



Registration of a Charge

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

Company Number: **03909548**



XB1QLFYR

Received for filing in Electronic Format on the: **11/04/2022**

Details of Charge

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

Charge code: **0390 9548 0016**

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

Brief description: **N/A**

Contains fixed charge(s).

Contains floating 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 0016

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 11th April 2022 .

Given at Companies House, Cardiff on 14th 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**

DATED: 31 March 2022

E D & F MAN HOLDINGS LIMITED

(CHARGOR)

and

COÖPERATIEVE RABOBANK U.A.

(CHARGE)

SECOND RANKING DEED OF CHARGE OVER SHARES IN

E D & F MAN CAPITAL MARKETS HOLDINGS LIMITED

CAREY OLSEN

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THIS DEED is made by way of deed on 31 March 2022.

BETWEEN:

- (1) **E D & F MAN HOLDINGS LIMITED**, a limited liability company incorporated in England and Wales (registered number 03909548) and having its registered office at 3 London Bridge Street, London SE1 9SG, United Kingdom (the "**Chargor**"); and
- (2) **COÖPERATIEVE RABOBANK U.A.**, a licensed financial institution, having its address at Croeselaan 18, 3521 CB Utrecht, The Netherlands, acting in its capacity as security agent on behalf of the Secured Parties (as defined below) (the "**Chargee**").

BACKGROUND:

- (A) The Chargor charged its interest in the Charged Property (as defined below) on 11 September 2020 by way of first ranking security (the "**First Ranking Charge**") pursuant to the terms of a common terms agreement dated 11 September 2020 and entered into between, among others, the Chargor, E D & F Man Treasury Management Plc, and the Chargee and an intercreditor agreement dated 11 September 2020 entered into between, among others, the Chargor as parent and Coöperatieve Rabobank U.A. as intercreditor agent.
- (B) The Chargor and the Chargee (collectively, the "**Parties**") wish to enter into this Deed in connection with the Intercreditor Agreement (as defined below).
- (C) As security for the Secured Obligations (as defined below), the Chargor has agreed to further charge its interest in the Charged Property (as defined below) by way of second ranking security on the terms set out in this Deed.
- (D) The Chargee is appointed as agent and trustee for the Secured Parties (as defined below) granted pursuant to, and is holding the benefit of the Security created pursuant to this Deed on trust for the Secured Parties from time to time on, the terms set out in the Intercreditor Agreement.
- (E) This Deed is designated as a Security Document for the purposes of the Intercreditor Agreement.

THIS DEED WITNESSES as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Deed:

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"Charge"	means all or any of the Security created (save for the irrevocable power of attorney given by way of security herein), or which may at any time be created, by or pursuant to or evidenced by this Deed.
"Charged Property"	means all of the Chargor's Rights in and to the Original Shares, any Further Shares and any Related Assets.
"Companies Act"	means the Companies Act 1981.
"Company"	means E D & F Man Capital Markets Holdings Limited, an exempted company incorporated under the laws of Bermuda with number 54104 and having its registered office address at Clarendon House, 2 Church Street, Hamilton HM11, Bermuda.
"Conveyancing Act"	means the Conveyancing Act 1983.
"Debt Document"	has the meaning given to that term in the Intercreditor Agreement.
"Delegate"	means a delegate or sub-delegate appointed pursuant to this Deed.
"Dissolution"	means, in relation to any person, the bankruptcy, liquidation, amalgamation, reconstruction, reorganisation, administration, administrative or other receivership, winding up or dissolution of that person, any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction, and any formal step taken (including, but without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing.
"Electronic Record"	has the meaning given to it in the Electronic Transactions Act.
"Electronic Transactions Act"	means the Electronic Transactions Act 1999.
"Encumbrance"	means any: <ul style="list-style-type: none"> (a) Security; (b) option, warrant, Right to acquire, Right of pre-emption, Right of set-off (other than arising by operation of law), equity, trust, claim, liability, restriction on transfer or power of sale, including any notice imposing restrictions sent by the Company under

section 98M of the Companies Act; or

(c) agreement to do or create any of the foregoing.

"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.
"Equity Security"	means any share, stock, partnership interest or other equity security of any kind.
"Event of Default"	has the meaning given to that term in the Intercreditor Agreement.
"FinCo Facilities"	means the Senior FinCo Facility, the Series B1 Notes, the Junior FinCo Facility and the Series B2 Notes.
"Floating Charge"	has the meaning given to it in Clause 3.1.2 (<i>Grant of Security</i>).
"Further Shares"	means all Shares (other than the Original Shares) which the Chargor may from time to time hold.
"Income"	means all monies, interest, dividends, distributions and other income paid or payable, in cash or in kind, in respect of the Charged Property.
"Indemnified Party"	has the meaning given to it in Clause 14.3 (<i>Indemnity</i>).
"Intercreditor Agreement"	means the intercreditor agreement originally dated 11 September 2020 (as amended and restated from time to time including most recently pursuant to the Refinancing Implementation Deed) between, among others, the Chargor and the Chargee as security agent and intercreditor agent.
"Original Shares"	means the 10 common Shares of par value \$100.00 each.
"Proceedings"	means any proceeding, claim, suit or action, whether arising out of or in connection with any agreement or deed (including regarding its existence, validity or termination, and any non-contractual obligations or liabilities arising out of or in connection with the same) or otherwise.
"Receiver"	means a manager or a receiver, in each case, appointed under this Deed.

"Refinancing Implementation Deed"	has the meaning given to that term in the Intercreditor Agreement.
"Register of Members"	means the register of members of the Company maintained in accordance with the Companies Act.
"Related Assets"	<p>means all Equity Securities, Income, Rights or other property or monies which accrue or are offered, issued or paid at any time (by way of bonus, rights, redemption, conversion, exchange, substitution, consolidation, reclassification, subdivision, preference, warrant, option, purchase, stock split or otherwise) in respect of:</p> <ul style="list-style-type: none"> (a) the Original Shares; (b) any Further Shares; or (c) any other Related Assets.
"Repeating Representations"	has the meaning given to the term "Repeating Representations" in the FinCo Facilities.
"Reservations"	means the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court, the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally, the statutory time-barring of claims, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void, defences of set-off or counterclaim, steps necessary to perfect a security interest where such steps are not required to be performed until a future date, rules against penalties and similar principles of law in other jurisdictions relevant in the context of the Debt Documents.
"Rights"	means any and all rights, benefits, powers, privileges, authorities, discretions and remedies (in each case, of any nature whatsoever).
"Secured Debt Document"	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.
"Secured Parties"	means 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 any mortgage, fixed or floating charge, encumbrance, lien, pledge, hypothecation, assignment by way of security, or title retention arrangement (other than in respect of goods purchased in the ordinary course of trading), and any agreement or arrangement having substantially the same economic or financial effect as any of the foregoing (including any "holdback" or "flawed asset" arrangement).
"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.
"Shares"	means any Equity Security in the capital of the Company legally and/or beneficially owned by the Chargor during the Security Period.
"Third Party"	has the meaning given to it in Clause 22 (<i>Third Party Rights</i>).

1.2 Unless the context requires otherwise in this Deed:

- 1.2.1 the singular includes the plural and the masculine includes the feminine and neuter genders and vice versa;
- 1.2.2 references to a "person" include natural persons, companies, partnerships, firms, joint ventures, associations or other bodies of persons (whether or not incorporated);

- 1.2.3 references to a "person" include that person's valid and lawful successors and legal personal representatives;
- 1.2.4 "writing" and "written" includes any method of representing or reproducing words in a visible form, including in the form of an Electronic Record;
- 1.2.5 a reference to "shall" shall be construed as imperative and a reference to "may" shall be construed as permissive;
- 1.2.6 the term "and/or" is used in this Deed to mean both "and" as well as "or". The use of "and/or" in certain contexts in no respects qualifies or modifies the use of the terms "and" or "or" in others. "Or" shall not be interpreted to be exclusive, and "and" shall not be interpreted to require the conjunctive, in each case unless the context requires otherwise;
- 1.2.7 any phrase introduced by the terms "including", "includes", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.2.8 headings are inserted for reference only and shall not affect construction;
- 1.2.9 references to any statute or statutory provision include that statute or provision as it may have been, or may from time to time be, amended, modified, re-enacted, or replaced and include references to all bye-laws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom;
- 1.2.10 references to a Clause or Schedule are to a clause or schedule of this Deed;
- 1.2.11 unless explicitly provided for otherwise, any Right which may be exercised by or any determination which the Chargee may make under this Deed may be exercised or made in its absolute discretion;
- 1.2.12 an Event of Default is "continuing" if it has not been remedied or waived; and
- 1.2.13 unless otherwise defined in this Deed, words and expressions defined in the Intercreditor Agreement shall have the same meanings when used in this Deed. In the event of any conflict or inconsistency between the terms of this Deed and the Intercreditor Agreement, the Intercreditor Agreement will prevail.
- 1.3 Except to the extent that the context otherwise requires, any reference in this Deed to "**this Deed**" or any other deed, agreement or instrument is a reference to this Deed or, as the case may be, the

relevant deed, agreement or instrument as may be amended, restated, supplemented, replaced or otherwise modified from time to time (including with respect to any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility provided in accordance with any of the Debt Documents or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of the Intercreditor Agreement) and includes any document which amends, restates, supplements, replaces, or otherwise modifies or is entered into, made or given pursuant to or in accordance with any of the terms of this Deed or, as the case may be, the relevant deed, agreement or instrument.

2. COVENANT TO PAY, PERFORM AND DISCHARGE

The Chargor covenants with the Chargee to duly and punctually pay, perform or discharge all the Secured Obligations when due and payable pursuant to the Debt Documents, and in the currency or currencies and in the manner in which, they are expressed to be due, owing, or payable (as applicable) pursuant to the Debt Documents.

3. GRANT OF SECURITY

3.1 As continuing security for the full and punctual payment, performance and discharge of all the Secured Obligations, the Chargor as legal and beneficial owner hereby:

3.1.1 charges and assigns, and agrees to charge and assign, in favour of the Chargee by way of second ranking fixed charge, all of its Rights in and to the Charged Property; and

3.1.2 charges, in favour of the Chargee by way of second ranking floating charge (the "**Floating Charge**"), all of its Rights in and to the Charged Property, to the extent not effectively secured in the manner intended by paragraph 3.1.1 above.

4. CRYSTALLISATION OF FLOATING CHARGE

4.1 Automatic crystallisation

The Floating Charge shall, without the need for notice, automatically and immediately convert into a fixed charge over the Charged Property to which it relates in the event that an Enforcement Trigger occurs.

4.2 Crystallisation by notice

The Chargee may, by written notice to the Chargor, at any time and in its sole discretion, crystallise and convert the Floating Charge into a fixed charge as regards the whole or any part of the Charged Property.

4.3 **Assets acquired after the Floating Charge has crystallised**

Assets that are acquired by the Chargor following the crystallisation of the Floating Charge that would, in the absence of such crystallisation, have been subject to the Floating Charge, shall be charged in favour of the Chargee by way of second ranking fixed charge.

4.4 **De-crystallisation**

The Chargee may, at any time following the crystallisation of the Floating Charge, de-crystallise the Floating Charge in respect of the whole or any part of the Charged Property by written notice to the Chargor, following which the Floating Charge will be deemed to have re-converted into a floating charge with respect to such Charged Property.

5. **COVENANT TO DEPOSIT**

5.1 **Original Shares and Further Shares**

5.1.1 The Chargor shall:

- (a) promptly after execution of this Deed in the case of the Original Shares; and
- (b) during the Security Period, promptly following its coming into the possession of any Further Shares,

deliver or cause to be delivered to the Chargee:

- (i) all share certificates, if any (to the extent not previously delivered to the Chargee pursuant to the First Ranking Charge), documents of title and other documentary evidence of ownership in relation to such Shares including a certified copy of the Register of Members showing the Chargor as registered owner of such Shares;
- (ii) an executed but undated share transfer instrument in favour of the Chargee or its nominees (as the Chargee shall direct) in respect of such Shares substantially in the form set out in Schedule 1 (to supplement the duly executed undated share transfer instrument previously delivered to the Chargee pursuant to the First Ranking Charge);
- (iii) an executed, undated irrevocable proxy and power of attorney made in respect of the Shares in favour of the Chargee in respect of all general

meetings and written resolutions of the Company respectively substantially in the form set out in Schedule 2; and

- (iv) an executed irrevocable deed of undertaking and confirmation from the Company to the Chargee substantially in the form set out in Schedule 3.

5.1.2 The Chargor shall, promptly after execution of this Deed, register or procure the registration of the Charge and all necessary details relating thereto, in any and all relevant registers of charges or other security interests (whether public or private) and make all necessary notifications to any public authorities which may be required in any jurisdiction.

5.1.3 The Chargor shall:

- (a) promptly after execution of this Deed, deliver or cause to be delivered to the Chargee executed but undated letters of resignation and release together with letters of authority to date the same from each of the directors, alternate directors and officers of the Company; and
- (b) during the Security Period (and to the extent permitted by the terms of the Debt Documents), promptly following the appointment of any person as a director, alternate director or officer of the Company, deliver or cause to be delivered to the Chargee:
 - (i) an executed but undated letter of resignation and release together with a letter of authority to date the same from each person so appointed substantially in the form set out in Schedule 4; and
 - (ii) a certified copy of the Company's register of directors and officers reflecting such new appointment.

5.2 Related Assets

5.2.1 Subject to the right of the Chargor to receive and retain any Income as specifically provided for in this Deed during the Security Period, the Chargor shall, upon the occurrence of an Enforcement Trigger, as soon as reasonably practicable following (and in any event within 14 days of) the receipt of any Related Assets, deliver or pay to the Chargee or procure the delivery or payment to the Chargee, or such other person as the Chargee may direct in writing, of:

- (a) all such Related Assets and the share certificates, renounceable certificates, letters of allotment, documents of title and other documentary evidence of ownership in relation to such Related Assets;
- (b) one or more executed but undated transfer instruments in respect of any Equity Securities comprised in such Related Assets in a form suitable to effect the transfer of all the Rights to such Equity Securities in favour of the Chargee or such other person as the Chargee may direct in writing and to have them registered as legal owner thereof; and
- (c) any other documents which from time to time may be requested by the Chargee in order to enable the Chargee, its nominees or any purchaser, at any time on or after the occurrence of an Enforcement Trigger, to be registered as the owner or otherwise obtain legal title to such Equity Securities.

6. PROTECTION OF SECURITY

6.1 Notwithstanding the Charge, the Chargor shall promptly pay all fees, expenses, calls, instalments and other payments due on or in respect of any of the Charged Property, failing which the Chargee may, at its discretion but without obligation, make such payments on behalf of the Chargor.

6.2 Any sum paid by the Chargee on behalf of the Chargor pursuant to this Clause:

6.2.1 shall be reimbursed by the Chargor to the Chargee on demand and on a full indemnity basis; and

6.2.2 is, pending reimbursement, to be regarded as forming part of the Secured Obligations secured by this Deed, and may be debited from any account of the Chargor as the Chargee deems fit.

7. COVENANTS

During the Security Period, subject to the express written consent of the Chargee and save as otherwise expressly permitted by any of the Debt Documents, the Chargor shall (either directly or insofar as it is able by the exercise of all voting rights, powers of control and other means available to it) comply with the following covenants:

7.1 Dealing with Charged Property

During the Security Period and except as not otherwise prohibited by any of the Debt Documents or this Deed, the Chargor will remain the legal and beneficial owner of the Charged Property

(subject only to the security interests hereby created and those created by the First Ranking Charge) and shall not, without the express written consent of the Chargee, take any action that would be reasonably likely to, or omit to take any action that would prevent any action or circumstance that would be reasonably likely to:

- 7.1.1 create or permit to subsist any Encumbrance (other the security interests created by the First Ranking Charge) over, or any moneys or liabilities to be due or outstanding with respect to any of the Charged Property; or
- 7.1.2 result in the sale, transfer, lending, assignment or disposition of or any of the Charged Property, or an agreement to do any of the foregoing (other than pursuant to the First Ranking Charge).

7.2 Protection and preservation of Charged Property

7.2.1 During the Security Period and except as not otherwise prohibited by any of the Debt Documents or this Deed, the Chargor shall not, and shall procure that the Company shall not, without the express written consent of the Chargee, take any action that would be reasonably likely to, or omit to take any action that would prevent any action or circumstance that would be reasonably likely to:

- (a) dilute, reduce, redeem, otherwise acquire, cancel, sub-divide, amalgamate, reclassify or otherwise restructure the Share or Equity Securities included in the Charged Property or otherwise adversely impact the value of any of the Charged Property or any of the Rights attaching to the Charged Property;
- (b) adversely affect the validity or effectiveness of this Deed or the Charge;
- (c) effect or permit any scheme of arrangement, merger, amalgamation or other reorganisation of the Company; or
- (d) otherwise cause the Company to cease to be registered under the Companies Act (including for the avoidance of doubt, as a result of the Company being continued to a jurisdiction outside of Bermuda).

7.2.2 The Chargor shall take all steps necessary to ensure that the Charge will (subject to the Reservations) at all times be legally valid and binding and have the effect and priority it is expressed to have.

7.3 Proceedings

Subject to the terms of the Intercreditor Agreement, the Chargor shall enforce any Rights and institute, continue or defend any Proceedings relating to any of the Charged Property as the Chargee may reasonably require from time to time.

7.4 Memorandum of association and bye-laws and transfer of Charged Property

7.4.1 The Chargor shall not take any action that would be reasonably likely to result in, or omit to take any action that would be reasonably likely to prevent, the amendment of the memorandum of association or the bye-laws of the Company in a manner that would be prejudicial to the interests of the Chargee under this Deed or which would adversely affect the Charge.

7.4.2 The Chargor shall procure:

- (a) that the terms of the bye-laws of the Company permit the exercise by the Chargee and any Receiver of any Right granted to it hereunder, including any transfer of Charged Property made in accordance with the terms of this Deed; and
- (b) that the Company does not refuse to register a transfer of any Charged Property made in accordance with the terms of this Deed.

7.5 Exercise of Rights

The Chargor shall not exercise any of its voting or any other Rights relating to the Charged Property in a manner reasonably likely to be prejudicial to the interests of the Chargee, materially adversely affect the Charge, or otherwise prejudice the ability of the Chargee to enforce and realise the Charge.

7.6 Chargor remains liable

The Chargor shall remain liable to perform all the obligations assumed by it in relation to the Charged Property and the Chargee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations in respect of the Charged Property.

7.7 Further assurance

The Chargor shall, at its own cost, as soon as is reasonably practicable, execute and do all such deeds, instruments, assignments, transfers, renunciations, proxies, notices, documents,

assurances, acts and things in such form as the Chargee or any Receiver may from time to time reasonably require for facilitating the realisation of the Charge, for enforcing the same or exercising any of the Chargee's or any Receiver's Rights hereunder.

8. REPRESENTATIONS AND WARRANTIES

In addition to the representations and warranties made by the Chargor pursuant to the Debt Documents in the manner and frequency set out therein, the Chargor makes the following representations and warranties to the Chargee on the date of this Deed:

8.1 Status of Company

The Company is an exempted company, duly incorporated and validly existing under the laws of Bermuda, and has neither failed to make any filing with any Bermuda governmental authority nor failed to pay any Bermuda government fee or tax which might make it liable to be struck off the Register of Companies.

8.2 Avoidance of Charge

The Charge is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

8.3 Charged Property

8.3.1 The Original Shares constitute all of the issued share capital of the Company, and all of the Shares held by, and in the name of, the Chargor.

8.3.2 All Shares included in the Charged Property:

- (a) are fully paid and non-assessable;
- (b) have not been redeemed or cancelled in any way; and
- (c) have been duly authorised and validly issued.

8.3.3 The Chargor has not received any notice of an adverse claim by any person in respect of the ownership of the Charged Property or any interest in the Charged Property.

8.3.4 Other than in favour of the Chargor, the Company is under no obligation, nor is it liable to become under any obligation, to issue any further Shares nor, without limiting the generality of the foregoing, has the Company created any option to acquire any Shares in

the Company or any securities exchangeable for or convertible into Shares of the Company.

- 8.3.5 The Chargor and its beneficial owners have each, to the extent applicable, provided the Company with all such information relating to itself as may be necessary to enable the Company to maintain an accurate register of beneficial ownership in accordance with Part VIA of the Companies Act.

8.4 Repetition of representations and warranties

The Chargor shall be deemed to repeat each of the representations and warranties set out in this Clause (other than as set out in Clause 8.3.1), on each of the dates on which the Repeating Representations (under and as defined in the relevant Debt Documents) are deemed to be made, in relation to the facts and circumstances existing at such time.

9. CHARGOR'S RIGHTS BEFORE ENFORCEMENT

- 9.1 Until the occurrence of an Enforcement Trigger, the Chargor shall be entitled to:

9.1.1 receive and retain free from the Charge any Income paid to it (in cash or in kind) provided that any Income paid in the form of Shares or Equity Securities and any payment made to redeem or repurchase any Shares or Equity Securities that form part of the Charged Property shall be Related Assets subject to the Charge;

9.1.2 receive all notices relating to the Charged Property; and

9.1.3 exercise and control the exercise of all voting and other Rights relating to the Charged Property, subject to the terms of this Deed,

provided that no such exercise of Rights or action results or would be reasonably likely to result in a material reduction in the value of the Charged Property or otherwise materially prejudice the ability of the Chargee to enforce the Charge.

- 9.2 The Chargee shall have no duty to ensure that any Income (in the form of cash or in kind) is duly and punctually paid, received or collected when the same becomes due and payable or to ensure that the correct amounts (if any) are paid and received or to ensure the taking up of any offer of any Income paid in the form of Shares or Equity Securities, provided that nothing in this Deed shall restrict the Chargor from receiving and retaining any payment not prohibited by the Debt Documents.

10. DEALING WITH CHARGED PROPERTY ON ENFORCEMENT

10.1 Rights of the Chargee

10.1.1 The Charge shall become enforceable at any time on or after the occurrence of an Enforcement Trigger, at which point the Chargee shall have the right (but not the obligation), in its discretion, without any notice to or consent of the Chargor or prior authorisation from any court, to enforce all or any part of the Charge, which shall include:

- (a) any or all of the powers of a mortgagee conferred by section 30 of the Conveyancing Act as if that Act applied to personal property as well as real property; and
- (b) without prejudice to the foregoing, the power to:
 - (i) subject to obtaining any necessary approvals from the Bermuda Monetary Authority, take possession of and to collect the Charged Property, and in particular to take any steps necessary to secure and perfect its title or vest all or any of the Charged Property in the name of the Chargee, its nominee or Delegate (including completing any transfers of any Shares or Equity Securities comprised in the Charged Property) and to receive and retain any Income thereon;
 - (ii) date and present to the Company or any other person any undated documents provided to it pursuant to Clause 5 or any other provision of this Deed;
 - (iii) borrow or raise financing in respect of and to grant Encumbrances over the Charged Property;
 - (iv) sell, exchange, convert into money or otherwise dispose of or realise all or any part of the Charged Property (whether by public offer or private contract) to any person and for such consideration (whether comprising cash, debentures or other obligations, Equity Securities or other valuable consideration of any kind) and on such terms (whether payable or deliverable in a lump sum or by instalments) as it may (in its discretion) think fit, and for this purpose to complete any transfers of the Charged Property;
 - (v) exercise or direct the exercise of all voting and other Rights relating to the Charged Property in such manner as it may (in its discretion) think fit;

- (vi) bring, prosecute, enforce, defend or abandon any Proceedings in relation to the Charged Property, and to petition for or seek an order for the Dissolution of the Chargor or to defend and oppose the same;
- (vii) settle, adjust, refer to arbitration, compromise or arrange any Proceedings, accounts, questions and demands, and to make any arrangement or compromise with others as it shall think fit, relating in any way to the Charged Property;
- (viii) appoint or engage such persons, on such remuneration as it shall reasonably determine, including any consultants, attorneys, accountants, managers, officers and agents, and to pay proper charges in respect of time spent by the forgoing in dealing with matters relating to the Charged Property or the enforcement thereof;
- (ix) redeem any prior Encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed an expense properly incurred by the Chargee; and
- (x) do all such other acts and things it may (in its discretion) consider necessary, desirable or expedient for the realisation of the Charged Property or incidental to the exercise of any of the Rights conferred on it under or in connection with the Debt Documents and to concur in the doing of anything which it has the right to do and to do any such thing jointly with any other person.

10.2 **Protection of interests**

The powers conferred on the Chargee by this Deed are solely to protect its interests in the Charged Property and shall not impose any duty on the Chargee to exercise any of those powers.

10.3 **No duties**

10.3.1 The Chargee shall not, in respect of any of the Charged Property, have any duty or incur any liability for:

- (a) ascertaining or taking action in respect of any fees, expenses, calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any

Charged Property or the nature or sufficiency of any payment whether or not the Chargee has or is deemed to have knowledge of such matters; or

- (b) taking any necessary steps to preserve Rights against prior parties or any other rights relating to any of the Charged Property.

10.4 Obligations of the Chargor

10.4.1 Upon enforcement of the Charge:

- (a) all Income arising from the Charged Property shall be paid to and retained by the Chargee, and any such moneys which may be received by the Chargor shall be promptly paid to and retained by the Chargee and, pending such payment, shall be segregated from any other property of the Chargor and held in trust for the Chargee; and
- (b) the Chargor shall procure that all voting and other Rights relating to the Charged Property are exercised in accordance with such instructions (if any) as may from time to time be given to the Chargor by the Chargee, and the Chargor shall deliver to the Chargee such forms of proxy or other appropriate forms of authorisation that it may request to enable the Chargee to exercise such voting and other Rights.

10.5 Variations of Conveyancing Act

10.5.1 To the extent the Conveyancing Act is applicable to the security created by this Deed, the Chargor:

- (a) waives section 29 of the Conveyancing Act; and
- (b) agrees that section 31 of the Conveyancing Act shall not apply.

10.5.2 For the avoidance of doubt, the powers of the Chargee by virtue of this Deed shall not be limited to those specified in section 30 of the Conveyancing Act. For the purposes of all powers conferred by statute, the Secured Obligations shall be deemed to have become due and payable on the date of this Deed.

11. APPOINTMENT AND POWERS OF A RECEIVER

11.1 Appointment of a Receiver

11.1.1 At any time:

- (a) on or after the occurrence of an Enforcement Trigger ; or
- (b) a request has been made by the Chargor to the Chargee for the appointment of a receiver and manager or receiver over its assets or in respect of the Chargor,

then notwithstanding the terms of any other agreement between the Chargor and any person, the Chargee may, without notice to the Chargor or prior authorisation from any court (unless precluded by law) appoint in writing any person or persons to be a Receiver of all or any part of the Charged Property as the Chargee may choose in its discretion.

11.1.2 Where more than one Receiver is appointed, the appointees shall have power to act jointly or separately unless the Chargee shall specify to the contrary.

11.1.3 The Chargee may from time to time determine the remuneration of a Receiver.

11.1.4 The Chargee may remove a Receiver from all or any of the Charged Property of which he is the Receiver and after the Receiver has vacated office or ceased to act in respect of any of the Charged Property, appoint a further Receiver over all or any of the Charged Property in respect of which he shall have ceased to act.

11.1.5 Such an appointment of a Receiver shall not preclude:

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

11.1.6 The Receiver shall be the agent of the Chargor (which shall be solely liable for the Receiver's acts, defaults and remuneration) unless and until the Chargor is placed into liquidation, after which time the Receiver shall act as principal. The Receiver shall not at any time become the agent of the Chargee, and the Chargee shall have no liability whatsoever for the Receiver's acts, omissions, contracts or defaults.

11.2 Powers of a Receiver

In addition to those powers conferred by law (including the rights and powers conferred on a receiver under the Conveyancing Act), a Receiver shall have and be entitled to exercise in relation to the Chargor all Rights of the Chargee under or pursuant to this Deed including all voting and other Rights attaching to the Charged Property.

12. APPLICATION OF MONEYS

All moneys realised, received or recovered by the Chargee or a Receiver shall (subject to the discharge of any liabilities having by applicable law preference or priority, and without prejudice to the Chargee's right to recover any shortfall from the Chargor) be applied in accordance with the terms of the Intercreditor Agreement.

13. GENERAL RIGHTS OF CHARGE

13.1 New account

At any time following:

13.1.1 the Chargee receiving notice (either actual or constructive) of any subsequent Security affecting the Charged Property (save to the extent such Security is expressly permitted pursuant to the terms of the Debt Documents); or

13.1.2 the commencement of the Dissolution of the Chargor,

and in each case subject to the terms of the Intercreditor Agreement, the Chargee may open a new account in its books in the name of the Chargor (whether or not it permits any existing account to continue). If the Chargee does not open such a new account, it shall nevertheless be treated as if it had done so at the time when the notice was received or was deemed to have been received or, as the case may be, the Dissolution commenced. Thereafter, all payments made by the Chargor to the Chargee or received by the Chargee for the account of the Chargor shall be credited or treated as having been credited to the new account and shall not operate to reduce the Secured Obligations as from the time when the Chargee received or was deemed to have received such notice or, as the case may be, the Dissolution commenced.

13.2 Delegation

The Chargee or any Receiver may delegate in any manner to any person any of the Rights which are for the time being exercisable by it under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Chargee or any Receiver may think fit. The Chargee and the Receiver shall have no responsibility to monitor the actions of the Delegate. The Chargee and the Receiver shall have no liability whatsoever for the Delegate's acts, omissions, contracts or defaults.

13.3 **Indulgence**

The Chargee may at its discretion grant time or other indulgence, or make any other arrangement, variation or release with any person or persons not being a Party (whether or not such person or persons are jointly liable with the Chargor) in respect of any of the Secured Obligations or of any other Security for them without prejudice either to this Deed or to the liability of the Chargor for the Secured Obligations.

13.4 **Set-off by Chargee**

The Chargee may, at any time on or after the occurrence of an Enforcement Trigger, without prior notice to the Chargor and without prejudice to any of the Chargee's other Rights, set-off any Secured Obligations which are due and unpaid against any obligation (whether or not matured) owed by the Chargee to the Chargor, regardless of the place of payment or booking branch, and for that purpose the Chargee may convert one currency into another at the rate of exchange determined by the Chargee in its discretion to be prevailing at the date of set-off. The Chargee shall promptly notify the Chargor of such set-off after it has been effected.

13.5 **The Chargee's powers and rights**

The Chargee executes this Deed in the exercise of the powers and authority conferred and vested in it under the Intercreditor Agreement for and on behalf of the Secured Parties for which it acts, and in so acting, the Chargee shall have the protections, immunities, rights, indemnities and benefits conferred on it under the Intercreditor Agreement. The Chargee shall not owe any fiduciary duties to the Chargor.

13.6 **Right to seek instructions**

Notwithstanding any other provision of this Deed and subject at all times to the terms of the Intercreditor Agreement, in acting under and in accordance with this Deed, the Chargee is entitled to seek instructions from the Secured Parties at any time, and where it so acts on the instructions of the Secured Parties the Chargee shall not incur any liability to any person for so acting.

14. **POSSESSION, LIABILITY AND INDEMNITY**

14.1 **Possession**

If the Chargee, any Receiver or any Delegate or nominee shall take possession of the Charged Property, it may at any time relinquish such possession to the Chargor.

14.2 The Chargee's and the Receiver's liability

14.2.1 Neither the Chargee nor any Receiver shall in any circumstances (whether by reason of taking possession of the Charged Property or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever) be liable to account to the Chargor or any other person for:

- (a) anything except the Chargee's or any Receiver's own actual receipts; or
- (b) any costs, charges, losses, damages, liabilities or expenses arising from any realisation of the Charged Property or from any exercise or non-exercise by the Chargee or any Receiver of any Right conferred upon it in relation to the Charged Property or from any act, default, omission or misconduct of the Chargee or any Receiver, their officers, employees or agents in relation to the Charged Property except to the extent that they shall be caused by the Chargee's or any Receiver's own actual fraud or wilful default. References to "actual fraud or wilful default" in this Clause mean a binding non-appealable finding by a court of competent jurisdiction to that effect.

Such restrictions on the liability of the Chargee and any Receiver shall apply, *mutatis mutandis*, in respect of the liability of any Delegate, nominee, employee or agent of the Chargee or any Receiver.

14.3 Indemnity

14.3.1 The Chargor agrees to keep the Chargee, each Receiver, and their and the Chargee's respective nominees, employees, Delegates and agents (each, an "**Indemnified Party**") at all times fully indemnified against all liabilities, payments, losses and expenses (including, without limitation, those arising by reason of calls, instalments, actions, claims, damages, costs and interest) that may arise or become due as a result of or in connection with:

- (a) having possession of the share certificates or other documents of title to any Shares or Equity Securities comprising the Charged Property;
- (b) the performance of any function in relation to or the taking of any steps to perfect or administer the Charge; or
- (c) the preservation, defence or enforcement of any Rights vested in them under this Deed,

except to the extent that any such liability, payment, loss or expense shall be caused by such indemnified person's own actual fraud or wilful default. References to "actual fraud or wilful default" in this Clause mean a binding non-appealable finding by a court of competent jurisdiction to that effect.

15. PROTECTION OF THIRD PARTIES

- 15.1 No person dealing with the Chargee or any Receiver or any Delegate shall be concerned to enquire whether any event has happened upon which any of the Rights conferred under or in connection with this Deed are or may be exercisable, whether any consent, regulations, restrictions or directions relating to such Rights have been obtained or complied with or otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such Rights or as to the application of any money borrowed or raised or other proceeds of enforcement.
- 15.2 The receipt of the Chargee or any Receiver shall be an absolute and conclusive discharge to a purchaser and shall release him of any obligation to see to the application of any moneys paid to or at the direction of the Chargee or any Receiver.
- 15.3 In the above Clauses, "purchaser" includes any person acquiring, for money or money's worth, any Encumbrance over or in relation to any of the Charged Property.

16. CONTINUING SECURITY

The Charge shall be a continuing security for the Secured Obligations and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account (whether or not any Secured Obligations remain outstanding thereafter) or any other matter or thing whatsoever including the intermediate satisfaction by the Chargor of the whole or any part of the Secured Obligations except only any release and discharge by the Chargee of all of the Charge.

17. INDEPENDENT SECURITY

The Charge shall be in addition to and independent of and shall not merge with or be prejudiced by any other Security or any guarantee or indemnity or other Right or document which the Chargee may at any time hold for the payment of the Secured Obligations. The Chargee shall not be bound to enforce any other Security before enforcing the Charge.

18. **LIABILITY OF THE CHARGOR**

18.1 **Charge not affected**

18.1.1 Without prejudice to Clauses 16 (*Continuing Security*) and 17 (*Independent Security*), neither the Charge nor the liability of the Chargor for the Secured Obligations shall be prejudiced or affected by:

- (a) any variation or amendment of, or waiver, release or discharge granted under or in connection with, any other Security or any guarantee or indemnity or other document (including any of the Debt Documents);
- (b) time being given, or any other indulgence or concession being granted, by the Chargee to the Chargor or any other person;
- (c) any of the obligations of the Chargor under the Debt Documents or any documents ancillary thereto being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (d) any failure to take or fully take, any Security contemplated by the Debt Documents or any documents ancillary thereto;
- (e) any failure to realise or fully realise the value of, or any release, discharge, exchange or substitution of, any Security taken in respect of any Chargor's obligations under the Debt Documents or any documents ancillary thereto;
- (f) the Dissolution of the Chargor or any other person;
- (g) any change in the constitutional documents of the Chargor or any other person;
- (h) any amalgamation, merger or reconstruction that may be effected by the Chargee with any other person or any sale or transfer of the whole or any part of the undertaking, property and assets of the Chargee to any other person;
- (i) the existence of any claim, set-off or other right which the Chargor may have at any time against the Chargee or any other person;
- (j) the making or absence of any demand for payment of any Secured Obligations on the Chargor or any other person, whether by the Chargee or any other person;

- (k) any arrangement or compromise entered into by the Chargee with the Chargor or any other person; or
- (l) any other thing done or omitted or neglected to be done by the Chargee or any other person or any other dealing, fact, matter or thing which, but for this provision, might operate to prejudice or affect the liability of the Chargor for the Secured Obligations.

18.2 Immediate recourse

The Chargor waives any Right it may have of requiring the Chargee to:

18.2.1 enforce any Security or other Right; or

18.2.2 claim any payment from or otherwise proceed against any other person,
before enforcing this Deed against the Chargor.

19. RELEASE OF CHARGED PROPERTY

19.1 Upon the expiry of the Security Period (or if the Chargee is satisfied that Security or a guarantee for the Secured Obligations, in its discretion, has been provided in substitution for the Charge) the Chargee shall, at the request and cost of the Chargor, execute and deliver such deeds and documents and do all such acts and things as may be necessary or reasonably requested to release the Charged Property from the Charge.

19.2 If the Chargee shall be directed by the Chargor pursuant to the Debt Documents to release the Charged Property from the Charge, such Charged Property shall be released from the Charge to the extent provided under, and subject to the terms and conditions set forth in, the Debt Documents. In connection therewith, the Chargee, at the request and cost of the Chargor, shall execute and deliver such deeds and documents and do all such acts and things as may be necessary or reasonably requested to effect or evidence such release.

19.3 Any release, discharge or settlement between the Chargor and the Chargee shall be deemed conditional on no payment or Security received by the Chargee in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any provision of any law relating to Dissolution or otherwise and, notwithstanding any such release, discharge or settlement:

19.3.1 the Chargee or its nominee shall be at liberty to retain this Deed and the Charge, including all certificates and documents relating to the whole or any part of the Charged Property,

for such period as the Chargee shall deem necessary to provide the Chargee with Security against any such avoidance, reduction or order for refund; and

19.3.2 the Chargee shall be entitled to recover the value or amount of such Security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.

19.4 Any release or discharge of the Charge (in whole or in part) shall not be deemed to release or discharge the Chargor from the Secured Obligations or any other liability arising under the Debt Documents.

20. IRREVOCABLE POWER OF ATTORNEY AND PROXY

20.1 The Chargor hereby appoints the Chargee, every Receiver and any person nominated in writing by the Chargee as attorney of the Chargor, severally, to be the attorney and proxy of the Chargor (with full powers of substitution and delegation) and on its behalf and in its name or otherwise, at such time and in such manner as such attorney may think fit:

20.1.1 to do anything which the Chargor is or may be obliged to do (but has not done) under this Deed; and

20.1.2 generally to exercise all or any Rights (including the right to act as the Chargor's proxy at any general or class meeting of the Company) execute any documents, and do any acts or things which such attorney may deem proper or desirable in connection with the exercise of any of the Rights conferred on the Chargee in relation to the Charged Property or under or in connection with this Deed,

provided that neither the Chargee nor any other attorney appointed hereunder may exercise any rights as attorney until the occurrence of an Enforcement Trigger.

20.2 The Chargor covenants to ratify and confirm whatever any attorney shall lawfully do or purport to do in the exercise or purported exercise of the above power of attorney.

20.3 The foregoing power of attorney is coupled with an interest, is given to secure a proprietary interest of the donee of the power and the performance of an obligation owed to the donee and accordingly is irrevocable for so long as this Deed is in force.

20.4 The power of attorney granted under this Clause, shall terminate upon the termination of this Deed.

21. **CERTIFICATE TO BE CONCLUSIVE EVIDENCE**

For all purposes, including any relevant Proceedings, a copy of a certificate signed by an authorised signatory of the Chargee as to the amount of any indebtedness comprised in the Secured Obligations for the time being shall, in the absence of manifest error, be conclusive evidence against the Chargor as to the amount thereof.

22. **THIRD PARTY RIGHTS**

22.1 Subject to Clause 22.2, pursuant to the Contracts (Rights of Third Parties) Act 2016, each person expressly indemnified or exculpated pursuant to this Deed (including each Indemnified Party) who is not a Party (each, a "**Third Party**") shall be entitled to enforce any term of this Deed relating to such person as if it were a Party.

22.2 The Parties may terminate, rescind or agree to any variation, waiver or settlement or extinguish or alter any entitlement or right of an Third Party under this Deed without obtaining the consent of any other person, including a Third Party.

23. **CONSENTS, WAIVERS, VARIATIONS AND RIGHTS**

23.1 No consent, variation or waiver in respect of any provision of this Deed shall be effective unless and until it is agreed in writing duly executed by or on behalf of:

23.1.1 in the case of a variation, each Party; and

23.1.2 in the case of a consent or waiver of a right in connection herewith, the person entitled to give the same or entitled to such right.

23.2 Any consent or waiver by a Party under this Deed may be given subject to any conditions such Party thinks fit and shall be effective only in the instance and for the purpose for which it is given.

23.3 No failure by a Party to exercise or delay in exercising any right, power or remedy provided by law or under this Deed (or any part-exercise thereof) shall operate to impair the same or be construed as a waiver of it.

23.4 No single or partial exercise of any such right, power or remedy shall prevent any further or other exercise of the same or the exercise of any other right.

23.5 No waiver of any such right shall constitute a waiver of any other right.

23.6 The rights provided in this Deed are cumulative and not exclusive of any rights provided by law.

24. **COUNTERPARTS**

This Deed (and each variation or waiver in respect of any provision of it) may be executed and delivered in any number of counterparts by the Parties, but shall not be effective until each Party has executed and delivered at least one counterpart. Each counterpart, once executed and delivered, shall constitute an original of this Deed, but all the counterparts together shall constitute one and the same instrument.

25. **PARTIAL INVALIDITY**

If any provision of this Deed is or becomes or is found by a court or other competent authority to be illegal, invalid or unenforceable in any respect, in whole or in part, under any law of any jurisdiction, neither the legality, validity and enforceability in that jurisdiction of any other provision or part of this Deed, nor the legality, validity or enforceability in any other jurisdiction of that provision or part or of any other provision of this Deed, shall be affected or impaired.

26. **LANGUAGE**

All notices, certificates, documents, demands, requests, statements or other communications made, given or delivered between the Parties pursuant to or in connection with this Deed shall be in writing and in the English language.

27. **ASSIGNMENT**

No Party may assign any of its rights or benefits or transfer any of its rights, benefits and obligations] in respect of its Rights under this Deed or the Charge except as permitted by the terms of the Intercreditor Agreement.

28. **NOTICES**

Any notice or other communication under this Deed shall be made in accordance with Clause 25 (*Notices*) of the Intercreditor Agreement.

29. **GOVERNING LAW AND JURISDICTION**

29.1 This Deed (including any non-contractual obligations or liabilities arising out of it or in connection with it) is governed by and is to be construed in accordance with the laws of Bermuda.

29.2 Each Party irrevocably agrees, for the exclusive benefit of the Chargee, that the courts of Bermuda have exclusive jurisdiction to hear, determine and settle any Proceedings brought in relation to this Deed and each Party irrevocably submits to the jurisdiction of the courts of Bermuda, provided

that nothing in this Clause shall (or be construed so as to) limit the ability or right of the Chargee to bring Proceedings against the Chargor in any other jurisdictions, whether concurrently or otherwise (to the extent allowed by law).

- 29.3 The Chargor irrevocably waives (and irrevocably agrees not to raise) any objection which it might at any time have on the grounds of *forum non conveniens* or on any other ground to Proceedings arising out of or in connection with this Deed being taken in any court referred to in this Clause, and agrees that any judgment in such Proceedings taken in any such court shall be conclusive and binding on it and may be enforced in any other jurisdiction.

30. WAIVER OF IMMUNITY

- 30.1 The Chargor irrevocably and unconditionally:

30.1.1 agrees not to claim any immunity from Proceedings brought against it in relation to this Deed and to ensure that no such claim is made on its behalf; and

30.1.2 waives all rights of immunity in respect of it or its assets.

31. AGENT FOR SERVICE

The Chargor irrevocably appoints the Company in Bermuda to act as its agent to receive and accept on its behalf any process or other document relating to Proceedings brought in relation to this Deed in the courts of Bermuda.

32. BAIL-IN

32.1 Contractual recognition of bail-in

32.1.1 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.

32.2 Bail-in definitions

32.2.1 In this Clause:

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 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.

UK Bail-In Legislation means Part 1 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).

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

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
- (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 has 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.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS whereof the Parties have executed and unconditionally delivered this Deed AS A DEED on the day and year first above written:

REDACTED UNDER S859G
OF THE COMPANIES ACT

for and on behalf of

ED & F MAN HOLDINGS LIMITED

as Chargor

acting by:

Name: Jade Murre

Title: Director

REDACTED UNDER S859G
OF THE COMPANIES ACT
2006

Witness to signature

Name: KEN DE SZARD

Address: Freshfields Bruckhaus Deringer LLP
100 Bishopsgate
London
EC2P 2SR

for and on behalf of

COÖPERATIEVE RABOBANK U.A

as Chargee

acting by:

Name:

Title:

Witness to signature

Name:

Address:

IN WITNESS whereof the Parties have executed and unconditionally delivered this Deed AS A DEED on the day and year first above written:

for and on behalf of
E D & F MAN HOLDINGS LIMITED

as **Chargor**

acting by:

Name:

Title:

Witness to signature

Name:

Address:

.....

.....

for and on behalf of
COÖPERATIEVE RABOBANK U.A.
REDACTED UNDER S859G OF
as **Chargee** THE COMPANIES ACT 2006

acting by:

Name: **J.A. van der Horst**
Senior Officer Syndicated Loans Agency
Proxy AB

Title:

Witness to signature

Name: **Eythia van Roebel**

Address:

Rabobank

Groenelaan 18

3521 CB Utrecht

REDACTED UNDER S859G OF THE
COMPANIES ACT 2006

REDACTED
UNDER
S859G OF
THE
COMPANIES
ACT 2006

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

SCHEDULE 1

FORM OF SHARE TRANSFER INSTRUMENT

E D & F Man Capital Markets Holdings Limited

(the "Company")

FOR VALUE RECEIVED

We, [] (the "Transferor"), hereby sell, assign and transfer unto _____ (the "Transferee") of c/o _____ [number and class] shares of the Company.

DATED this ____ day of [] 20[]

Signed by:

In the presence of:

Transferor

Witness

Acting by: [Name]

Title:

Transferee

Witness

Acting by: [Name]

Title:

SCHEDULE 2

FORM OF DEED OF APPOINTMENT OF PROXY AND POWER OF ATTORNEY

E D & F Man Capital Markets Holdings Limited

(the "**Company**")

DEED OF APPOINTMENT

We, E D & F Man Holdings Limited, having our registered office at 3 London Bridge Street, London SE1 9SG, United Kingdom are the sole shareholder of the Company.

This Deed relates to all the issued shares in the Company (the "**Shares**") that are registered in our name in the Register of Members from time to time during the Security Period.

Pursuant to a second ranking deed of charge dated [•] (the "**Share Charge**") between us as chargor and Coöperatieve Rabobank U.A. as chargee (the "**Appointee**"), we have created a second ranking fixed and floating charge over (among other things) the Shares in favour of the Appointee.

Definitions and principles of construction in the Share Charge apply in this Deed unless the context requires otherwise.

We irrevocably appoint the Appointee as our:

- (1) proxy to attend any meeting of shareholders of the Company (and any adjournment) and to exercise (or refrain from exercising) all voting rights attaching to the Shares in relation to any resolution considered by the meeting (or adjourned meeting) in any manner the Appointee thinks fit; and
- (2) attorney (with full power to appoint substitutes and to delegate) to exercise all of our rights and powers as a shareholder of the Company, including to:
 - i) appoint any proxy to attend and vote at any meeting of shareholders of the Company;
 - ii) sign or consent to any resolutions in writing of the shareholders of the Company; and
 - iii) requisition any meeting of the shareholders of the Company.

We ratify and confirm anything that the Appointee may do under, or in connection with, this Deed.

This Deed is given to secure the Appointee's proprietary interest in the Shares under the Share Charge.

This Deed will remain in force and shall be irrevocable until such time as the Secured Obligations (as defined in the Share Charge) have been paid and discharged in full and the Charged Property (as defined in the Share Charge) subject to the Share Charge has been released from the Charge created thereto.

Notwithstanding anything to the contrary herein, the Appointee may not exercise any rights hereunder until the occurrence of an Enforcement Trigger.

The laws of Bermuda govern this Deed and its interpretation.

This Deed is executed and delivered, and takes effect, as a deed on the date written below.

[signature page follows]

EXECUTED and unconditionally delivered as a
DEED by:

In the presence of:

E D & F Man Holdings Limited

Witness

Acting by: [Name]

Title:

Date:

SCHEDULE 3

DEED OF UNDERTAKING AND CONFIRMATION FROM THE COMPANY TO THE CHARGEES

This **DEED OF UNDERTAKING AND CONFIRMATION** is made on _____ 2022 by E D & F Man Capital Markets Holdings Limited (the "**Company**"), in favour of Coöperatieve Rabobank U.A. (the "**Chargee**").

BACKGROUND:

The Chargee has entered into a second ranking deed of charge with E D & F Man Holdings Limited (the "**Chargor**"), dated on or about the date hereof, pursuant to which the Chargor has granted security over, among other things, its entire holding of issued shares in the Company (the "**Deed of Charge**").

THIS DEED WITNESSES as follows:

1. Capitalised terms used, but not defined herein, shall have the same meaning as set out in the Deed of Charge.
2. This deed of undertaking and confirmation is given pursuant to the Charge.
3. For valuable consideration receipt of which is hereby acknowledged, the Company hereby irrevocably and unconditionally undertakes:
 - (a) that it acknowledges the existence of the Charge;
 - (b) that, subject to the express written consent of the Chargee and unless expressly permitted by the terms of the Deed of Charge and the terms of the Debt Documents, it shall not, during the Security Period, register any transfer of any Shares included in the Charged Property (other than a transfer pursuant to the First Ranking Share);
 - (c) that it waives, in favour of the Chargee, any lien and any rights of forfeiture, which it may have, now or in the future, under its bye-laws or otherwise, in relation to the Charged Property;
 - (d) that it consents (subject in each case to obtaining any required authorisations or approvals from the Bermuda Monetary Authority) to the transfer of the Shares pursuant to the enforcement by the Chargee of any of its Rights under the Deed of Charge and, upon receipt of the relevant share transfer instrument submitted to the Company by the Chargee or its nominee, shall promptly register any and all such transfers in respect of the relevant Charged Property, in the Register of Members; and
 - (e) that it accepts its appointment by the Chargor as the Chargor's agent to receive and accept on its behalf any process or other document relating to Proceedings brought in relation to the Deed of Charge in the courts of Bermuda pursuant to Clause 31 (*Agent for Service*) of the Deed of Charge.
4. Clauses 24 (*Counterparts*) to 30 (*Waiver of immunity*) (inclusive) of the Deed of Charge, shall apply to this Deed, *mutatis mutandis*.

5. The laws of Bermuda govern this Deed and its interpretation.
6. This Deed is executed and delivered, and takes effect, as a deed on the date written above.

[signature page follows]

EXECUTED and unconditionally delivered as a
DEED by:

In the presence of:

E D & F Man Capital Markets Holdings Limited

Witness

Acting by: [Name]

Title:

Date:

SCHEDULE 4

FORM OF LETTER OF RESIGNATION AND RELEASE

To: The Board of Directors
E D & F Man Capital Markets Holdings Limited (the "**Company**")
c/o Conyers Corporate Services (Bermuda) Limited
Clarendon House,
2 Church Street,
Hamilton HM 11
Bermuda

Dear Sirs

E D & F Man Capital Markets Holdings Limited - Resignation Letter

I hereby tender my resignation as a [director/officer] of the Company with effect from the date of this letter.

Without prejudice to any right to indemnification by the Company to which I may be entitled under the Company's bye-laws or otherwise in respect of any action which may brought against me in the future in connection with, or arising out of, my services as a [director/officer] of the Company, I confirm that I have no claims whatsoever against the Company for compensation for loss of office or for fees or otherwise.

Yours faithfully

Name: [•]

Dated: _____

AUTHORITY TO DATE LETTER OF RESIGNATION AND RELEASE

To: Coöperatieve Rabobank U.A.
Croeselaan 18
3521 CB Utrecht
The Netherlands
Attention: []

Re: **E D & F Man Capital Markets Holdings Limited**

Reference is made to that Second Ranking Deed of Charge between you as chargee (the "**Chargee**") and E D & F Man Holdings Limited as chargor (the "**Chargor**") dated on or about the date hereof, pursuant to which the Chargor has granted second ranking security over, among other things, its entire holding of issued shares in E D & F Man Capital Markets Holdings Limited (the "**Deed of Charge**").

I, [name of officer / director], hereby irrevocably authorise any officer or agent of the Chargee, at any time following the occurrence of an Enforcement Trigger (as defined in the Deed of Charge) which is continuing, to date and submit the attached letter of resignation on my behalf.

This letter is being executed pursuant to Clause 5 of the Deed of Charge for the purpose of protecting and securing the interests of the Chargee under the deed of Charge and the authority given herein shall be irrevocable until such time as the Secured Obligations (as defined in the Deed of Charge) have been paid and discharged in full and the Charged Property (as defined in the Deed of Charge) subject to the Deed of Charge has been released from the Charge created thereto.

EXECUTED and unconditionally delivered as a
DEED by:

In the presence of:

[Name]
Director / Officer

Witness

Date: