

Execution Version

DATED 2015

[COUNTERPARTY]

CENTRAL BANK OF IRELAND

AGREEMENT

in respect of

EUROSYSTEM MONETARY POLICY INSTRUMENTS AND PROCEDURES

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THIS AGREEMENT is made the day of ,

BETWEEN:

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

WHEREAS:

- (A) Pursuant to the Treaty and the ESCB Statute, the European System of Central Banks has the basic tasks of defining and implementing the monetary policy of the EU and conducting foreign-exchange operations. The general framework for the Eurosystem derives from the ESCB Statute and the Treaty and, in accordance with that framework and to the extent deemed possible and appropriate, the ECB has recourse to Participating NCBs, including the Bank, for carrying out the operations which form part of the tasks of the Eurosystem.
- (B) The ECB has the authority to issue the necessary guidelines and decisions to implement the single monetary policy of the EU and the Bank, as a Participating NCB, has an obligation to act in accordance with such guidelines and decisions.
- (C) The Guideline of the ECB of 19 December 2014 on the implementation of the European monetary policy framework (recast) (ECB/2014/60) (the “Guideline”) sets out uniform rules for the implementation of the single monetary policy by the Eurosystem, which rules are required to be implemented by Participating NCBs, including the Bank, in contractual or regulatory arrangements.
- (D) With effect from the Effective Date, pursuant to:
 - (a) Article 1(2) of the Guideline, the Eurosystem is required to implement Eurosystem monetary policy operations, within the meaning of the Guideline, in accordance with the principles, tools, instruments, requirements, criteria and procedures laid down in the Guideline; and
 - (b) Article 1(3) of the Guideline, the legal relationship between the Eurosystem and its counterparties to Eurosystem monetary policy operations is required to be established in appropriate contractual or regulatory arrangements applied by the relevant Participating NCB, in which the provisions of the Guideline are implemented accordingly.
- (E) The principles, tools, instruments, requirements, criteria and procedures pursuant to which the Bank as a Participating NCB will, with effect from the Effective Date, carry out Eurosystem monetary policy operations, as prescribed in the Guideline and as adapted for use in Ireland, will be set out in the MPIP’s Document.
- (F) The Bank and the Counterparty may transact Eurosystem Operations with effect from the Effective Date and may, at the Effective Date, have transacted Existing Eurosystem Operations.
- (G) This Agreement is entered into by the Bank and the Counterparty to:
 - (a) set out the terms and conditions on which Eurosystem Operations will be transacted between them; and
 - (b) modify the terms and conditions applicable to Existing Eurosystem Operations,

in each case with effect from the Effective Date, and thereby facilitate compliance by the Bank, as a Participating NCB, with the requirements of the Guideline referred to in recital (D).

IT IS HEREBY AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement (including the recitals), unless the contrary intention appears, the following definitions shall have the following meanings:

this **"Agreement"** means this Agreement in respect of Eurosystem Monetary Policy Instruments and Procedures;

"Alternative Means" has the meaning given to it in clause 5.1;

"Business Day" means any day on which the Bank is open for conducting Eurosystem monetary policy operations; this will be any day other than Saturdays, Sundays, New Year's Day, Good Friday, Easter Monday, 1 May, Christmas Day and 26 December and any other days as notified by the Bank to the Counterparty from time to time which notice may, notwithstanding any other provision of this Agreement, be effected by inclusion of the relevant information in the MPIPs Document in accordance with the terms thereof;

"Counterparty Jurisdiction" means the jurisdiction in which the Counterparty is incorporated, as identified with its name below;

"ECB" means the European Central Bank;

"ECB Requirement" means any guideline, decision or other requirement (howsoever described) of the ECB, or any relevant decision-making body of the ECB, relevant to Eurosystem Operations;

"Effective Date" means 1 May 2015;

"Eurosystem" means the ECB and the Participating NCBs;

"Eurosystem Operation" means a Eurosystem monetary policy operation, within the meaning of the MPIPs Document, transacted between the Counterparty and the Bank;

"Eurosystem Operations Documents" means each of:

- (a) this Agreement;
- (b) the MPIPs Document;
- (c) where the Counterparty is a participant in TARGET2-Ireland, the TARGET2 Agreement, insofar as it relates to the arrangements the subject of this Agreement;
- (d) any other document, instrument or undertaking agreed in writing by the parties, or designated by the Bank pursuant to the MPIPs Document or by notice to the Counterparty, as a Eurosystem Operations Document;

"ESCB" means the ECB and the national central banks of the EU Member States;

"ESCB Statute" means the Statute of the European System of Central Banks and of the European Central Bank;

“EU” means the European Union;

“Existing MPIPs Agreement” means any agreement between the Bank and the Counterparty in effect immediately prior to the Effective Date that is constituted by the Bank’s Documentation on Monetary Policy Instruments and Procedures;

“Existing Eurosystem Operations” means any Eurosystem Operation in effect between the Bank and the Counterparty immediately prior to the Effective Date;

“MPIPs Document” means, at any time, the Bank’s Documentation on Monetary Policy Instruments and Procedures, as varied, supplemented or replaced at that time, (the “Bank Document”) together with any ECB Requirement that, at that time:

- (a) relates to the arrangements the subject of the Bank Document;
- (b) has effect; and
- (c) is not reflected by the terms of the Bank Document,

on the basis that, in the event of a conflict at that time between the Bank Document and any such ECB Requirement, such ECB Requirement shall prevail;

“Participating Member States” means the EU Member States which have adopted the single currency in accordance with the Treaty and “Participating Member State” means any of them;

“Participating NCBs” means the national central banks of the Participating Member States;

“parties” means the Bank and the Counterparty as the parties to this Agreement and “party” shall be construed accordingly;

“Relevant Eurosystem Obligations” means all obligations and liabilities whether actual or contingent which are now or shall hereafter become due owing or incurred to the Bank by the Counterparty (either alone or jointly with any other person and whether as principal or surety) in whatsoever currency denominated whether on any account or otherwise in any manner whatsoever, in connection with Eurosystem Operations;

“Successor” in relation to any person means an assignee or successor in title of such person or any person who, under the laws of that first mentioned person’s jurisdiction of incorporation or domicile, has assumed the rights and obligations of such first mentioned person or to whom under such laws the same have been transferred;

“TARGET2” means the Trans-European Automated Real-time Gross settlement Express Transfer system as defined in Guideline of the European Central Bank of 26 April 2007 on a Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) (ECB/2007/2);

“TARGET2-Ireland” means the real-time gross settlement system of the Bank that forms part of TARGET2;

“TARGET2 Agreement” means the documentation between the parties governing the Counterparty’s participation in TARGET2-Ireland, if any, including, at the date of this Agreement, any agreement incorporating the Bank’s Terms and Conditions for participation in TARGET2-Ireland and any Deed of Floating Charge over Credit Balances on Payments Module Accounts, each between the Bank and the Counterparty; and

“Treaty” means the Treaty on the Functioning of the European Union.

1.2 Interpretation

In this Agreement (including, where relevant, the recitals):

- (a) the headings and the contents page shall not affect its interpretation;
- (b) words denoting the singular number only shall include the plural number also and *vice versa* and words denoting one gender only shall include the other gender;
- (c) references to recitals, clauses and paragraphs shall, unless the context otherwise requires, be to recitals, clauses and paragraphs in this Agreement;
- (d) the words “hereof”, “hereunder”, “herein” and similar words shall be construed as references to this Agreement as a whole and not limited to the particular clause, paragraph or provision in which the relevant reference appears;
- (e) the words “include” or “including” shall be construed as meaning “include without limitation” or “including without limitation”, as applicable;
- (f) reference to a “company” shall be construed so as to include any company, corporation or other body corporate wherever and however incorporated or established and reference to a “person” shall be construed so as to include any individual, firm, company, corporation, undertaking, government, state or agency of a state, or any association or partnership (whether or not having separate legal personality);
- (g) reference to any person shall be construed so as to include its Successors and any Successor of such a Successor in accordance with their respective interests provided that reference to any party to this Agreement in its capacity as such shall include its Successors and assigns only if and to the extent that such succession or assignment is contemplated or permitted herein;
- (h) reference to any statute or statutory provision shall unless otherwise stated be to a statute or statutory provision of or applicable in Ireland and shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted or any statutory instrument, order or regulation made thereunder or under any such statutory amendment, modification or re-enactment;
- (i) reference to any EU legislation or legislative provision (which, for this purpose, shall include reference to any ECB Requirement or provision thereof) shall be construed as encompassing, where relevant, reference to:
 - (i) the same as it may have been, or may from time to time be, amended, replaced or consolidated;
 - (ii) any legislative provision amending, replacing or consolidating such provision; and/or
 - (iii) any legislative provision, order or regulation implementing such provision or made thereunder;
- (j) reference to any document shall include reference to such document as varied, supplemented, novated or replaced from time to time;

- (k) reference to any cost, charge, expense, fee or disbursement includes reference to any value added tax or similar tax charged or chargeable in respect thereof;
- (l) reference to "Ireland" shall not encompass Northern Ireland; and
- (m) reference to "in writing" and "written" shall, where the context permits, include matters written or produced in writing by electronic means.

2. Agreement

2.1 The Bank and the Counterparty agree that, with effect from the Effective Date:

- (a) the parties shall be bound by the terms of the MPIPs Document;
- (b) the transaction by the Bank of Eurosystem Operations with the Counterparty shall be undertaken pursuant to, and in accordance with the terms of, this Agreement and the MPIPs Document; and
- (c) the terms of any Existing Eurosystem Operation shall be amended so as to incorporate the terms of this Agreement and the MPIPs Document on the basis that:
 - (i) in the event of any inconsistency between:
 - (A) the terms of this Agreement and the MPIPs Document; and
 - (B) any terms applicable to such Existing Eurosystem Operation immediately prior to the Effective Date which would, but for this clause 2.1(c)(i), continue to apply on the Effective Date,the terms of this Agreement and the MPIPs Document shall prevail; and
 - (ii) such Existing Eurosystem Operation shall continue in full force and effect save as so amended; and
 - (iii) any Existing MPIPs Agreement shall terminate.

Without prejudice to the generality of the foregoing, the Counterparty agrees with the Bank, and acknowledges to the Bank, that the transaction by the Bank of Eurosystem Operations is subject to the ECB Requirements and that the Bank shall be entitled to take any action or omit to take any action which it, in its absolute discretion, considers necessary or desirable in order to comply with any such ECB Requirement.

2.2 The Counterparty agrees with the Bank that the Bank may disclose any information relating to Eurosystem Operations and Relevant Eurosystem Obligations:

- (a) to the ECB, any Participating NCB and any supervisory or regulatory authority responsible for the supervision of the Counterparty, as the Bank may, in its absolute discretion, consider necessary or desirable; or
- (b) as may be required by any applicable law.

3. Warranties, Representations and Undertakings

3.1 The Counterparty warrants and represents to the Bank on the date hereof (which representations will be deemed repeated by the Counterparty on the Effective Date and each date on which a Eurosystem Operation is transacted by it) that:

- (a) it is a body corporate duly incorporated under the laws of the Counterparty Jurisdiction with power to enter into each of the Eurosystem Operations Documents and to exercise its rights and perform its obligations hereunder and thereunder;
- (b) it has duly taken all corporate and other action and received the consent of any third party that in either case is required:
 - (i) to authorise its execution of each such Eurosystem Operations Document and the performance of its obligations hereunder and thereunder; and
 - (ii) to ensure the validity and enforceability in accordance with the respective terms of each such Eurosystem Operations Document (subject to the principles of equity, all applicable laws relating to insolvency, bankruptcy, court protection, reorganisation or analogous circumstances and the time barring of claims);
- (c) in any proceedings taken in relation to any of the Eurosystem Operations Documents, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process;
- (d) the obligations expressed to be assumed by it in each of the Eurosystem Operations Documents are legal and valid obligations binding on it in accordance with the terms hereof and thereof (subject to the principles of equity, all applicable laws relating to insolvency, bankruptcy, court protection, reorganisation or analogous circumstances and the time barring of claims); and
- (e) it has not taken any corporate action nor have any other steps been taken nor legal proceedings been started or threatened against it for its winding-up, dissolution or re-organisation or for the appointment of a receiver, an examiner, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues.

3.2 The Counterparty undertakes to the Bank from time to time upon written demand to execute, at its own cost, any document or do any act or thing as the Bank may reasonably require:

- (a) to give full effect to the arrangements contemplated by the Eurosystem Operations Documents; and/or
- (b) to facilitate:
 - (i) the exercise, or the proposed exercise, of any of the Bank's rights under the Eurosystem Operations Documents; or
 - (ii) the implementation of, or compliance by the Bank or the Counterparty with, any ECB Requirement.

4. **No Partnership**

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

5. **Notices**

5.1 Any notices to be given pursuant to this Agreement to either of the parties shall be sufficiently served if in writing and delivered by hand or by facsimile transmission and sent:

- (a) in the case of the Counterparty, to the address or facsimile number, as applicable, and for the attention of the department or person, if any, identified with its name below;
- (b) in the case of the Bank, to Central Bank of Ireland, PO Box 11517, North Wall Quay, Dublin 1 (facsimile number: 670 5980; Attn: the Head of Payments and Securities Settlements);

or to such other address or facsimile number, and/or for the attention of such other department or person, as may from time to time be notified by either party to the other by written notice in accordance with the provisions of this clause 5. The Bank may, in its absolute discretion, agree with the Counterparty that notices (or any notice or class of notices) may be delivered by any other means including e-mail (“**Alternative Means**”), in which case any such notice delivered by such Alternative Means shall be sent in accordance with the terms of that agreement.

5.2 Any such notice shall be deemed to be served:

- (a) if sent by hand, when delivery at the address of the party to be served is made or attempted, if that is between 9 am and 5 pm on a Business Day or, if it is left before 9 a.m. on a Business Day, at 9 a.m. on that Business Day and in all other cases at 9 a.m. on the next Business Day;
- (b) if sent by facsimile transmission, when it is so sent if it is sent between 9 a.m. and 5 p.m. on a Business Day or, if it is sent before 9 a.m. on a Business Day, at 9 a.m. on that Business Day and in all other cases at 9 a.m. on the next Business Day; and
- (c) if sent by an Alternative Means, at the time that, in accordance with the agreement between the parties in respect of that Alternative Means, it is deemed to be given if that time is between 9 a.m. and 5 p.m. on a Business Day and, if that time is before 9 a.m. on a Business Day, at 9 a.m. on that Business Day and in all other cases at 9 a.m. on the next Business Day.

5.3 Where the terms of the MPIPs Document provides, in respect of any notice to which this clause 5 would otherwise apply, for an alternative means of giving, and/or deemed time of delivery, such notice, such notice may be given, and if so given shall be deemed to be delivered, in accordance with those terms.

6. **Entire Agreement and Variation**

6.1 The Eurosystem Operations Documents set out the entire agreement and understanding between the parties in respect of the subject matter hereof.

6.2 No variation of a Eurosystem Operations Document shall be effective unless it is in writing and signed by (or by some person duly authorised by) each of the parties *provided that*:

- (a) the above provisions of this clause 6.2 shall not apply in respect of any variation:
 - (i) of the MPIPs Document or any part thereof, which shall be effected in accordance with any applicable terms thereof; or
 - (ii) that, in the Bank's absolute discretion, is required to ensure compliance with any applicable ECB Requirement. Any such variation may be effected by notice from the Bank to the Counterparty and any such notice may, notwithstanding any other provision of the relevant Eurosystem Operations Document, be effected by inclusion of the relevant information in the MPIPs Document in accordance with the terms thereof; and
- (b) if an alternative means of effecting a variation of a Eurosystem Operations Document to which this clause 6.2 would otherwise apply is provided for by the terms of that Eurosystem Operations Document or the MPIPs Document, such variation may be effected in accordance with that alternative means.

7. **Waiver and Severability**

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

8. **Assignment**

The Bank may transfer and assign any or all of its rights, interest and obligations in and under all or any of the Eurosystem Operations Documents, the Eurosystem Operations and the Relevant Eurosystem Obligations to any person, and upon such terms and conditions, as the Bank thinks fit. The Bank shall be entitled to provide any information concerning the Counterparty, the Eurosystem Operations Documents, the Eurosystem Operations and the Relevant Eurosystem Obligations to any Successor, assignee or proposed Successor or assignee or to any person who may otherwise enter into contractual relations with the Bank in relation to any Eurosystem Operations Document, Eurosystem Operation and/or Relevant Eurosystem Obligation. The Counterparty may not transfer, assign or otherwise deal in any of its rights, interest and obligations in and under any of the Eurosystem Operations Documents, the Eurosystem Operations and the Relevant Eurosystem Obligations without the prior written consent of the Bank.

9. **Termination**

This Agreement may at any time be terminated by either party by giving to the other not less than 30 days' prior notice in writing (such termination becoming effective upon expiry of such notice), provided that such termination shall not:

- (a) take effect with respect to any Eurosystem Operation or any Relevant Eurosystem Obligation which is then outstanding and the provisions of this Agreement shall continue to apply to each outstanding Eurosystem Operation and Relevant Eurosystem Obligations until such Eurosystem Operation or Relevant Eurosystem Obligations, as applicable, are discharged in full by the Counterparty; or

- (b) affect the continuation, in full force and effect, of any other Eurosystem Operations Document save to the extent expressly provided for by the terms of that Eurosystem Operations Document.

10. **Legal Opinions**

On the date of this Agreement and, in respect of any Eurosystem Operations Document entered into after the date of this Agreement, on the date of that Eurosystem Operations Document, the Counterparty shall procure the delivery to the Bank of such one or more opinions from legal advisers acceptable to the Bank as the Bank notifies the Counterparty in advance of such date are required in respect thereof (which notice may, notwithstanding any other provision of this Agreement, be effected by inclusion of the relevant information in the MIPs Document in accordance with the terms thereof). The Counterparty and the Bank may agree that, in respect of any legal opinion required by the Bank:

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

11. **Costs and Expenses**

The Counterparty agrees, in respect of each Eurosystem Operations Document:

- (a) to pay and bear its own costs and expenses incurred in connection therewith (including in connection with any audit or other evaluation or report the provision of which to, or the procuring of which by, the Bank is provided for by any Eurosystem Operations Document); and
- (b) to pay or reimburse to the Bank all the Bank's reasonable costs and expenses (including legal expenses) incurred in connection with:
 - (i) the preparation, negotiation, execution and delivery thereof;
 - (ii) the exercise and enforcement of any of the Bank's rights thereunder; and
 - (iii) any audit or other evaluation or report the provision of which to, or the procuring of which by, the Bank is provided for by any Eurosystem Operations Document.

12. **Certifications and Determinations**

Any certification or determination by the Bank of a rate or amount under or in connection with any Eurosystem Operations Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

13. **Governing Law and Jurisdiction**

13.1 Subject to clause 13.2:

- (a) each Eurosystem Operations Document (including any non-contractual obligations arising out of or in connection with it) and the Relevant Eurosystem Obligations shall be governed by and construed in accordance with the laws of Ireland; and

- (b) the Courts of Ireland shall have exclusive jurisdiction (without prejudice to the competence of the Court of Justice of the European Union) to settle any dispute (including claims for set-off and counterclaim) which may arise in connection with the creation, validity, effect, interpretation or performance of each Eurosystem Operations Document or the legal relationships established therein or otherwise arising in connection therewith (including any non-contractual obligations arising out of or in connection with it), and for such purposes the parties hereto irrevocably submit to the jurisdiction of the courts of Ireland.

13.2 If, in respect of a Eurosystem Operations Document other than this Agreement, the terms of that Eurosystem Operations Document (or, where that Eurosystem Operations Document is not the MPIPs Document, the terms of the MPIPs Document) provide:

- (a) for that Eurosystem Operations Document to be governed by and construed in accordance with the laws of a jurisdiction other than Ireland, clause 13.1(a) shall not apply; or
- (b) for the courts of a jurisdiction other than Ireland to have jurisdiction to settle disputes which may arise in connection with that that Eurosystem Operations Document, clause 13.1(b) shall not apply,

in respect of that Eurosystem Operations Document.

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

EXECUTED on behalf of
[COUNTERPARTY]:

General contact details for [Counterparty]:

Address:
Facsimile number:
Attention:

Counterparty Jurisdiction of [Counterparty]:

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

