any way relates to any amount that would or may have been payable had the amendment not taken place;
  - (iii) the extent to which each Chargor's liability under this Deed (whether present or future, actual or contingent), or any right it may have as a result of entering into or performing its obligations under this Deed, changes or may change as a result of the amendment; and

- (iv) whether each Chargor was aware of or consented to the amendment.

#### **17.4 Immediate recourse**

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from each Chargor under this Deed. This waiver applies irrespective of any law or provision of a Debt Document to the contrary.

#### **17.5 Appropriations**

Each Secured Party (or any trustee or agent on its behalf) may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or trustee or agent) in respect of the Secured Obligations or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and each Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from each Chargor or on account of each Chargor's liability under this Deed.

#### **17.6 Deferral of Chargor's rights**

Unless the Security Period has expired or the ~~Core~~ Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other person who has provided security or a guarantee in respect of any Obligor's obligations under the Debt Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Debt Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which each Chargor has granted security under this Deed;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the ~~Core~~ Security Agent or as the ~~Core~~ Security Agent may direct for application in accordance with the terms of this Deed.

### **17.7 Additional Security**

- (a) This Security is in addition to and is not in any way prejudiced by any other security or guarantee now or subsequently held by any Secured Party.
- (b) No prior security held by any Secured Party (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

### **17.8 Security held by each Chargor**

No Chargor shall, without the prior consent of the ~~Core~~ Security Agent, hold any security from any other Obligor in respect of any Chargor's liability under this Deed. Each Chargor shall hold any security held by it in breach of this provision on trust for the ~~Core~~ Security Agent.

## **18. MISCELLANEOUS**

### **18.1 Continuing Security**

This Security is a continuing security and shall extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part.

### **18.2 Tacking**

Each Secured Party shall perform its obligations under the Debt Documents (including any obligation to make available further advances).

### **18.3 New Accounts**

- (a) If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with each Chargor.
- (b) If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Obligations.

### **18.4 Currencies**

For the purpose of exercising any right to apply the Assigned Receivables against the Secured Obligations, if all or any part of the Assigned Receivables and the Secured Obligations are in different currencies, the ~~Core~~ Security Agent may convert either amount at a market rate of exchange in its usual course of business.

### **18.5 Notice to Chargor**

This Deed constitutes notice in writing to each Chargor of any charge or assignment by way of security that may at any time be created or made under any Security Document by any member of the Group in respect of any obligation or liability under any agreement, instrument or other document to which that member of the Group is a party.

## 18.6 ~~Core~~ Security Agent

The ~~Core~~ Security Agent executes this Deed in the exercise of the powers and authority conferred upon and vested in it in the Intercreditor Agreement, and will exercise its powers and authority under this Deed in the manner provided for in the Intercreditor Agreement. In so acting, the ~~Core~~ Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Intercreditor Agreement (and, in the event of any inconsistency between this Deed and the Intercreditor Agreement in respect of such matters, the Intercreditor Agreement shall prevail).

## 19. RELEASE

At the end of the Security Period, the ~~Core~~ Security Agent shall, at the request and cost of each Chargor, take whatever action is necessary to release the Security Assets from this Security.

## 20. NOTICES

Communications under this Deed shall be made in accordance with ~~Clause 25~~ clause 28 (Notices) of the Intercreditor Agreement.

## 21. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of any Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law, and may be waived only in writing and specifically.

## 22. GOVERNING LAW

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

## 23. ENFORCEMENT

### 23.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, to the extent allowed by law:
  - (i) no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction; and
  - (ii) the Secured Parties may take concurrent proceedings in any number of jurisdictions.

## 23.2 Waiver of immunity

Each Chargor irrevocably and unconditionally:

- (a) waives all rights of immunity to which it or its assets may be entitled;
  - (b) agrees not to claim any immunity from:
    - (i) proceedings brought in any jurisdiction against it or its assets by a Secured Party in relation to a Dispute;
    - (ii) recognition or enforcement in any jurisdiction of any judgment or order given in relation to a Dispute; or
    - (iii) execution, attachment or other legal process in any jurisdiction against it or its assets in relation to a Dispute,
- and, in each case, to ensure that no such claim is made on its behalf;
- (c) submits to the jurisdiction of any court in relation to the recognition of any judgment or order given in relation to a Dispute; and
  - (d) consents generally to the enforcement in any jurisdiction of any judgment or order given in relation to a Dispute and the giving of any relief in any jurisdiction, whether before or after final judgment, including, without limitation:
    - (i) relief by way of interim or final injunction or order for specific performance or recovery of any assets; and
    - (ii) execution, attachment or other legal process against any assets (irrespective of their use or intended use).

## 24. ~~CONTRACTUAL RECOGNITION OF BAIL-IN~~ BAIL-IN

### 24.1 ~~Definitions~~ Contractual recognition of bail-in

Notwithstanding any other term of any Debt Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Debt Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Debt Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

## **24.2 Bail-in definitions**

In this Clause ~~24.2.2~~:

**Article 55 BRRD** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**Bail-In Action** means the exercise of any Write-down and Conversion Powers.

**Bail-In Legislation** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) ~~in relation to the United Kingdom (to the extent that the United Kingdom is not an EEA Member Country which has implemented or implements Article 55 BRRD), Part 1 of the United Kingdom's Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings); and, the UK Bail-In Legislation; and~~
- (c) in relation to any ~~other state other than such an EEA Member Country and the United Kingdom~~, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**EEA Member Country** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**EU Bail-In Legislation Schedule** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**Resolution Authority** means ~~anybody~~ any body which has authority to exercise any Write-down and Conversion Powers.

**UK Bail-In Legislation** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**Write-down and Conversion Powers** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; ~~and~~
- (b) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to

convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and

(bc) ~~in relation to the United Kingdom's Bail In Legislation or any other applicable Bail-In Legislation:~~

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right ~~has had~~ been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

#### ~~24.2 Contractual recognition of bail in~~

~~Notwithstanding any other term of any Debt Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Debt Documents may be subject to Bail In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:~~

(a) ~~any Bail In Action in relation to any such liability, including (without limitation):~~

(i) ~~a reduction, in full or in part, in the principal amount or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;~~

(ii) ~~a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and~~

(iii) ~~a cancellation of any such liability; and~~

(b) ~~a variation of any term of any Debt Document to the extent necessary to give effect to any Bail In Action in relation to any such liability.~~

**THIS Deed has been executed as a deed and delivered by each Chargor on the date stated at the beginning of this Deed.**

# SCHEDULE 1

## ASSIGNED RECEIVABLES

No.	CHARGOR/LENDER	INTERCOMPANY DEBTOR
1.	ED&F Man Capital Markets Treasury Management PLC	E D & F Man Capital Markets Limited
2.		E D & F Man Capital Markets Holdings Limited
3.		E D & F Man Financial Services Holdings Limited

**SCHEDULE 2**  
**FORMS OF LETTER FOR MCM AGREEMENT**  
**PART 1**  
**NOTICE TO COUNTERPARTY**

To: [Counterparty]

Copy: [~~Core~~ Security Agent] (the ~~Core~~ Security Agent)

Dated:

**Notice of assignment of contract**

This letter constitutes notice to you that we have assigned by way of security to the ~~Core~~ Security Agent (as trustee for itself and certain other persons) all our rights in respect of [insert details of Contract] (the **Contract**).

We confirm that:

- (a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
- (b) none of the ~~Core~~ Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will also remain entitled to exercise all our rights, powers and discretions under the Contract and you should continue to make payments and send communications under the Contract to us, unless and until you receive notice from the ~~Core~~ Security Agent to the contrary stating that the security referred to in this notice has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and all payments shall be made and all communications shall be sent, to the ~~Core~~ Security Agent or as it directs. The contact details for the ~~Core~~ Security Agent are as set out below or as otherwise notified to you from time to time by it. We have agreed with the ~~Core~~ Security Agent that in no event will we amend or waive any provision of, or terminate, the Contract without its prior consent.

We irrevocably instruct and authorise you to disclose to the ~~Core~~ Security Agent any information relating to the Contract requested from you by the ~~Core~~ Security Agent.

The instructions in this letter may not be revoked or amended without the prior consent of the ~~Core~~ Security Agent and you may comply with them without further permission from us or enquiry by you.

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

Please acknowledge receipt of this letter by signing the attached acknowledgement and returning it to the ~~Core~~ Security Agent, with a copy to us.

Yours faithfully

.....  
(Authorised signatory)

[Chargor]

**SCHEDULE 2**

**PART 2**

**ACKNOWLEDGEMENT OF COUNTERPARTY**

To: [~~Core~~ Security Agent] (the ~~Core~~ Security Agent)

Copy: [Chargor]

Dated:

**Assignment of contract**

We confirm receipt from [ ] (the **Chargor**) of a notice dated [ ] of an assignment by way of security of all the Chargor's rights in respect of [insert details of the Contract] (the **Contract**).

We confirm that we:

- (a**b**) accept the instructions contained in the notice and agree to comply with the notice; and
- (b**c**) will make payments and send communications under the Contract as directed in that notice.

We confirm that no amount payable by us under the Contract is subject to any set-off, counterclaim or other similar right and we will not exercise or claim any such right.

We also confirm that we have not received notice of the interest of any third party in the Contract.

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

Yours faithfully

.....  
(Authorised signatory)

[Contract counterparty]

**SCHEDULE 3**  
**FORM OF NOTICE FOR ASSIGNED RECEIVABLES**  
**PART 1**  
**NOTICE TO DEBTOR**

To: [Debtor]  
Copy: [~~Core~~ Security Agent] (the ~~Core~~ Security Agent)  
From: [Chargor]  
Dated:

**Receivables owing by [Debtor] to [Chargor] from time to time (the Receivables)**

This letter constitutes notice to you that under the Security Agreement we have assigned by way of security to the ~~Core~~ Security Agent (as trustee for itself and certain other parties) all our rights in respect of the Receivables.

We confirm that, if so directed by the ~~Core~~ Security Agent, you must pay any Receivables to the ~~Core~~ Security Agent or as it may direct. The instructions in this letter and any directions by the ~~Core~~ Security Agent may not be revoked or amended without the prior written consent of the ~~Core~~ Security Agent, and you should comply with them without further permission from us or enquiry by you.

Until you receive any direction to the contrary from the ~~Core~~ Security Agent, you should continue to make any payments in respect of the Receivables to us.

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

Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the ~~Core~~ Security Agent, with a copy to us.

Yours faithfully

.....  
(Authorised signatory)  
[Chargor]

**PART 2**

## ACKNOWLEDGEMENT OF DEBTOR

To: [Security Agent] (the ~~Core~~ Security Agent)

Copy: [Chargor]

From: [Debtor]

Dated:

**Receivables owing by [Debtor] to [Chargor] from time to time (the Receivables)**

We confirm receipt from the Chargor of a notice (the Notice) a copy of which is attached.

We confirm that we:

- (a) have not received notice of the interest of any third party in any Receivables; and
- (b) will, if so directed by the ~~Core~~ Security Agent, pay any amounts due in respect of the Receivables to the ~~Core~~ Security Agent or as it may direct.

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

Yours faithfully

.....  
(Authorised signatory)  
[Debtor]

## SIGNATORIES

[Signature pages intentionally removed]

### Holdings

~~EXECUTED AS A DEED by~~  
~~E D & F MAN HOLDINGS LIMITED~~  
~~acting by~~

→  
→  
→

~~Director: .....~~

~~In the presence of:~~

~~Witness's signature: .....~~

~~Name: .....~~

~~Address: .....~~

### ~~Receivables Charger~~

~~EXECUTED AS A DEED by~~  
~~E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC~~

~~acting by~~

→  
→

~~Director: .....~~

~~In the presence of:~~

~~Witness's signature: .....~~

~~Name: .....~~

~~Address: .....~~

### ~~Core Security Agent~~

~~EXECUTED AS A DEED by~~  
~~COÖPERATIEVE RABOBANK U.A.~~  
~~acting by~~

→  
→

~~Authorised Signatory: .....~~

~~Name: .....~~

~~Authorised Signatory: .....~~

~~Name: .....~~

## SCHEDULE 2

### DETAILS OF ASSIGNED RECEIVABLES

No.	CHARGOR/LENDER	INTERCOMPANY DEBTOR
1.	ED&F Man Capital Markets Treasury Management PLC	E D & F Man Capital Markets Limited
2.		E D & F Man Capital Markets Holdings Limited
3.		E D & F Man Financial Services Holdings Limited

**SCHEDULE 3**  
**FORMS OF LETTER FOR MCM AGREEMENT**

**PART 1**

**NOTICE TO COUNTERPARTY**

To: [Counterparty]

Copy: [Security Agent] (the Security Agent)

Dated:

**Notice of assignment of contract**

This letter constitutes notice to you that we have assigned by way of security to the Security Agent (as trustee for itself and certain other persons) all our rights in respect of [insert details of Contract] (the Contract).

We confirm that:

- (a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
- (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will also remain entitled to exercise all our rights, powers and discretions under the Contract and you should continue to make payments and send communications under the Contract to us, unless and until you receive notice from the Security Agent to the contrary stating that the security referred to in this notice has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and all payments shall be made and all communications shall be sent, to the Security Agent or as it directs. The contact details for the Security Agent are as set out below or as otherwise notified to you from time to time by it. We have agreed with the Security Agent that in no event will we amend or waive any provision of, or terminate, the Contract without its prior consent.

We irrevocably instruct and authorise you to disclose to the Security Agent any information relating to the Contract requested from you by the Security Agent.

The instructions in this letter may not be revoked or amended without the prior consent of the Security Agent and you may comply with them without further permission from us or enquiry by you.

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

Please acknowledge receipt of this letter by signing the attached acknowledgement and returning it to the Security Agent, with a copy to us.

Yours faithfully

.....

(Authorised signatory)

[Chargor]

## PART 2

### ACKNOWLEDGEMENT OF COUNTERPARTY

To: [Security Agent] (the Security Agent)

Copy: [Chargor]

Dated:

#### Assignment of contract

We confirm receipt from [ ] (the Chargor) of a notice dated [ ] of an assignment by way of security of all the Chargor's rights in respect of [insert details of the Contract] (the Contract).

We confirm that we:

- (a) accept the instructions contained in the notice and agree to comply with the notice; and
- (b) will make payments and send communications under the Contract as directed in that notice.

We confirm that no amount payable by us under the Contract is subject to any set-off, counterclaim or other similar right and we will not exercise or claim any such right.

We also confirm that we have not received notice of the interest of any third party in the Contract.

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

Yours faithfully

.....  
(Authorised signatory)

[Contract counterparty]

**SCHEDULE 4**  
**FORM OF NOTICE FOR ASSIGNED RECEIVABLES**  
**PART 1**  
**NOTICE TO DEBTOR**

To: [Debtor]

Copy: [Security Agent] (the Security Agent)

From: [Chargor]

Dated:

**Receivables owing by [Debtor] to [Chargor] from time to time (the Receivables)**

This letter constitutes notice to you that under the Security Agreement we have assigned by way of security to the Security Agent (as trustee for itself and certain other parties) all our rights in respect of the Receivables.

We confirm that, if so directed by the Security Agent, you must pay any Receivables to the Security Agent or as it may direct. The instructions in this letter and any directions by the Security Agent may not be revoked or amended without the prior written consent of the Security Agent, and you should comply with them without further permission from us or enquiry by you.

Until you receive any direction to the contrary from the Security Agent, you should continue to make any payments in respect of the Receivables to us.

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

Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the Security Agent, with a copy to us.

Yours faithfully

.....  
(Authorised signatory)  
[Chargor]

## PART 2

### ACKNOWLEDGMENT OF DEBTOR

To: [Security Agent] (the Security Agent)

Copy: [Chargor]

From: [Debtor]

Dated:

Receivables owing by [Debtor] to [Chargor] from time to time (the Receivables)

We confirm receipt from the Chargor of a notice (the Notice) a copy of which is attached.

We confirm that we:

- (a) have not received notice of the interest of any third party in any Receivables; and
- (b) will, if so directed by the Security Agent, pay any amounts due in respect of the Receivables to the Security Agent or as it may direct.

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

Yours faithfully

.....  
(Authorised signatory)  
[Debtor]

**SIGNATORIES**

**Chargors**

**EXECUTED AS A DEED by**  
**E D & F MAN HOLDINGS LIMITED**  
acting by

REDACTED  
UNDER S859G  
OF THE  
COMPANIES  
ACT 2006

Jade Moore

Director

In the presence of: REDACTED UNDER S859G OF  
THE COMPANIES ACT 2006

Witness's signature:

Name: Oskar Forsblom

Address:

Freshfields Bruckhaus Deringer LLP  
100 Bishopsgate  
London  
EC2P 2SR

**EXECUTED AS A DEED by**  
**E D & F MAN CAPITAL MARKETS TREASURY MANAGEMENT PLC**  
acting by

REDACTED UNDER S859G  
OF THE COMPANIES ACT  
2006

Director

In the presence of: REDACTED UNDER S859G OF  
THE COMPANIES ACT 2006

Witness's signature:

Name: Oskar Forsblom

Address:

Freshfields Bruckhaus Deringer LLP  
100 Bishopsgate  
London  
EC2P 2SR

Security Agent

EXECUTED AS A DEED by  
COÖPERATIEVE RABOBANK U.A.

acting by

Authorised Signatory: ...

Name: .....

Authorised Signatory: ...

Name: .....

REDACTED  
UNDER S859G  
OF THE  
COMPANIES  
ACT 2006

*L.A. van der Horst*  
Senior Officer Syndicated Loans Agency  
Proxy AB

*R. van Esseveld*  
Senior Officer Syndicated Loans Agency  
Rabobank  
Proxy AB

REDACTED UNDER  
S859G OF THE  
COMPANIES ACT 2006