

General Terms and Conditions governing Business Lending

This document contains important information.

Please read carefully and retain for future reference.

Small and Medium Enterprise Credit Appeals Process. If the Bank has sanctioned facilities for an amount that is less than the amount for which the SME borrower had applied, or if the Borrower believes that the terms and conditions of the sanction are such that they cannot be accepted or the Borrower is not willing to enter into an alternative arrangement, the Borrower may submit a written appeal, outlining the basis of the appeal within 20 business days of the date of notification of the Bank's decision to the Credit Appeals Officer, P.O. Box 11826, AIB, 10 Molesworth Street, Dublin 2, or by email to credit.appeals@aib.ie

If the Borrower's appeal is unsuccessful, the Borrower may where applicable*, refer the Bank's decision to the Credit Review Office established by the Minister for Finance.

* For more information see www.creditreview.ie

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Section I

Introduction and interpretation

Introduction

1.1.0 This booklet sets out the general terms and conditions governing lending and other facilities (“the facilities”) provided to Customers (“the Borrowers” which expression shall, where the context so permits, include their successors and permitted assigns) by Allied Irish Banks, p.l.c. (“the Bank” which expression shall, where the context so permits, include its successors, assigns, chargees, transferees or sub-participants) where the facilities invoke all or any of the terms and conditions set out herein.

1.1.1 Facilities provided by the Bank include, for example, the following:

- (i) **overdraft:** usually short term facilities for working capital where the account balance shows fluctuations between debit and credit;
- (ii) **credit lines:** classified as overdraft facilities which may be used for working capital only for business or farming purposes;
- (iii) **loan account:** usually medium to long term facilities with customised repayment options;
- (iv) **term loan:** usually facilities intended for a specific purpose repayable by regular repayments within a stated period;
- (v) forward foreign exchange facilities, bank guarantees and documentary credits, bonds and indemnities provided by the Bank to third parties on behalf of Customers.

The above examples are not intended to be exhaustive and the terms and conditions set out in this booklet may be invoked to apply to other facilities.

1.1.2 Other specific terms and conditions may apply to facilities in accordance with the relevant letter of sanction or other agreement in writing between the Bank and the Borrower and to the extent (if any) that the specific terms and conditions conflict with the general terms and conditions set out in this booklet, then the specific terms and conditions will apply.

Certain terms of the Borrower’s letter of sanction may be varied at the Borrower’s request subject to and in accordance with clause 3.3.3.

For the purpose of clarity, it should be noted that unless a new facility is sanctioned to renew, replace or restructure existing facilities, the existing facilities will continue to be subject to the terms and conditions on which they were sanctioned.

1.1.3 The Bank may from time to time change the terms and conditions set out in this booklet and all facilities will be governed by the then changed terms and conditions.

Interpretation

1.1.4 In this booklet unless the context otherwise requires:

- (i) references to sections and clauses refer to the relevant sections and clauses of this booklet; and
- (ii) where the context so permits the singular includes the plural and vice versa; and
- (iii) the headings or marginal titles used in this booklet are for ease of reference only and will not affect the construction or interpretation thereof; and
- (iv) references to “Customer” are deemed to include “Borrower”; and
- (v) references to any statutory provision, or to any order or regulation includes a reference to that provision, order or regulation as extended, modified, replaced or re-enacted from time to time; and

- (vi) “Group” means the Borrower, every Holding Company and Subsidiary of the Borrower for the time being (if any) and every Subsidiary of every such Holding Company for the time being (if any) and includes companies falling within the definition of “group of companies” as defined in Section 8 of the Companies Act 2014; and
- (vii) “Holding Company” means a holding company within the meaning of Section 8 of the Companies Act 2014; and
- (viii) “Regulatory Authority” will include the Central Bank of Ireland, the European Central Bank, the Minister for Finance of Ireland and any other regulatory, fiscal, monetary or other authority in or of Ireland or elsewhere having jurisdiction over the Bank or any subsidiary of the Bank whether or not having the force of law; and
- (ix) “Subsidiary” means a subsidiary as defined in Section 7 of the Companies Act 2014 and includes companies falling within the definition of “wholly owned subsidiary” as defined in section 8 of the Companies Act 2014; and
- (x) references to the “terms” and/or “conditions” of any facility include, as applicable, any term, condition, covenant, representation, warranty or other obligation in such facility.

Section II

Overdraft and Credit Lines

Application

2.0 The terms and conditions set out in this section apply to overdraft and credit line facilities.

Repayable on Demand

2.1.1 Overdraft and credit line facilities are repayable on demand. However, in normal circumstances, the Bank expects that the overdraft or credit line facilities will be available until the review date stated in the letter of sanction (if any), without obligation on the part of the Bank to continue to provide the facility after such date.

2.1.2 Without prejudice to the Bank’s right to demand repayment at any time, the happening of any of the events set out in clause 4.2 may lead to the Bank terminating the facility and making demand for payment, with or without notice to the Borrower.

Limit

2.2.1 A limit representing the amount of the facility will be stated in the letter of sanction and will apply to the facility.

2.2.2 The Borrower must ensure that the debit balance on the current or credit line account does not exceed the limit.

2.2.3 With the exception of Overdrafts to which Prime Rate applies, the balance on a current account or credit line account must achieve a minimum period of thirty days credit or nil balance (whether consecutive or otherwise) during the twelve months following the date of sanction and in each subsequent period of twelve months during the continuance of the facility.

2.2.4 Where a Borrower maintains more than one business current account at the same branch (other than excluded current accounts) then the Bank may agree that an overdraft limit will operate as a limit governing the net aggregate balance on those current accounts. In such circumstances, the Borrower must at all times maintain the net position within the limit. If a net excess would otherwise occur, cheques may be

returned unpaid notwithstanding that the particular account on which the cheque is drawn shows a credit balance.

Operation of Account

- 2.3.1 Any item which if paid would have the effect of overdrawn the account in the absence of or in excess of a sanctioned limit may be returned unpaid by the Bank. If, in its discretion, the Bank pays any such item, this will not give rise to any obligation on the Bank to pay any such items on any subsequent occasion.
- 2.3.2 The Bank will not be obliged to give prior notice regarding the presentation and/or dishonour of items drawn on the account. The giving of such notice on any specific occasion will not mean that the Bank will do so on any subsequent occasion.
- 2.3.3 Cheques and other items subject to collection which are lodged to accounts are subject to the possibility of non-payment ("uncleared effects"). The Borrower will not be entitled as of right to draw against uncleared effects. Payment by the Bank against uncleared effects will not give rise to any obligation on the Bank to do so on any subsequent occasion.

Interest

- 2.4 Compound interest will accrue on debit balances from time to time, calculated and charged in accordance with Section V.

Drawdown of Credit Lines

- 2.5 Credit Line facilities may only be drawn down by way of transfer to the Borrower's working account.

Section III

Loan Account

Application

- 3.0 The terms and conditions set out in this section apply to loan account facilities.

Repayable on Demand

- 3.1.1 Loan account facilities are repayable on demand. However, in normal circumstances, the Bank expects that the loan will be available as stated in the letter of sanction.
- 3.1.2 Without prejudice to the Bank's right to demand repayment at any time, the happening of any of the events set out in clause 4.2 may lead to the Bank making demand for payment, with or without notice to the Borrower.

Interest

- 3.2.1 Compound interest will accrue on the balance of the loan account from time to time, calculated and charged in accordance with Section V.

Limit

- 3.2.2 A limit representing the amount of the facility will be stated in the letter of sanction and will apply to the facility. This limit will reduce in line with the repayments specified in the letter of sanction or as otherwise agreed. Where the repayments are inclusive of principal and interest the limit will increase when the Bank debits interest to the loan account.

Repayments

- 3.3.1 The Borrower will punctually pay the repayments specified in the letter of sanction. The Borrower may be required to complete a direct debiting and/or a standing

order instruction for the purpose of the repayments. At the discretion of the Bank, notwithstanding any intervening expiry date, any direct debit(s) and/or standing order(s) for the agreed periodic repayment amounts may continue to be presented until the full amount of the loan and any other amounts due in respect of the loan have been repaid.

- 3.3.2 If the interest rate varies during the repayment period the Bank may (but without obligation to do so)
- (a) vary the amount of the repayments:
- (i) by changing the amount of the variable direct debit(s) and/or by accepting a new standing order instruction(s) for the changed amount (where applicable) or
- (ii) on service of thirty days' notice to the borrower
- (b) adjust the number of the repayments
- (c) adjust the amount of the final repayment.
- 3.3.3 Subject to agreement by the Bank in writing, the Borrower may request certain minor changes to the Borrower's repayment arrangements as specified in the letter of sanction (for example a change to the repayment date or repayment frequency). Where appropriate following such a request from the Borrower, the Bank may (but without obligation to do so):
- (a) vary the amount of repayments by changing the amount of any variable direct debit and/or by accepting a new standing order instruction(s) for the changed amount (where applicable);
- (b) adjust the number of repayments;
- (c) adjust the date of repayments; or
- (d) adjust the amount of the final repayment.

Making these changes may extend the period of the credit agreement applicable to the facility, result in an increase in the amount of interest paid on the facility and/or may increase the total amount repayable.

Residual Balance

- 3.4 Any residual balance outstanding at the end of the repayment period (whether arising from fluctuations in the applicable interest rate, default by the Borrower in the repayment of principal or interest on the due dates, timing of drawdown, scheduled repayments falling due on non-business days, or otherwise howsoever) will attract variable interest at the then appropriate rate and will become immediately due and payable, unless the Bank, in its absolute discretion, (a) agrees to other repayment arrangements with the Borrower or (b) agrees to continue to present any direct debit(s) and/or standing order(s) for the agreed periodic repayment amounts until the full amount of the residual balance and any other amounts due in respect of the loan have been repaid. Any credit balance which remains outstanding will become immediately available to the Borrower.

Early Repayment

- 3.5 At any time during the period of a facility when a variable interest rate applies, the Borrower will be entitled without penalty to effect full or partial early repayment of the loan.

Breakage Cost

- 3.6.1 At any time during the period of a facility when a fixed interest rate applies (including the duration of an Interest Period as defined in clause 5.3.2) the following definitions will apply:
- "Prepayment" means
- (i) if the Bank at its discretion agrees to allow full or partial out of course repayment or conversion of the facility to another interest rate, or

- (ii) if the Borrower makes payment following demand for payment by the Bank.

“Cost of Funds” has the meaning set out in clause 5.3.2 (ii).

“Breakage Cost” means the replacement cost to the Bank resulting from a Prepayment.

3.6.2 Except where payment is being made immediately following demand by the Bank, the Borrower must serve at least three business days prior notice to the Bank of any proposed Prepayment.

3.6.3 Prepayment will be subject to the payment by the Borrower of a Breakage Cost, to be calculated:

- (i) where the period for which interest is fixed is less than one year or where the interest period is fixed for one year with no scheduled repayments during such one year period, using the following formula: Breakage Cost = $A \times U \times D\%$, where:

“A” is the amount of the Prepayment and

“U” is the unexpired term of the fixed interest rate period, and

“D” is the difference between the Cost of Funds applying to the facility when the rate was fixed and the Cost of Funds applying at the time of Prepayment, for the amount of “A” for the term of “U”.

- (ii) where the period for which interest is fixed is more than one year or where the interest period is for one year with scheduled repayments during such one year period, Breakage Cost will be calculated taking into account the following:

- (a) the difference between the Cost of Funds applying to the facility when the rate was fixed, and the Cost of Funds at the time of the Prepayment in the amount of the Prepayment, and

- (b) associated cashflows for the remainder of the fixed rate term and applying a discount factor in accordance with standard net present value methodology.

Early Repayment and Prepayment

3.7 Any early Repayment or Prepayment is treated as a permanent reduction and cannot be redrawn. Any such amount will shorten the repayment period but the Borrower must continue to make the repayments specified in the letter of sanction unless otherwise agreed.

Loans to Small and Medium Enterprises (‘SMEs’) under the European Investment Bank (‘EIB’) Loan Scheme (‘EIB SME Scheme’)

3.8 Where facilities which are sanctioned under the EIB SME Scheme the facilities are supported by the EIB and are sanctioned at an interest rate which is at least 0.70% (seventy basis points) lower than the rate which would apply to such facilities without the EIB support. EIB SME facilities are intended for the purposes of projects which comply with the eligibility criteria agreed between the Bank and the EIB from time to time (Projects) and the following conditions will apply:

- (i) the facilities will be used exclusively for the purposes of the Projects for which they were envisaged and within 3 years of the date of sanction.
- (ii) where the Borrower is bound to comply with public procurement rules, sub-projects undertaken by the Borrower with the proceeds of the loan will comply with the relevant applicable EU and Irish legislation.
- (iii) The Borrower will permit the persons appointed by the Bank and/or EIB to inspect all sites, installations and works comprising the Projects

and provide such persons with all necessary assistance and information for such purposes.

- (iv) The Borrower acknowledges that the Bank will disclose to EIB details of the Projects, the facilities, the latest registered financial statements of the Borrower and such further information as the EIB may require concerning the activities and general financial position of the Borrower.

- (v) The assets or investments acquired or developed as part of the Projects will not be located outside Ireland or another EU state and will be maintained by the Borrower in good working order.

- (vi) The Borrower will not use the facilities for any of the following:

- (a) Production of weapons and ammunition, arms, military or police equipment or infrastructures, and equipment or infrastructure limiting people’s individual rights and freedom (i.e. prisons, detention centres of any form);

- (b) Gambling and related equipment;

- (c) Tobacco manufacturing, processing, or distribution;

- (d) Activities involving live animals for experimental and scientific purposes;

- (e) Activities which give rise to environmental impacts that are not largely mitigated and/or compensated (see also the Borrower’s Covenants at Clause 7.11 (vii) and (viii) about compliance with all applicable laws (including laws relating to the protection of the environment) relating to the business and property of the Borrower);

- (f) Any purpose which in the opinion of the Bank is ethically or morally controversial;

- (g) Pure real estate development activity;

- (h) The Purchase of Farmland.

Loans to Small and Medium Enterprises (‘SMEs’) covered by the Scheme Guarantee under the Credit Guarantee Scheme (the ‘Scheme’) in accordance with Credit Guarantee Act 2012

3.9 Loans or other facilities supported by the Scheme (‘Scheme Facilities’) will be subject to the following:

- (i) the Borrower covenants that all information disclosed in or in relation to the application for the Scheme Facilities is in all respects true and accurate;

- (ii) the Borrower acknowledges that notwithstanding the Scheme Guarantee, the Borrower remains liable for payment of 100% of the outstanding Scheme Facility and that normal recovery and enforcement procedures (against the Borrower and any guarantor) will be pursued by the Bank before any claim is made by the Bank under the Scheme Guarantee;

- (iii) (a) the Borrower covenants with the Bank that the Borrower will pay the Department of Jobs, Enterprise and Innovation or its nominated operator (‘the Operator’) an annual Premium in respect of the Scheme Guarantee of 2% of the annual outstanding principal balance of the Scheme Facility in accordance with the Premium Schedule provided to the Borrower by the Bank;

- (b) prior to drawdown of the whole or any part of the Scheme Facility the Borrower must:
 - Pay the first annual premium to the Bank on behalf of the Operator, and
 - Make provision for payment of the remaining Premium payments to the satisfaction of the Operator.

- (c) if the Bank is notified by the Operator that the Borrower has failed to pay a Premium, the Bank will be entitled (but not obliged) to pay the Premium at debit of the Scheme Facility account or any other account in the name of the Borrower

without any obligation to notify the Borrower. Alternatively the Bank may at its discretion pay any unpaid Premium from its own funds and will be entitled to recover payment from the Borrower as part of the Scheme Facility.

- (iv) all recoveries received by the Bank will be applied in accordance with the terms of the Scheme. Further information on this is available on the Government website www.djei.ie

Drawdown

3.10 In order to draw down loan account facilities the Borrower must comply with all pre-drawdown conditions stated in the letter of sanction and may also be required to complete drawdown instructions and a direct debiting instruction.

Section IV

Term Loan

Application

- 4.0 The terms and conditions set out in this section apply to term loan facilities.
- 4.1 The provisions of clauses 3.2.1 to 3.10 inclusive and 7.2.1 to 7.2.6 inclusive apply to term loan facilities as if all references therein to “loan” were references to “term loan”.

Events of Default

- 4.2 A term loan though expressed to be repayable over or within a specified period may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower upon the occurrence of any of the following events:
 - (i) On the failure by the Borrower to make any repayment of principal or interest on the date it is due.
 - (ii) On the Borrower ceasing or threatening to cease to carry on business or any substantial part thereof.
 - (iii) On the death of the Borrower or of any guarantor for the Borrower.
 - (iv) If any guarantor notifies the Bank that they no longer wish to act as guarantor or that the guarantee is to terminate or on a material change relevant to a guarantor occurring which is in the opinion of the Bank prejudicial to the Bank’s interests.
 - (v) On the bankruptcy of, or commission of any act of bankruptcy by, the Borrower.
 - (vi) In respect of a company Borrower, the presentation of a petition for winding up or for the appointment of an examiner, the convening of a meeting for the purpose of considering a resolution or the passing of a resolution to wind up or the appointment of a receiver.
 - (vii) On distress being levied against the goods of the Borrower or on the same being taken in execution pursuant to any decree, judgement or order of a court of competent jurisdiction.
 - (viii) On judgement being obtained against the Borrower and remaining unpaid for a period of fourteen days from the date of such judgement.
 - (ix) On a material change relevant to the Borrower occurring which is in the opinion of the Bank prejudicial to the Bank’s interests.
 - (x) On the failure by the Borrower to provide any security specified in the letter of sanction promptly or within the period therein mentioned (if any) or within such extended period as may be agreed between the Bank and the Borrower.
 - (xi) On the breach, non-observance or non performance by the Borrower, any member of the Group or any guarantor of any term or condition attaching to any facility or any other financial indebtedness whether

with the Bank or any other party.

- (xii) If any money becomes due or becomes capable of being declared due and payable under any guarantee or indemnity given by the Borrower, any member of the Group, or any guarantor to the Bank or any other party.
- (xiii) On discovery by the Bank that any information supplied by the Borrower was false, misleading or inaccurate.
- (xiv) If any security held by the Bank, any of its subsidiaries or any other party for the obligations of the Borrower, any member of the Group or any guarantor to the Bank, any of its subsidiaries or any other party (whether as principal or surety and whether alone or jointly with any other person or party) becomes enforceable.
- (xv) If in the opinion of the Bank any change takes place in any applicable law or regulation or in the interpretation thereof which will make it unlawful for the Bank to maintain or give effect to its obligations in respect of the facility.
- (xvi) On any change in the shareholding, management or control of a company Borrower which, in the opinion of the Bank, is prejudicial to the Bank’s interests.
- (xvii) On the occurrence of any of the events of default that apply to term loans under the SBCI Scheme set out in section 8.4 (iii).
- (xviii) On the occurrence of any of the events of default that apply to term loans under the SBCI Future Growth Loan Scheme set out in section 8.5 (iii).
- (xix) On the occurrence of any of the events of default that apply to term loans under the BILS Scheme set out in section 8.6 (iii).
- (xx) On the occurrence of any of the events of default that apply to loans under the Government Covid-19 Credit Guarantee Scheme set out in section 9.1

Section V

Interest

Application

- 5.0 The terms and conditions set out in this section apply to all facilities.

Determination of Applicable Interest Rates

- 5.1.1 The interest rate applicable to a facility will be determined by the Bank by reference to the business of the Borrower and the purpose, risk and term of the facility.
- 5.1.2 The variable or fixed interest rate applicable to facilities will be stated in the letter of sanction with reference where appropriate to the interest rate category determined by the Bank.
- 5.1.3 The Bank’s interest rate categories are, at present, as follows:
 - (i) A, AA, AAA or Charity (as appropriate to the particular facility)
 - (ii) Premium Business
 - (iii) Prime
 - (iv) Base Lending
 - (v) Credit Lines
 - (vi) Market Related
 - (vii) Standard Variable Business Loan
 - (viii) SME Fixed
 - (ix) SME Variable Business Loan
 - (x) SBCI Brexit / Covid 19 Loan
 - (xi) SBCI Variable

These interest rate categories are not exhaustive and the Bank will be at liberty at any time to extend or modify

them. Any such changes and the dates applicable will be notified to Borrowers in a manner which the Bank deems appropriate.

- 5.1.4 The Bank may sanction facilities at a rate expressed to be higher or lower than the rate relevant to the interest rate category.

Variable Interest Rates

- 5.2.1 Interest rates applicable to facilities sanctioned by reference to A, AA, AAA, Charity, Premium Business, Prime, Base Lending, Standard Variable Business Loan, SME Variable Business Loan, Credit Line and SBCI Variable rates are variable interest rates. These rates and the composition of them may change.
- 5.2.2 Variations in rates applicable to A, AA, Standard Variable Business Loan, SME Variable Business Loan and Charity from time to time will be notified to Customers by publication in at least one national newspaper. The current A, AA, Standard Variable Business Loan, SME Variable Business Loan and Charity rates from time to time will be shown on the interest rate notices displayed at all branches of the Bank and on the Bank's website, www.aib.ie/business.
- 5.2.3 Premium Business Rate is set by the Bank weekly, or more or less frequently as the Bank may see fit.
- 5.2.4 Prime, Base Lending Rate, Credit Line and SBCI Variable rates are set by the Bank weekly or more or less frequently as the Bank may see fit. Variations are published weekly in a national newspaper and are effective from the date advised in that notification.
- 5.2.5 If the Bank changes the frequency of setting Premium Business, Prime, Base Lending, Credit Line or SBCI Variable rates, customers will be notified by publication in at least one national newspaper.
- 5.2.6 The current interest rate applicable to a facility and the effective date of any interest rate change will be shown on the account statement, if any, next issued after the interest rate change.
- 5.2.7 If a variable interest rate together with a margin (if any), would result in a current interest rate for a facility which is below zero, such current interest rate will be deemed to be zero.
- 5.2.8 Details of current interest rates are available at all times on request to the Bank.

Market Related Rates, Fixed Interest Rates and SME Fixed Rate

- 5.3.1 The Bank may agree with the Borrower to fix the applicable interest rate for all or part of the period of a facility.
- 5.3.2 Where facilities are sanctioned by reference to a Market Related rate of interest and where otherwise referred to in this booklet, letters of sanction, or other agreement between the Bank and the Borrower, the following will apply:
- "Market Related rate" means the aggregate of Cost of Funds and Reserve Asset Cost;
 - "Cost of Funds" means, in relation to a facility, the cost to the Bank as determined by the Bank (expressed as a percentage per annum), given the nature of the facility and prevailing market conditions, of raising funds from external sources.
 - "Reserve Asset Cost" means the cost to the Bank (expressed as a percentage per annum) from time to time arising in relation to funding a facility in respect of the Bank having to meet any liquidity or minimum reserve ratio, special deposit or similar requirements imposed by any Regulatory Authority in relation to a facility; and
 - "Interest Period" means a period in respect of which interest on the amount of the facility outstanding is calculated and charged. An Interest Period cannot

extend beyond a capital or principal repayment date and, at present, is a period not greater than twelve months, but this may change.

- 5.3.3 Where facilities are sanctioned by reference to a Market Related rate of interest then:
- the Bank will agree the Interest Period with the Borrower; and
 - the rate of interest will be fixed for each Interest Period; and
 - the first Interest Period will commence on the date of drawdown and each subsequent Interest Period will, unless otherwise agreed, be of the same duration and will commence on the expiry date of the immediately preceding Interest Period; and
 - the Market Related rate of interest for the first Interest Period will be set by the Bank at the date of drawdown and reset at the start of each subsequent Interest Period.
- 5.3.4 Unless otherwise stated the Bank will quote interest rates by reference to Market Related rates on any particular day for value two days later.
- 5.3.5 If the interest rate category which is applicable to a facility is a Market Related rate or expressed to be based on a benchmark rate, such as EURIBOR or LIBOR and the applicable interest rate at any time in such interest rate category, together with a margin (if any), would result in a current interest rate for that facility which is below zero, the current interest rate will be deemed to be zero.
- 5.3.6 Breakage Cost: See clauses 3.6.1 to 3.6.3 inclusive.
- 5.3.7 At any time during the period of a facility when a fixed interest rate applies (including the duration of an Interest Period) interest will accrue at the fixed interest rate specified in the letter of sanction, or as agreed between the Borrower and the Bank. However, if the cost to the Bank of making or maintaining the facility increases by an amount which the Bank deems material as a result of:
- an increase in Reserve Asset Cost; and/or
 - any change in any law or regulation including any tax (other than tax on overall income) being assessed on the Bank, then the interest rate will be increased by the Bank by an amount to compensate the Bank for such increased cost.
- 5.3.8 At the expiration of a fixed interest rate period the Bank may agree with the Borrower a further fixed interest rate period at such interest rate and subject to such repayment arrangements as may be set by the Bank. In the absence of agreement variable interest at the rate which the Bank deems appropriate will apply.
- 5.3.9 Where a facility is sanctioned by reference to SME Fixed rate:
- the interest rate is a fixed interest rate set by the Bank. It is fixed on the date the loan account is opened and will not change for the period of the facility;
 - the Bank may change the prevailing SME Fixed rate, up or down, at its discretion from time to time. The prevailing SME Fixed rate will be shown on the interest rate notices displayed at all branches of the Bank and on the Bank's website, www.aib.ie/business;
 - if the prevailing SME Fixed rate goes up after the loan account is opened, the SME Fixed rate that applies to the facility and the amount of the Borrower's repayments will not change for the period of the facility. Equally, if the prevailing SME Fixed rate goes down after the loan account is opened, the SME Fixed rate that applies to the facility and the amount of the Borrower's repayments will not change, so that the Borrower will not benefit from any lower interest rate over the remaining period of the facility;

- (iv) the SME Fixed rate specified in the letter of sanction will apply to the facility unless the prevailing SME Fixed rate on the date the loan account is opened is different. Should the SME Fixed rate have changed:
 - (a) the prevailing SME Fixed rate on the date the loan account is opened will apply for the period of the facility;
 - (b) the amount of the Borrower's repayments will be recalculated and the Bank will contact the Borrower after the loan account is opened, with details of the interest rate and the recalculated repayments that will apply to the facility;
 - (c) if the Borrower does not accept the SME Fixed rate that prevails on the date the loan account is opened, the Borrower may withdraw from the facility. If the Borrower withdraws, the Borrower must repay the full amount owed to the Bank under the facility (including interest, fees, charges and expenses) otherwise the credit agreement applicable to the facility will continue to apply;
- (vi) clause 3.4 will apply to any residual balance outstanding at the end of the repayment period, with the exception that a residual balance will attract the SME Fixed rate that applies to the facility and will not attract variable interest at the then appropriate rate; and
- (vii) clause 7.2.5 will not apply to the facility and the Bank may, in its absolute discretion, permit partial drawings on the facility. Where partial drawings are permitted:
 - (a) the interest rate applicable to each amount drawn down, will be the SME Fixed rate that applies to the facility; and
 - (b) the amount of the Borrower's repayments will remain unchanged for the period of the facility.

Basis of Calculation

- 5.4 Interest is calculated on a daily basis using the 365 day count convention. This means that interest is calculated daily on the relevant balance applying the relevant interest rate divided by 365.

Following Ireland's entry into the European Monetary Union the Bank may adopt the more common European basis of calculating interest on a daily basis using the 360 day count convention.

This means that interest is calculated daily on the relevant balance applying the relevant interest rate divided by 360. Any such change in the day count convention will not result in either gains or losses to Borrowers (other than minor rounding) as interest rates will be adjusted to take account of which day count convention is used. In the event of a change in the day count convention the Bank will advise Customers by publication in at least one national newspaper or by such other manner as the Bank deems appropriate.

Calculation of Interest

- 5.5 Interest is calculated on the balance outstanding each day on accounts after adjustment is made for cheques and other items in course of collection to and from the particular branch in which the account is held. Interest is, therefore, not necessarily charged on the daily balance of the account as shown on the Borrower's statement. The adjustment will reflect the actual time at which value will have been given or obtained by the Borrower's branch for items drawn on or lodged to the account.

Interest Rests

- 5.6 Interest is debited to accounts quarterly in March, June, September and December in each year (except in the case of facilities sanctioned by reference to a Market Related rate) and up to the date of final repayment of the facility, but this may change, in which case the Bank will

give three months' notice in at least one national newspaper.

Interest Debited to Accounts

- 5.7 Interest will be debited to the account on which it has accrued or to such other account as may be agreed between the borrower and the Bank.

Compound Interest

- 5.8.1 All interest charged by the Bank on facilities is compound interest. This means that interest debited to accounts will itself bear interest until it is paid. This is without prejudice to any other right the Bank may have arising out of any failure by the Borrower to pay interest when due.
- 5.8.2 Compound interest will continue to accrue on all balances until the full amount due to the Bank has been repaid notwithstanding any demand by the Bank for payment, the termination of the Banker/Customer contract, bankruptcy, liquidation, examinership, or the appointment of a receiver in respect of the Borrower, or the issue of proceedings by the Bank against the Borrower for payment.

Interest Set-Off on Current Account

- 5.9 Where a Borrower has an overdraft and at the same time maintains a credit current account with the same branch and the Bank has a right to set-off the balances in those accounts, the Bank may agree to charge a reduced rate of interest (subject to a minimum of 1% per annum, but this may change) on that portion of the debit balance covered by the credit balance. No set-off for interest purposes is allowed for any facility other than overdraft. For further details, please refer to the separate set-off advice and accompanying Terms and Conditions for Set-Off (together the "Set-Off Conditions") that will apply to any such overdraft. If there is any conflict between the general terms and conditions set out in this booklet and the "Set-Off Conditions", then the "Set-Off Conditions" will prevail.

Section VI

Electronic Commerce, Digital Banking and Forward Foreign Exchange

Application

- 6.0 The terms and conditions set out in this section apply to all facilities.

Electronic Commerce and Digital Banking

- 6.1.1 The Bank may:
- (i) offer facilities in more than one way, for example in branch or online; and
 - (ii) provide some or all documents in electronic form and part of or all of any Bank processes may be online.

However the facilities are offered, the Bank may store documents (including the letter of sanction and any related documents) electronically. Both the Bank and the Borrower may sign documents electronically.

- 6.1.2 The Borrower consents and agrees that:
- (i) the letter of sanction and any related documents and information may be provided in electronic form; and
 - (ii) both the Borrower and the Bank may use an electronic signature to sign the letter of sanction and any related documents; and
 - (iii) information and documents (including the letter of sanction and any related documents) may be retained, presented and produced by the Bank in electronic form whether originally provided in electronic form or otherwise.

- 6.1.3 The Borrower may ask for an electronic or paper copy of the letter of sanction and any related documents from the Bank at any time.
- 6.1.4 When asked to do so by the Bank, the Borrower will print or download any documents provided in electronic form by the Bank.
- 6.1.5 The Bank and the Borrower agree that paragraphs (1) and (2) of Regulation 13 and paragraphs (1) (a) and (2) of Regulation 14 of S.I. 68/2003 – European Communities (Directive 2000/31/Ec) Regulations 2003 do not apply.

Forward Foreign Exchange Facility

- 6.2.1 From the 2nd of September 2017, where a letter of sanction is entered into between the Bank and the Customer in which the Bank approves Credit Risk Limits for the Customer to enter into forward foreign exchange transactions with the Bank, the AIB Customer Treasury Services FX & Derivatives Terms and Conditions (as may be replaced, amended or supplemented from time-to-time - the “Treasury Terms and Conditions”) shall apply in respect of all such transactions.
- 6.2.2 For the avoidance of doubt, forward foreign exchange facilities sanctioned under any letter of sanction entered into between the Bank and Customer prior to the 2nd of September 2017 will continue to be subject to the terms and conditions on which they were sanctioned.

Section VII

General

Application

- 7.0 The terms and conditions set out in this section apply to all facilities.

Acceptance

- 7.1.1 If the Borrower draws down or avails of a facility in whole or in part this will constitute acceptance by the Borrower of the terms and conditions of the facility.
- 7.1.2 The Bank may, at its discretion, at any time extend any acceptance period specified in the letter of sanction with or without notice to the Borrower.

Drawdown Availability

- 7.2.1 When all pre-drawdown conditions set out in the Letter of Sanction have been complied with, then the facilities may be drawn down.
- 7.2.2 Facilities must be availed of within three months from the date of the letter of sanction.
- 7.2.3 The Bank's commitment will be limited to the amount of the facility which has been drawn down at the expiration of the availability period.
- 7.2.4 The Bank may, at its discretion, extend the availability period.
- 7.2.5 Partial drawings will not be permitted on fixed interest rate loans or facilities sanctioned by reference to a Market Related rate of interest.
- 7.2.6 The Bank may at its absolute discretion on the date of a proposed drawdown or utilisation of the whole or any part of any facility refuse such drawdown or utilisation if any of the representations and warranties in clause 7.10 are not true and accurate (in the Bank's opinion) on such date.

Cancellation

- 7.3 The Bank may at its absolute discretion:
- (i) cancel a facility before it is drawn down or availed of; or

- (ii) refuse any further drawdown or utilisation of any part of any facility,

if there occurs a material change relevant to the Borrower (or any guarantor for the Borrower) or the facility which is in the Bank's opinion prejudicial to its interests.

Operation of Accounts

- 7.4.1 The Borrower must ensure that adequate arrangements are in place to meet all payments in respect of facilities, whether of principal, interest or otherwise.
- 7.4.2 The Bank reserves the right to reverse any entry on a Customer's account if any item credited to the account is not paid or if a payment credited to the account is subsequently recalled.

Joint and Several Liability

- 7.5 Each party to a facility on a joint account is jointly and severally liable to the Bank for repayment of the facility and is subject to all of the applicable terms and conditions.

Option of Annual Review

- 7.6.1 All business Borrowers are offered the option of an annual review meeting in relation to all facilities and security. Borrowers should contact their relationship manager or branch to arrange a meeting.
- 7.6.2 Whether or not a Borrower requests an annual review, the Bank may conduct its own review of the facilities and any security (including the Borrower's obligations and the Borrower's business, performance and financial circumstances generally) on or about any specified date, and annually thereafter (if applicable) with or without notice to the Borrower.
- 7.6.3 The Bank reserves the right to conduct a review on any other date or at more frequent intervals if it deems it appropriate, at its absolute discretion.

Facilities Involving Contingent Obligations

- 7.7.1 The offer of facilities by way of bank guarantees, documentary credits, bonds and indemnities and other contingent obligations undertaken by the Bank to third parties will lapse if not availed of within six months from the date of the letter of sanction.
- 7.7.2 Commission in respect of contingent obligations (including bonds, guarantees and indemnities but excluding Undertakings issued under the AIB Trade Finance Terms and Conditions) undertaken by the Bank to third parties on behalf or at the request of the customer will be charged quarterly (or part thereof) in arrears while the obligations continue. The first quarter's commission will be payable three calendar months after the contingent obligation instrument has been issued by the Bank to the third party.
- 7.7.3 (i) Commission is calculated daily on the maximum amount of the contingent obligation, applying the relevant rate of commission divided by 365.
- (ii) Commission will be debited to the Customer's working account or such other account as the Bank deems appropriate.
- (iii) The frequency, method of charging and debiting commission may change, in which case the Bank will give Customers 30 days' notice by writing to them or, as the Bank sees fit, by publication in at least one national newspaper.
- 7.7.4 During the currency of any contingent obligation arrangement made on behalf of a customer, the happening of any of the events set out in Clause 4.2 may lead to the Bank terminating the arrangement with or without notice to the customer.

7.7.5 Where, pursuant to any contingent obligation arrangement made with or on behalf of a customer, the Bank is obliged to make payment to a third party or otherwise incur any cost, the amount of such payment or cost will be debited to the working account of the customer or such other account in the name of the customer as the bank deems appropriate (including, where necessary, the opening of a new account by the Bank for that purpose). Any resulting debit balance on such new account will be payable on demand and will constitute an excess balance and will attract interest at the Bank's AA Overdraft rate or such other default interest rate as the Bank may substitute therefore calculated and charged in accordance with Section V.

Fees, Charges and Expenses

7.8.1 The Borrower must pay certain fees, charges and expenses (including VAT, where relevant) in relation to the facilities and these possible fees, charges and expenses are set out below:

- (i) the Borrower must pay any fees and charges that the Bank may charge in relation to any facility, any security and the operation of accounts. These fees and charges are stated in the letter of sanction or set out and/or explained in the current editions of the Bank's booklets "Business Fees and Charges" and "Security Costs for Borrowings" (these booklets are available in any of our branches and/or on our website). Subject to notifying the relevant authority (where required), the Bank may from time to time alter these fees or charges and/or introduce new fees or charges. The Bank will advertise any changes to fees and charges applicable to the operation of accounts in at least one national newspaper;
- (ii) the Borrower must pay any fees, charges or expenses incurred by the Bank and/or relating to any receiver or other insolvency officer in connection with any facility, security and/or any obligations and liabilities of the Borrower under any facility. These include any fees, charges and expenses for any of the Bank's professional advisors (for example, legal fees and outlay), specialist consultants (for example, valuation fees) and/or for any assessments/examinations considered necessary by the Bank; and
- (iii) the Borrower must pay any fees, charges and expenses charged by any of its own advisers in relation to any facility and/or any item of security.

7.8.2 The Borrower must pay the above fees, charges and expenses whether or not the facilities have been drawn down or utilised in whole or in part.

7.8.3 The Bank may debit the full amount of the above fees, charges and expenses to any account(s) maintained by the Borrower with the Bank and, if necessary, the Bank may open an account in the Borrower's name specifically for this purpose. The Bank may also transfer any such monies to the credit of the Bank or any relevant payee.

Security

7.9.1 It is the Bank's policy to require security (collateral) where, having regard to the nature and value of the facility being offered, and the circumstances of the Borrower, it considers the provision of security to be reasonable, and necessary to protect the Bank's interest.

7.9.2 Where a facility is expressed in the letter of sanction to be subject to security, the facility will be subject to such security being executed and delivered to the Bank to the Bank's satisfaction before the facility is drawn down or availed of in whole or in part. Any waiver by the Bank of the terms of this clause will be without prejudice to its rights to insist at a later stage to the provision of such security or to take any action as a result of the non-provision of such security.

7.9.3 Before any facility is drawn down or availed of, the Borrower will facilitate an independent valuation(s) of any asset (including without limitation any land and/or buildings) and/or the Borrower's business if requested to do so by the Bank. Any such valuation(s) will be at the Borrower's own expense and (unless agreed otherwise with the Bank) will be furnished by a valuer chosen from the Bank's approved panel of valuers and addressed to the Bank.

7.9.4 Security will extend to cover all the present and future obligations of the Borrower to the Bank whether in the Borrower's sole name or jointly with another or others, whether as principal or surety and whether actual or contingent.

7.9.5 Security over lands and/or buildings will be accompanied by the Borrower's solicitor's clear report and certificate of good marketable title completed, unamended, in the Bank's standard form.

7.9.6 Security will rank as a first mortgage or charge on the relevant property of the Borrower.

7.9.7 (i) The Borrower must take out and maintain for the period of the facility index linked insurance cover on the Borrower's business and assets (including any property and/or asset the subject of any security for the facilities) for fire and other usual risks for its full reinstatement cost with an insurance company acceptable to the Bank.

(ii) Before the facility is drawn down or availed of, and on request at any time during the period of the facility, the Borrower must produce to the Bank evidence that the insurance cover exists and of payment of any premiums or any other sums.

(iii) The Borrower will ensure (and will produce evidence to the Bank if requested to do so) that the Bank's interest is noted on any of the Borrower's insurance policies relating to any property and/or assets the subject of any security for the facilities, unless the Bank gives the Borrower notice that the Bank wants to be co-insured on any or all such insurance policies. As soon as the Borrower receives any such notice, the Borrower will immediately take all actions required to ensure the Bank is co-insured on such policies.

(iv) The Borrower will ensure that the insurance policies contain any provisions that the Bank may reasonably require to protect itself.

(v) The Borrower will ensure that all premiums are paid on time and that the Borrower does all other things necessary to ensure these insurance policies remain in force while facilities remain outstanding.

(vi) If the Borrower does not do so the Bank may (but without obligation) pay any premium or effect such insurance at the cost of the Borrower and may debit such cost to any account of the Borrower.

(vii) The Bank will have no liability to the Borrower if the insurance company does not pay or if the property and/or assets are not insured or are not properly insured for any reason at any time.

7.9.8 The Bank does not warrant that the proceeds of realisation of any security and particularly the proceeds of any life policy held as security will be sufficient to clear the entire amount of the facility and any Breakage Cost which may arise.

7.9.9 While facilities remain outstanding, the Borrower will not (and will not allow any other party on the Borrower's behalf to), without the Bank's prior written consent, sell, transfer, lease or otherwise dispose of any interest in any property, asset or undertaking of the Borrower which is the subject of any security for the facilities either in a single transaction or in a series

of transactions, whether related or not and whether voluntarily or involuntarily.

7.9.10 There are serious potential consequences of providing security, including that, if the Bank demands repayment of facilities and the Borrower does not pay in full immediately, the Bank may enforce its security against the security provider. This may mean, for example, that the Bank may:

- (i) dispose of any property held as security towards payment of the Borrower's liability; and/or
- (ii) take legal proceedings against the security provider to recover what the Borrower owes, including any fees, charges and expenses involved in such litigation.

7.9.11 If the security includes a guarantee, the Bank must notify the terms of the facility, and any changes in those terms, to the guarantor.

7.9.12 The Borrower will be responsible for all fees charged by the Bank for specialist securities services and all solicitors fees and other costs incurred by the Bank in relation to the obtainment, perfection and enforcement of security.

7.9.13 The Borrower will also be responsible for all professional fees of the Borrower's solicitor (and, where applicable, the Borrower's spouse's or civil partner's solicitor where that spouse or civil partner is independently advised), including VAT, and all outlays, stamp duties and registration fees payable in relation to the perfection of the security.

7.9.14 The Borrower will pay such reasonable charges as may be required by the Bank in relation to the release of any security.

7.9.15 If the Borrower avails now or in the future of iBusiness Banking or the Electronic Money Transfer System services from the Bank (or any replacement or similar service(s) offered by the Bank from time to time) and the Bank on any occasion permits a transaction where there are insufficient funds to meet such transaction, then, without prejudice to any other remedies available to the Bank, the security for the facilities will also secure the Borrower's obligation to repay the amount of any such shortfall of funds that were made available by the Bank. The fact that the Bank may permit transactions on one or more occasions where there are insufficient funds, will not oblige the Bank to do so on any subsequent occasion.

7.9.16 The Borrower (where such Borrower is a company) agrees to the registration of any charge created or intended to be created by it in the companies registration office.

Borrower's Representations and Warranties

7.10 The Borrower represents and warrants in respect of the Borrower and (to the best of the Borrower's knowledge, information and belief having made due and careful enquiries) in respect of each guarantor of the Borrower (if any) and each member of the Group (if any) that:

- (i) (a) all information supplied by the Borrower to the Bank is true, complete and accurate in all material respects and is not or will not be misleading in any respect and (b) where the Borrower has given certifications and/or confirmations to the Bank in connection with the Covid-19 Credit Guarantee Scheme (including without limitation in any Pre-Eligibility Application form), those certifications and/or confirmations are complete and correct in all respects; and
- (ii) the Borrower has made full disclosure to the Bank of all information relating to the Borrower, each guarantor of the Borrower (if any) and each member of the Group (if any) and their respective businesses that would be material to or should be made known to any bank that is proposing to lend

or has lent money to the Borrower; and

- (iii) where applicable, it is duly incorporated (or constituted where applicable) and validly existing under the laws of its jurisdiction of incorporation (or establishment where applicable) and it has the power to own its assets and carry on its business as it is being conducted; and
- (iv) where applicable, he/she is of full age and is not by reason of illness or incapacity (whether mental or physical), incapable of managing his/her own affairs and he/she has not become or been declared to be of unsound mind or become a ward of court; and
- (v) he/she/it has the power to enter into, perform and deliver (and has taken all necessary action required to authorise his/her/its entry into, performance and delivery of) the letter of sanction and all security for the facilities to which he/she/it is or will be a party and the transactions contemplated by those documents; and
- (vi) the obligations expressed to be assumed by him/her/it in the letter of sanction and all security for the facilities to which he/she/it is or will be a party are legal, valid, binding and enforceable obligations and do not and will not conflict with:
 - (a) any law or regulation applicable to him/her/it and/or any of his/her/its assets;
 - (b) any agreement or instrument binding upon him/her/it or affecting any of his/her/its assets; and
 - (c) its constitutional documents (where applicable); and
- (vii) he/she/it is in compliance with all applicable laws, regulations and practices and he/she/it holds and will keep in full force and effect and will comply with all authorisations, consents, approvals, waivers, resolutions, licences, permits, exemptions or registrations to ensure the letter of sanction and all security for the facilities to which he/she/it is a party or will be party is legal, valid, binding and enforceable and to enable him/her/it to validly perform his/her/its obligations thereunder; and
- (viii) he/she/it has not breached any term or condition applicable to any facility and is not in breach of or in default under any agreement or document to which he/she/it is a party or by which he/she/it or any part of his/her/its assets may be bound which could have a material adverse impact on him/her/it or on his/her/its ability to perform his/her/its obligations under the letter of sanction or any security for the facilities to which he/she/it is a party or will be party; and
- (ix) he/she/it is the legal and beneficial owner of the relevant assets that are subject to the security and the assets are held by him/her/it free from any security interest (such as a mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person, any title retention, preferential right, trust arrangement or other security agreement or arrangement having a similar effect), other than those notified to the Bank; and
- (x) no litigation, arbitration or other proceedings have been started or threatened against him/her/it which could have a material adverse impact on him/her/it or on his/her/its ability to perform his/her/its obligations under the letter of sanction or any security for the facilities to which he/she/it is a party or will be party; and
- (xi) his/her/its centre of main interests (as the term is used in Article 3(1) of the Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings) is situated in Ireland and he/she/it has no establishment (as that term is used in such

regulation) in any other jurisdiction, unless he/she/it has notified the Bank otherwise in writing; and

- (xii) he/she/it has been advised to take, and has been given full opportunity to take, independent legal advice on the letter of sanction and the actual and potential consequences of his/her/its execution of the letter of sanction, all security for the facilities and any other document specified in or contemplated by the letter of sanction to which he/she/it is or will be a party, including the terms and conditions set out in this booklet.
- (xiii) any facility to which the terms and conditions in this booklet apply is being advanced for the purposes of the Borrower's business, trade or profession and the Borrower is not acting as a "consumer" within the meaning of the acts and regulations listed below:
 - (i) The Consumer Credit Act 1995;
 - (ii) The Consumer Protection Act 2007;
 - (iii) The European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 and 2000;
 - (iv) The European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004;
 - (v) The European Union (Consumer Mortgage Credit Agreements) Regulations 2016.

These representations and warranties will be deemed to be repeated by the Borrower on the date of each drawdown or utilisation of any facility and on each day thereafter, by reference to the facts and circumstances existing on such date.

Borrower's Covenants, Compliance and Indemnity

- 7.11 The Borrower covenants and agrees with and undertakes to the Bank that, for as long as any facility is available for utilisation or any amount is outstanding to the Bank in respect of any facility:
- (i) the Borrower will not, without the prior consent in writing of the bank, create or agree to create or permit any mortgage, charge or other encumbrance of any nature over any of the assets or property of the Borrower; and
 - (ii) the Borrower, being a company, shall not alter its constitution, or being the trustee of a trust, will not alter the trust deed or constitution in a manner prejudicial to the Bank; and
 - (iii) the Borrower will pay promptly all creditors who would rank as preferential creditors in the event of an insolvency of the Borrower or upon the appointment of a receiver over any property of a company Borrower; and
 - (iv) the Borrower will promptly deliver to the Bank such up to date financial and other information in relation to the Borrower's business as the Bank may from time to time require; and
 - (v) the Borrower will arrange for annual accounts for the Borrower's business to be prepared, properly audited (or, if applicable, properly certified by an independent accountant) and sent to the Bank;
 - (vi) the facility will be used for the purpose set out in the letter of sanction; and
 - (vii) the Borrower will comply with all applicable laws relating to the business and property of the Borrower including, without limitation, laws relating to the health, safety, pollution or protection of the environment and the terms of any licence or other authorisation issued in connection therewith by any relevant authority; and

- (viii) the Borrower will obtain and maintain at the Borrower's expense all licences and authorisations required under any applicable law relating to the business and property of the Borrower and the Borrower will produce such licences or authorisations to the Bank on request; and
- (ix) the Borrower will indemnify the bank and keep the Bank at all times indemnified against any and all actions, costs, demands, claims, losses or damage which the Bank may suffer or be put to by reason of any breach or non-observance by the Borrower of any such applicable laws or the terms of any such licences or other authorisations; and
- (x) the Borrower will carry on the Borrower's business in a proper and efficient manner; and
- (xi) the Borrower will not (and will not allow any other party on the Borrower's behalf to) sell, transfer or lease the whole of or any part of the Borrower's present or future material assets or otherwise dispose of the whole of or any part of any such asset either in a single transaction or in a series of transactions, whether related or not and whether voluntarily or involuntarily without the Bank's prior written consent; and
- (xii) the Borrower will not make any significant change to the nature, constitution or management of the Borrower's business and will not enter into any transaction with any person other than on arm's length commercial terms in the ordinary course of the Borrower's business; and
- (xiii) there will be no change of control of the Borrower for the duration of the facilities without the Bank's prior written consent.
In this regard, "change of control" means any change in direct or indirect ownership of the Borrower, any change in the power to control the composition or the majority of the board of directors of the Borrower and/or any person(s) (including any bodies corporate) gaining the power to direct the management and policies of the Borrower whether through ownership of shares, by contract or otherwise; and
- (xiv) the Borrower will not enter into any joint venture, partnership or similar arrangement with any other person or make any significant acquisitions without the Bank's prior written consent; and
- (xv) the Borrower will promptly inform the Bank of:
 - (i) any material litigation, arbitration or other proceedings pending or threatened against the Borrower or any guarantor which could have a material adverse impact on the Borrower or any guarantor or on their ability to perform their respective obligations under the letter of sanction or any security for the facilities to which the Borrower is a party or will be party; and
 - (ii) any final letters of demand for payment received by the Borrower from any creditor, immediately upon becoming aware of it; and
- (xvi) the Borrower will promptly inform the Bank if a breach occurs of any of the terms and conditions applicable to any facility; and
- (xvii) the Borrower will facilitate an independent valuation(s) of any asset (including without limitation any land and/or buildings) and/or the Borrower's business if requested to do so by the Bank at any time. Any such valuation(s) will be at the Borrower's own expense and (unless agreed otherwise with the Bank) will be furnished by a valuer chosen from the Bank's approved panel of valuers and addressed to the Bank. The Bank will be entitled to debit any fees or expenses relating to such valuation(s) to the Borrower's working

account or any other account which the Bank deems appropriate; and

- (viii) the Borrower will promptly do all such acts or execute all such documents as the Bank may reasonably specify (and in such form as the Bank may require in favour of the Bank or its nominee(s)):
- (a) to perfect the security (which may include the execution of a mortgage, charge, assignment, pledge, lien, encumbrance or other security interest over all or any of the assets which are, or are intended to be, the subject of the letter of sanction); and
 - (b) for the exercise of any rights, powers and remedies of the Bank provided by or pursuant to the letter of sanction, the terms and conditions set out in this booklet, the security for the facilities or by operation of law.

Bank's Certificate Binding

- 7.12 A certificate issued by any officer of the Bank as to any amount payable in respect of facilities will be final and binding on the Borrower save in the case of manifest error.

Breach and Variation

- 7.13 The Borrower and each guarantor (if any) agree and acknowledge that each of the terms and conditions applicable to a facility are for the benefit of the Bank and may be waived by the Bank at its absolute discretion without the consent of the Borrower or any guarantor. Any waiver by the Bank of any of the terms or conditions applicable to a facility will not constitute a general waiver of such term or condition. No failure or delay by the Bank in exercising any right, power or privilege granted to it will operate as a waiver thereof and no single or partial exercise of any such right, power or privilege will prevent the Bank from later exercising any such right, power or privilege. The rights and remedies provided for in the letter of sanction and this booklet are cumulative and not exclusive of any rights or remedies provided by law.

Full Payment

- 7.14 All sums payable by the Borrower in respect of facilities (whether of principal, interest or otherwise) will be paid in the currency in which they are outstanding in full without any deduction, set-off, counterclaim or withholding whatsoever. In the event of the Borrower being required by law to make any deduction or withholding from any payment to the Bank then:
- (i) the Borrower will ensure that such deduction or withholding will not exceed the minimum legal liability thereof; and
 - (ii) the Borrower will pay to the Bank such additional amounts as will result in the receipt by the Bank of a net amount equal to the amount it would have received had no such deduction or withholding been required to be made.

Exchange Loss

- 7.15 In relation to foreign currency facilities, the Bank will not be liable for any loss or expense incurred by the Borrower:
- (i) as a result of the Bank's inability to determine the rate of interest on the facility prior to drawdown; and/or
 - (ii) in respect of the cost of obtaining foreign currency to meet any payment when due.

Business Days

- 7.16 A "business day" means a day on which the Bank's

branches are generally open for business in Ireland. Any payment which would be due and payable on a non-business day, or on the 29th, 30th or 31st day of a calendar month which does not include that date, will be deemed due and payable on the nearest business day which the Bank deems appropriate.

No Assignment by Borrower

- 7.17 The benefit of each facility is personal to the Borrower and will not be capable of assignment by the Borrower in whole or in part.

Assignment by the Bank

- 7.18 The Bank reserves the right to assign, charge, transfer (by way of novation, securitisation or otherwise) or sub-participate all or part of the Facilities and any security held as collateral in respect thereof to any member of the Allied Irish Banks Group or to any third party, either within the State or elsewhere, without notice to or the prior consent of the Borrower.

The Bank will be entitled to give any proposed assignee, chargee, transferee or sub-participant, and its and their professional advisors, such information, documentation and personal data as the Bank deems necessary relating to the Borrower, the Facilities and the security (which may include the disclosure of personal data in relation to the Borrower outside the European Economic Area where the level of data protection is not as high as in Ireland).

The Borrower agrees to execute, at the cost of the Bank, any documentation (including without prejudice to the generality of the foregoing, any deed of novation) which the Bank requests it to execute in connection with any such assignment, charge, transfer, sub-participation or securitisation and in consideration of the Facilities and as security therefore, the Borrower irrevocably appoints the Bank to be its attorney for the purpose of the execution of any such documentation.

Reference of Debts on Default

- 7.19 On default by the Borrower the bank reserves the right to refer the outstanding debt in relation to facilities to another organisation or debt-collection agency for the purpose of collection of payment and to give such organisation or agency such information as it deems necessary relating to the Borrower and any facility.

Disclosure within AIB Group

- 7.20 The Bank may disclose information about the Borrower and any facility to any of the companies in the Allied Irish Banks Group.

Severability

- 7.21 In case any one or more of the terms and conditions relating to a facility should be invalid, illegal or unenforceable in any respect under any law the validity, legality or enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Notice and Communication

- 7.22.1 If the Borrower wishes to contact the Bank in relation to a facility, the Borrower can contact the branch or the business area of the Bank at which the facility is based. Alternatively, please contact the Bank online or through the Bank's customer service helpline. Contact details for each of the Bank's branches and business areas and the Bank's customer service helpline numbers are available on the Bank's website www.aib.ie.
- 7.22.2 Where allowed to by law, the Bank may contact the Borrower or send notices, demands or requests in

relation to a facility in a variety of ways such as:

- (i) by hand or by post to the Borrower at the last address the Borrower gave the Bank; or
- (ii) by phone, SMS or fax; or
- (iii) by email, through the Bank's online banking services or any other electronic or telecommunication means.

The Bank is always looking for ways to make services more convenient and flexible and may introduce new ways to communicate in the future.

7.22.3 Any notice sent by the Bank to the last address the Borrower gave to the Bank is considered to be delivered immediately upon delivery if it is delivered by hand and one business day after it is posted if sent by post (even if mis-delivered or returned undelivered).

Any notice sent by email (to the Borrower's email address last known to the Bank), SMS (to the Borrower's mobile number last known to the Bank), fax (to the Borrower's fax number last known to the Bank) or made available online (for example, using any message facility available through the Bank's online banking service), is considered to have been received by the Borrower twenty-four hours after it is sent.

7.22.4 The letter of sanction and all documentation, information and other communication with the Borrower will be in English.

Force Majeure

7.23 The Bank will not be liable if it cannot perform any of its obligations because of industrial disputes or other events it cannot control.

Applicable Law

7.24 Facilities will be governed and construed in accordance with the laws of Ireland.

Set-Off

7.25 The Bank may, in addition to any other similar right it may have, at any time, without notice to the Borrower, set-off any credit balance on any account of the Borrower with the Bank against any sums which are or may become owing to the Bank by the Borrower in any manner or on any account whatsoever.

Conflicts of Interest

7.26 It is an unavoidable feature of the Bank's business that a conflict of interest may arise in any transaction, whether due to an interest of the Bank in the transaction or an interest of more than one customer in the transaction, or some other circumstance affecting the transaction. By accepting any facility, the Borrower acknowledges the general nature of such conflict and that the Borrower still wishes to proceed with the transaction. Details of the Bank's policy on conflicts of interest are available from all branches and in the Terms of Business at www.aib.ie

Liquidity Costs

7.27 If the cost to the Bank of making or maintaining a facility increases as a result of the introduction of or change in any liquidity, reserve ratio, special deposit or similar requirements (or any other requirement having the same or similar purpose) of any Regulatory Authority or from any change in any law or regulation or the introduction of or increase in any tax, the Bank will either demand payment of an amount or increase the interest rate applicable to the facility by an amount that the Bank will conclusively determine (at its absolute discretion) is sufficient to compensate the Bank for such increased cost.

Guarantor Execution

7.28 The Borrower and each guarantor of the Borrower acknowledge and agree that the Borrower's liability to

the Bank under any relevant letter of sanction and the security for the facilities and under any and all guarantees, indemnities, covenants, undertakings and other instruments now or at any time held by the Bank will be unaffected by the non-execution of the letter of sanction by any or all of the guarantors of the Borrower.

Existing Facilities

7.29 If the letter of sanction relates to one or more existing facilities, some of the figures outlined in the description of the relevant facilities in the letter of sanction may change before the Borrower has drawn down or availed of the facilities (for example, if there are any amounts debited or credited to a Borrower's existing account that may have accrued or been incurred under a previous agreement relating to the existing facility). Any amount whatsoever (including interest, fees, charges or expenses) that a Borrower owes the Bank under a previous agreement that has not been paid will be debited to the Borrower's account for that facility and paid in accordance with the relevant letter of sanction.

Entire Agreement

7.30 The letter of sanction issued by the Bank (as varied, replaced or supplemented from time to time), together with the terms and conditions set out in this booklet constitute the entire understanding between the parties as regards the relevant facilities and subject to the terms of the letter of sanction, supercede any arrangements, understandings, promises or agreements (whether written or otherwise) made or existing between the parties prior to the signing of the letter of sanction.

Counterparts

7.31 The letter of sanction may be executed in any number of counterparts and by the different parties on separate counterparts, each of which when executed and delivered will constitute an original and all such counterparts together will constitute one and the same instrument.

Data Protection

7.32 For information in relation to how we collect personal information about you, how we use it and how you can interact with us about it, see our data protection notice in branches and online. It may change from time to time.

Section VIII

Strategic Banking Corporation of Ireland Loan Schemes

Application

- 8.0 The terms and conditions in this section apply to loan facilities sanctioned under schemes offered by the Strategic Banking Corporation of Ireland (SBCI) and are without prejudice to the applicability of the terms and conditions in any other section of this booklet.
- 8.1 The provisions of clause 8.2 apply to loans sanctioned under the SBCI SME Scheme. The provisions of clause 8.3 apply to loans sanctioned under the SBCI Agriculture Cashflow Support Loan Scheme. The provisions of clause 8.4 apply to loans sanctioned under the SBCI Scheme. The provisions of clause 8.5 apply to loans sanctioned under the SBCI Future Growth Loan Scheme.

Term loans to eligible Small and Medium Enterprises ('SMEs') under the Strategic Banking Corporation of Ireland ('SBCI') Loan Scheme ('SBCI SME Scheme')

- 8.2 Where term loans are sanctioned under the SBCI SME

Scheme, the facilities are supported by the SBCI (who in turn are supported with finance by the European Investment Bank, Kretanstalt für Wiederaufbau and the Ireland Strategic Investment Fund (together 'SBCI Funders')) and are sanctioned at an interest rate which is lower than the interest rate which would apply to such facilities without the SBCI support. Term loans sanctioned under the SBCI SME Scheme are intended for the purposes of projects which comply with the eligibility criteria set by the SBCI from time to time (each an "SBCI Scheme Project") and which are available on www.aib.ie. For as long as a facility is sanctioned under the SBCI SME Scheme, the following additional conditions will apply:

- (i) the Borrower represents, warrants and undertakes that:
 - (a) the Borrower will use the facility exclusively for the financing of the specified SBCI Scheme Project;
 - (b) except where the facility is a working capital facility, the Borrower will complete the relevant SBCI Scheme Project by a date which has been agreed between the Borrower and the Bank;
 - (c) where the Borrower is bound to comply with public procurement rules, the SBCI Scheme Project will comply with the relevant applicable EU and Irish legislation. Where the Borrower is not bound to comply with public procurement rules, the Borrower will, when purchasing equipment, securing services and ordering works for the SBCI Scheme Project, use procurement procedures which respect the criteria of economy and efficiency and, in the case of public contracts, the principles of transparency, equal treatment and non-discrimination on the basis of nationality;
 - (d) except where the facility is a working capital facility, the Borrower will maintain, repair, overhaul and renew all property forming part of the specified SBCI Scheme Project, as required in order to keep it in good working order;
 - (e) to keep books and records of all financial transactions and expenditures in connection with the specified SBCI Scheme Project;
 - (f) to the best of its knowledge, no funds invested in the specified SBCI Scheme Project by the Borrower are of illicit origin, including products of money laundering or linked to the financing of terrorism and the Borrower will promptly inform the Bank if at any time it becomes aware of the illicit origin of any such funds;
 - (g) provided the Borrower has received reasonable notice, the Borrower will allow persons designated by the SBCI, the SBCI Funders, and, where required under any applicable EU law, any persons designated by any institution or other body in the European Union ('Designated Person'), to during working hours, visit and conduct such checks at the Borrower's business and any sites, installations and works comprising the SBCI Scheme Project, interview representatives including employees of the Borrower, review and (to the extent permitted by law) take copies of books and records of the Borrower in relation to the specified SBCI Scheme Project and provide any Designated Person with all necessary assistance and information for such purposes;

- (h) the Borrower will not obstruct any Designated Person from contacting any person involved in or affected by the specified SBCI Scheme Project;
 - (i) where any member of its management body has been convicted by a final and irrevocable court ruling of any of the offences of fraud, corruption, collusion, obstruction, money laundering or financing of terrorism ('Criminal Offence'), perpetrated in the course of the exercise of his/her professional duties, the Borrower will take, as soon as reasonably possible, appropriate measures to ensure that such person is excluded from any activity in relation to any funds made available by the Bank under any facility or in relation to the specified SBCI Scheme Project;
 - (j) the Borrower will promptly inform the Bank of any measure taken by the Borrower in relation to clause 8.2 (i) (i) above;
 - (k) the Borrower is not a defendant in any proceedings brought by the European Commission;
 - (l) to the extent permitted by law, the Borrower will promptly inform the Bank of any credible allegation, complaint or information with regard to any Criminal Offence in relation to the specified SBCI Scheme Project;
 - (m) to the extent permitted by law, the Borrower will promptly provide the Bank with any information or documentation in relation to the facility, the Borrower or the SBCI Scheme Project which the Bank reasonably requests;
 - (n) the Borrower satisfies the eligibility criteria for de minimis state aid loans or agricultural investment loan scheme ('AILS') loans (as applicable) as at the date of the letter of sanction and which criteria are available on the Bank's website;
 - (o) the Borrower satisfies the eligibility criteria for an eligible SME as at the date of the letter of sanction and which criteria are available on the Bank's website;
 - (p) the Borrower will, where applicable, provide the Bank with a valid declaration setting out the amount, if any, of de minimis state aid received by the Borrower in the current fiscal year and the two previous fiscal years; and
 - (q) the Borrower will, where applicable, provide the Bank with a valid declaration setting out the amount, if any, of any other aid received by the Borrower relating to the SBCI Scheme Project.
- (ii) the Borrower acknowledges, accepts and consents that:
 - (a) the Bank will provide information about the Borrower, the SBCI Scheme Project, the loan which it is required to provide to the SBCI, the SBCI Funders, any EU Body and any State Body;
 - (b) the SBCI Funders may be obliged to divulge information relating to the Borrower and/or the SBCI Scheme Project to an institution or other body in the European Union in accordance with EU law; and
 - (c) SBCI may post information on its website about the Borrower, the SBCI Scheme Project and the loan.

Term loans to eligible Small and Medium Enterprises ('SMEs') under the Strategic Banking Corporation of Ireland ('SBCI') Agriculture Cashflow Support Loan Scheme (the 'SBCI Scheme')

8.3 Term loans under the SBCI Scheme are being made available with the benefit of a guarantee from the SBCI which is, in turn, supported with finance and/or support from the European Investment Fund and the Department of Agriculture, Food and the Marine. The Borrower is required to have read and understood the rules of the SBCI Scheme (which are posted on the SBCI website) prior to accepting the Facility. By accepting the Facility, the Borrower is deemed to have done so.

For the purposes of this section, the following definitions will apply:

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of such a Holding Company;

"Authorised Entities" means any of the SBCI, the EIF, agents of the EIF, the European Court of Auditors, the Commission, the agents or contractors of the Commission including the European Anti-Fraud Office, the European Investment Bank and/or any other European Union institution or body which is entitled to verify the use of the Bank's funding agreement for the SBCI Scheme in the context of COSME as well as any Minister of the Government of Ireland or the Comptroller and Auditor General and their agents and advisers;

"Commission" means the Commission of the European Communities;

"COSME" means the Programme for the Competitiveness of Enterprises and small and medium enterprises (COSME) (2014-2020) established under Regulation (EU) No 1287/2013 of the European Parliament and the Council;

"DAFM" means the Department of Agriculture, Food and the Marine;

"Data Protection Regulation" means Regulation (EC) No 45/2001 of the European Parliament and of the Council, dated 18 December 2000, as amended, relating to the protection of individuals with regard to the processing of personal data by the European Community institutions and bodies and of the free movement of such personal data (OJ L008, 12.01.2001, p.1);

"EIF" means the European Investment Fund;

"Facility" means the loan offered to the Borrower by the Bank under the SBCI Scheme;

"Personal Data" means personal data as defined in the Data Protection Regulation;

"Restricted Sectors" means any sector included on the list of Restricted Sectors available on www.aib.ie/sbcagri;

"SBCI" means the Strategic Banking Corporation of Ireland which term shall include its successors, transferees and assignees if any; and

"SBCI Scheme" means the SBCI Agriculture Cashflow Support Loan Scheme established by the SBCI.

Term loans sanctioned under the SBCI Scheme are intended for the purposes of facilities which comply with the eligibility criteria for the SBCI Scheme set by the SBCI. The eligibility criteria applicable to Borrowers are available on www.aib.ie/sbcagri. For as long as a Facility is sanctioned under the SBCI Scheme, the following additional conditions will apply:

- (i) the Borrower represents, warrants and undertakes that the Borrower:
 - (a) qualifies as an SME under the EU definition

(Commission Recommendation 2003/361/EC) and is active in the primary agricultural sector in Ireland;

- (b) is not an "undertaking in difficulty" (within the meaning of the Commission Regulation (EU) No C(2014) 651/2014 of 17 June 2014) (see www.aib.ie/sbcagri for more details);
- (c) does not have a substantial focus on one or more of the Restricted Sectors;
- (d) is not bankrupt or being wound up or having its affairs administered by the courts;
- (e) in the last five (5) years has not entered into an arrangement with creditors, in the context of being bankrupt or wound-up or having its affairs administered by the courts;
- (f) has not been convicted of an offence or subject to a ruling concerning professional conduct, fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity where such illegal activity is detrimental to the European Union's financial interests;
- (g) is not delinquent or in default under any agreement with the Bank or another financial institution in a manner that could materially affect the Borrower's ability to meet his/her/its obligations under any such agreement. For these purposes, a failure to meet such obligations which is caused by short term cash flow pressures caused by prevailing market conditions will not, without prejudice to clause 4.2 (events of default), be deemed to have such a material effect;
- (h) is not established in a Non-Cooperative Jurisdiction which means any jurisdiction that does not co-operate with the European Union in relation to the application of internationally agreed tax standards;
 - (i) shall comply with all applicable laws and regulations (whether national laws and regulations or the laws and regulations of the European Union);
 - (j) satisfies the eligibility criteria for a term loan under the SBCI Scheme which are applicable to Borrowers (and which are available on www.aib.ie/sbcagri) as at the date of the letter of sanction for the Facility and that it will at all times during the lifetime of the Facility, comply with the ongoing eligibility criteria;
 - (k) has not drawdown and will not drawdown any loan under the SBCI Scheme from another financial institution that would cause it to borrow more than €150,000 under the SBCI Scheme in aggregate;
 - (l) will prepare, update and maintain available for the Authorised Entities for a period of seven (7) years after the termination of the Facility: (i) information necessary to verify the use of the drawings under the Facility and the eligibility of the Borrower and the Facility under the SBCI Scheme and the proper implementation of the SBCI Scheme; (ii) information regarding payments; and (iii) any other information reasonably required by the Authorised Entities;
 - (m) will keep and be able to produce (including for inspection by an Authorised Entity) all documentation related to the implementation of the letter of sanction and the Facility and/or the state aid or aid received in connection with the Facility for a period of seven (7) years after the termination of the Facility and if any deficiencies in the keeping of records are

identified by any of the Authorised Entities, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies, comply with the instructions given by any of the Authorised Entities and provide any additional information reasonably requested by any of the Authorised Entities;

- (n) will co-operate in any evaluation of the SBCI Scheme and/or any case study reports that may be carried out by any of the Authorised Entities (which reports may be published), and to respond to any reasonable information requests in the context of any such evaluation or case study report; and
- (o) has complied with and will comply with all requirements and limits (including de minimis limits) relating to state aid and/or exceptional adjustment aid, including state aid and subsidies received referable to exceptional adjustment aid pursuant to Commission Delegated Regulation 2016/1613, which apply to the Borrower and if the Borrower receives, under the SBCI Scheme or otherwise, aid in excess of what that Borrower is permitted to receive by law, the Borrower shall return to the Bank for onward transmission to the SBCI any such excess aid received under the Scheme in breach of law together with any other amount due in respect of that aid immediately upon: (i) the Borrower becoming aware of such excess receipt; and/or (ii) the Bank notifying the Borrower of same.
- (ii) the Borrower acknowledges, agrees and consents that:
 - (a) the Bank will provide information about the Borrower, the SBCI Scheme and the Facility which it is required to provide to any of the Authorised Entities;
 - (b) the SBCI, the EIF and the DAFM may be obliged to divulge information relating to the Borrower, the SBCI Scheme and the Facility to an institution or other body in the European Union in accordance with EU law;
 - (c) the SBCI, the EIF and the DAFM may post information on their websites about the Borrower, the Facility and the SBCI Scheme and the SBCI may use Borrower information for the carrying out of surveys by it or on its behalf;
 - (d) if the Borrower is chosen by any of the Authorised Entities to take part in a case study report, then any of the Authorised Entities may contact the Borrower so that its business can be used to produce audio, visual or print publications for the promotion of the SBCI Scheme and other schemes run by any of the Authorised Entities;
 - (e) the Authorised Entities shall have the right to carry out controls and audits and to request information and documentation in respect of the agreement for the Facility and its execution, including without limitation for the purposes of evaluating the COSME programme. The Borrower shall permit monitoring visits and inspections by any Authorised Entity of its business operations, books and records. As these controls may include on the spot checks and inspections of the Borrower, the Borrower shall permit access to its premises to any Authorised Entity during normal business hours;
 - (f) pursuant to Article 5(a) of the Data Protection

Regulation, the name, address and purpose of the Borrower and other personal data information in connection with the Facility will be communicated to the EIF and/or the Commission and any personal data communicated to these entities will be stored until seven (7) years after the termination of the Bank's and the SBCI's funding agreements for the SBCI Scheme;

- (g) requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the EIF and/or the Commission as the case may be, should be addressed, as applicable, at the following address:

| IN RESPECT OF: | ADDRESS: |
|--------------------|--|
| EIF: | European Investment Fund 37B avenue J.F. Kennedy L-2968 Luxembourg Grand Duchy of Luxembourg Attention: Debt Services-Portfolio Guarantees |
| Commission: | Commission Européenne Directorate General Economic and Financial Affairs L-2920 Luxembourg Grand Duchy of Luxembourg Attention: Head of Unit L2 – SBCI Programme Management |

and will be treated as described in Articles 13 to 19 of the Data Protection Regulation in its Section 5: "Rights of the Data Subject"; and

- (h) pursuant to Article 32, paragraph (2) of the Data Protection Regulation, the Borrower may lodge a complaint with the European Data Supervisor if he or she considers that his or her rights under Article 286 of the Treaty establishing the European Community have been infringed as a result of the processing of personal data by the EIF and/or the Commission.

Term loans to eligible Small and Medium Enterprises ('SMEs') and Small Mid-caps under the Strategic Banking Corporation of Ireland ('SBCI') SME Brexit Loan and Covid-19 Working Capital Scheme (the 'SBCI Scheme')

8.4 Term loans under the SBCI Scheme are being made available with the benefit of a guarantee from the SBCI which is, in turn, supported with finance and/or support from the European Investment Fund, the Department of Enterprise, Trade and Employment and the Department of Agriculture, Food and the Marine. The Borrower is required to have read and understood the rules of the SBCI Scheme (which are posted on the SBCI website) prior to accepting the Facility. By accepting the Facility, the Borrower is deemed to have done so.

This Facility is supported by the InnovFin SME Guarantee Facility, with the financial backing of the European Union under Horizon 2020 Financial Instruments and the European Fund for Strategic Investments (EFSI) set up under the Investment Plan for Europe. The purpose of EFSI is to help support financing and implementing productive investments in the European Union and to ensure increased access to financing. Additional information on EFSI can be found on the information

page provided by the European Commission (http://ec.europa.eu/priorities/jobs-growth-and-investment/investment-plan_en) and on Twitter (#investEU)".

For the purposes of this section, the following definitions will apply:

"Aid" means state and/or Commission funding which, but for an exemption granted pursuant to regulations adopted by the EU Commission (including but not limited to the De Minimis Regulation), meets the criteria in Article 107(1) of the Treaty on European Union;

"Commission" means the Commission of the European Union;

"Commission Recommendation" means the Commission Recommendation 2003/361/EC, as amended, restated, supplemented and/or substituted from time to time;

"DAFM" means the Department of Agriculture, Food and the Marine;

"Data Protection Regulation" means Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.) as amended, restated, supplemented or substituted from time to time;

"Delegation Agreement" means the delegation agreement establishing joint financial instruments and delegating the management of the related EU contribution in respect of the Horizon 2020 financial instruments, dated 12 June 2014, as amended and restated from time to time;

"Delinquent" means in arrears for less than 90 days;

"De Minimis Regulation" means EU Regulation No 1407/2013 of 18 December 2013 (see http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf for more detail);

"DETE" means the Department of Enterprise, Trade and Employment;

"EFSI" means the European Union under the European Funds for Strategic Investments;

"Eligibility Criteria" refers to the eligibility criteria for a term loan under the SBCI Scheme which are applicable to Borrowers as at the date of the letter of sanction for the Facility and the Ongoing Eligibility Criteria (and which are available on www.business.aib.ie/sbcibrexite);

"EIB" means the European Investment Bank;

"EIF" means the European Investment Fund;

"EPPO" means European Public Prosecutor's Office in respect of those member states of the European Union participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (OJ L 283, 31.10.2017, p.1);

"EU Restrictive Measures" means any restrictive measures adopted pursuant to the Treaty on European Union or to the Treaty on the Functioning of the European Union;

"Exclusion Situation" means the Customer is in any of the following situations:

- (a) it is bankrupt, is subject to insolvency or is being wound up, is having its affairs administered by a liquidator or by the courts, in this context, is in an arrangement with creditors, is having its business activities suspended or a standstill (or equivalent) agreement has been signed with creditors and

validated by the competent court when required by the applicable law, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (b) in the past five (5) years, it has been the subject of a final judgment or final administrative decision for being in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law and where such obligations remain unpaid unless a binding arrangement has been established for payment thereof;
 - (c) in the past five (5) years, it or any of the persons having powers of representation, decision-making or control over it has been convicted by a final judgment or a final administrative decision for grave professional misconduct, where such conduct denotes wrongful intent or gross negligence, which would affect its ability to implement this Agreement and which is for one of the following reasons:
 - (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;
 - (ii) entering into agreements with other persons aimed at distorting competition;
 - (iii) attempting to unduly influence the decision-making process of the contracting authority during the relevant "award procedure" as such term is defined in Article 2 of the Financial Regulation;
 - (iv) attempting to obtain confidential information that may confer upon it undue advantages in the relevant "award procedure" as such term is defined in Article 2 of the Financial Regulation;
 - (d) in the past five (5) years, it or persons having powers of representation, decision-making or control over it has been the subject of a final judgment for:
 - (i) fraud;
 - (ii) corruption;
 - (iii) participation in a criminal organisation;
 - (iv) money laundering or terrorist financing;
 - (v) terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences;
 - (vi) child labour and other forms of trafficking in human beings;
 - (e) it is under the published list of economic operators excluded or subject to financial penalty, in each case contained in the early detection and exclusion system database (the EDES database available at the official website of the EU) set up and operated by the Commission.

provided that the Bank may decide not to apply any of the items above if it is satisfied that the Customer has adopted remedial measures to demonstrate its reliability, or that an exclusion would be disproportionate taking into account the circumstances.
- "GDPR" means Regulation (EU) N° 2016/679 of the European Parliament and of the Council dated 27 April 2016 relating to the protection of natural persons with regard to the processing of personal data and on the free movement of such data;
- "Horizon 2020" means the Framework Programme for Research and Innovation (2014-2020) established by the Horizon 2020 Regulation;

“Horizon 2020 Regulation” means Regulation (EU) No 1291/2013 of the European Parliament and the Council establishing Horizon 2020 and repealing Decision No 1982/2006/EC;

“Illegal Activities” means any of the following illegal activities or activities carried out for illegal purposes: tax evasion, tax fraud, fraud, corruption, coercion, collusion, obstruction, money laundering, financing of terrorism or any illegal activity, that may affect the financial interests of the European Union, according to applicable laws;

“InnovFin SME Guarantee Facility” means the support provided by the EIF for the SBCI Scheme;

“Non-Compliant Jurisdiction” means a jurisdiction:

- (a) listed in the Annex I of the Council of the European Union conclusions on the revised European Union list of non-cooperative jurisdictions for tax purposes, adopted by the Council of the European Union at its meeting held on 18 February 2020; and/or
- (b) listed in the Annex of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies; and/or
- (c) rated as “partially compliant”, “provisionally partially compliant” or “noncompliant” by the Organisation for Economic Cooperation and Development and its Global Forum on Transparency and Exchange of Information for Tax Purposes; and/or
- (d) included in the Financial Action Task Force “Public Statement” (i.e. countries or jurisdictions with such serious strategic deficiencies that the Financial Action Task Force calls on its members and non-members to apply countermeasures or for which the Financial Action Task Force calls on its members to apply enhanced due diligence measures); and/or
- (e) included in the Financial Action Task Force statement “Improving Global AML/CFT Compliance: On-Going process” (i.e. countries or jurisdictions with strategic weaknesses in their AML/CFT measures but that have provided a high-level commitment to an action plan developed with the Financial Action Task Force), in each case as such statement, list, directive or annex may be amended and/or supplemented from time to time;

“Ongoing Eligibility Criteria” refers to the eligibility criteria for a term loan under the SBCI Scheme which are applicable to Borrowers at all times during the lifetime of the Facility (and which are available on www.business.aib.ie/sbcibrexite);

“Participating Country” means any country that is:

- (a) any state that is or becomes a member state of the EU (a “Member State”);
- (b) an associated country to Horizon 2020 which is a country being party to an international agreement with the European Union, in accordance with Article 7 of the Horizon 2020 Regulation as listed in Annex 7 of the Delegation Agreement and as updated, if applicable, under the Horizon 2020 Participant Portal; or
- (c) an overseas country and territory belonging to a Member State but that is not part of the EU, in accordance with Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community;

“Pre-Eligibility Application Form” means in respect of each Facility, the completed pre-eligibility application form as delivered by the Borrower to the SBCI;

“Relevant Parties” has the meaning given to that term in clause 8.4 (iv) (b);

“Restricted Sectors” means any sector included on the list of Restricted Sectors available on www.business.aib.ie/sbcibrexite;

“R&I Excluded Activities” means the following fields of research:

- (a) research activity aiming at human cloning for reproductive purposes;
- (b) research activity intended to modify the genetic heritage of human beings which could make such changes heritable (excluding research relating to cancer treatment of the gonads);
- (c) research activity intended to create human embryos solely for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer;
- (d) research activity that is prohibited in all the Member States; and
- (e) research activity in a Participating Country that is forbidden in that Participating Country or in a country in which the Borrower or the Bank, as applicable, is established.

“Sanctioned Person” means any entity, individual or group of individuals designated by the European Union as subject to EU Restrictive Measures. The lists of EU sanctioned persons are included in the EU Sanctions Map available at www.sanctionsmap.eu. The list of EU sanctioned persons is also included in the Financial Sanctions Database (FSD) available at <https://webgate.ec.europa.eu/fsd/fsf#!/files>. Note that the EU restrictive measures as published in the L series of the Official Journal of the EU are authentic, and prevail over the content of EU Sanctions Map and of FSD in case of conflict;

“SBCI” means the Strategic Banking Corporation of Ireland, which term shall include its successors, transferees and assignees, if any;

“SBCI Scheme” means the Brexit Loan and Covid-19 Working Capital Scheme being provided by the SBCI;

“SME” means a micro, small or medium-sized enterprise as defined in the Commission Recommendation;

“Small Mid-Cap” means an enterprise within the meaning of Article 1 of the Title I of the Annex of the Commission Recommendation which:

- (a) has up to 499 employees calculated in accordance with Articles 3, 4, 5 and 6 of the Title I of the Annex of the Commission Recommendation; and
- (b) is not an SME.

Term loans sanctioned under the SBCI Scheme are intended for the purposes of facilities which comply with the eligibility criteria for the SBCI Scheme set by the SBCI. The eligibility criteria applicable to Borrowers are available on www.business.aib.ie/sbcibrexite. For as long as a Facility is sanctioned under the SBCI Scheme, the following additional conditions will apply:

Borrower Representations and Warranties

- (i) the Borrower represents and warrants that the Borrower:
 - (a) is an SME or Small Mid-Cap;
 - (b) is not active in any sector in Ireland outside the scope of the SBCI Scheme being (i) any of the Restricted Sectors and (ii) the primary agricultural sector and/or fishery and aqua-cultural sector;

- (c) is not connected with any corporate entity (where “connected” has the meaning given to it in Section 10 of the Taxes Consolidation Act, 1997 (as amended)) that is active in any of the Restricted Sectors;
 - (d) is not an “undertaking in difficulty” (within the meaning of the Commission Regulation (EU) No C(2014) 651/2014 of 17 June 2014 as amended, restated, supplemented and/or substituted from time to time) (see www.business.aib.ie/sbcibrexit for more details);
 - (e) does not have a substantial focus on one or more Restricted Sectors;
 - (f) is not established in a Non-Compliant Jurisdiction;
 - (g) is established and operating in Ireland (an enterprise is established and operating in Ireland if it has a substantial operation within the Republic of Ireland);
 - (h) has not drawdown and will not drawdown any loan under the SBCI Scheme from any other financial institution that would cause it to borrow more than €1,500,000 under the SBCI Scheme in aggregate;
 - (i) has not received and will not receive, including under the Facility, Aid in excess of what is permitted under the De Minimis Regulation;
 - (j) it is not a Sanctioned Person;
 - (k) it is not, to its knowledge, in an Exclusion Situation;
 - (l) is not Delinquent or in default under any agreement with the Bank or another financial institution in a manner that could materially affect the Borrower’s ability to meet his/her/its obligations under any such agreement. For these purposes, a failure to meet such obligations which is caused by short term cash flow pressures caused by prevailing market conditions will not, without prejudice to any events of default in any such agreement, be deemed to have such a material effect;
 - (m) is not bankrupt or being wound up or having its affairs administered by the courts;
 - (n) in the last 5 years has not entered into an arrangement with creditors, in the context of being bankrupt or wound-up or having its affairs administered by the courts;
 - (o) has not been and will not be convicted of an offence or subject to a ruling concerning professional conduct, fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity where such illegal activity is detrimental to the European Union’s financial interests;
 - (p) will:
 - (i) not use the funds or economic resources made available to it by the Bank in any manner that would result in such funds or economic resources being made available directly or indirectly to, or for the benefit of a Sanctioned Person, (ii) ensure that no person that is a Sanctioned Person will have any legal or beneficial interest in any funds paid to the Bank in connection with the Finance Documents, and (iii) upon becoming aware that a breach of (i) or (ii) above has occurred, (A) promptly inform the Bank in writing of any such event and (B) provide the Bank as soon as reasonably practicable with details of any claim, action, suit, proceedings or investigations with respect to EU Restrictive Measures relating to it.
 - (q) satisfies at least one of the Brexit eligibility criteria or at least one of the Covid-19 eligibility criteria which are available on www.business.aib.ie/sbcibrexit in order to be eligible for the SBCI Scheme and has indicated which of these criteria is being satisfied;
 - (r) satisfies at least one of the innovation and digitalisation eligibility criteria which are available on www.business.aib.ie/sbcibrexit in order to be eligible for the SBCI Scheme and has indicated which of these criteria is being satisfied;
 - (s) has applied for the Facility for the purpose of working capital requirements and innovation, change or adaption of its business to mitigate the impact of Brexit or Covid-19 (subject to any conditions imposed on the purpose of the Facility by the SBCI Scheme), which for the avoidance of doubt does not include any of the following:
 - (i) financing of an “undertaking in difficulty” (within the meaning of the Commission Regulation (EU) No C(2014) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty as amended, restated, supplemented and/or substituted from time to time);
 - (ii) refinancing existing debt owed by it;
 - (iii) financing of a trade finance product linked to specific/individual export operation, expenditure or activity or financing that it targeted to exploit a specific export market;
 - (iv) financing contingent upon the use of domestic products over imported products;
 - (v) financing the establishment and operation of a distribution network in other Member States of the European Union; or
 - (vi) financing the purchase of road freight transport vehicles;
 - (t) satisfies the eligibility criteria for a term loan under the SBCI Scheme which are applicable to Borrowers (and which are available on www.business.aib.ie/sbcibrexit in respect of Brexit and Covid-19 (as the case may be)) as at the date of the letter of sanction for the Facility and that it will at all times during the lifetime of the Facility comply with the ongoing eligibility criteria;
 - (u) has provided the Bank with a valid SBCI Scheme eligibility code which has not been used to take out a loan with another financial institution;
 - (v) representations made by it in the application form submitted to the SBCI in connection with the SBCI Scheme remain true, accurate and complete in all respects.
- Borrower Representations, Covenants and Undertakings**
- (ii) The Borrower represents, covenants and/or undertakes that the Borrower:
 - (a) is not performing, and shall not perform, any R&I Excluded Activities or any R&I activities which are related to illegal activities according to applicable legislation in the country of the SBCI, the Bank or the Borrower (including national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols);
 - (b) will comply in all respects with all laws and regulations (whether national laws and regulations or laws and regulations of the European Union) to which it may be subject;

- (c) will not commit any Irregularity, which term shall have the meaning set out in Article 1.2 in Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p.2), whereby any infringement of a provision of European Union law resulting from an act or omission by the Borrower which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by the European Union either by reducing or losing revenue accruing from own resources collected directly on behalf of the European Union, or by charging an unjustified item of expenditure to the general budget;
- (d) will not commit any fraud (including, without limitation, as set out in Article 3 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017) on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29 - 41), fraud affecting the European Union's financial interests;
- (e) will, without prejudice to the foregoing:
 - (i) at all times comply with relevant standards and applicable legislation on the prevention of money laundering, the fight against terrorism and the fight against tax fraud; and
 - (ii) not be established in a Non-Compliant Jurisdiction;
- (f) will prepare, update and maintain available for the Relevant Parties for a period of seven (7) years after the termination of the Facility, information necessary to verify the use of the drawings under the Facility and the eligibility of the Borrower and the Facility under the SBCI Scheme, to verify the proper implementation of the letter of sanction and any related documents, and the payment and recovery processes thereunder, and any other information reasonably required by the Relevant Parties;
- (g) will maintain and be able to produce (including for inspection by any Relevant Parties) all documentation related to the implementation of the letter of sanction and the Facility and/or related to the state aid or aid received in connection therewith, for a period of seven (7) years after the termination of the letter of sanction and if any deficiencies in the maintenance of records are identified by the Relevant Parties, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies (or such shorter period communicated to it by the Relevant Party), comply with the instructions given by any of the Relevant Parties and provide any additional information reasonably requested by any of the Relevant Parties;
- (h) will co-operate in any evaluation of the SBCI Scheme and/or any case study reports that may be carried out by any of the Relevant Parties (which reports may be published), and to respond to any reasonable information requests in the context of any such evaluation or case study report;
- (i) will promptly supply, upon request by the Bank, such documentation and other evidence as is reasonably requested by the Bank (on behalf of itself or the SBCI (or any successor)) in order for the Bank or the SBCI (or any successor) to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any relevant person pursuant to the contractual documentation relating to the Facility;
- (j) will permit the Bank to provide information about the Borrower, its business, and the facility which it is required to provide to SBCI, the Relevant Parties, the Minister for Agriculture, Food and the Marine; the Minister for Enterprise, Trade and Employment, the DAFM, the DETE, any EU Body and any State Body;
- (k) will confirm the amount of Aid received by it and the amount of Aid receivable by it under the Facility, in each case in respect of Aid under the De Minimis Regulation and if the Borrower receives, under the SBCI Scheme or otherwise, aid in excess of what that Borrower is permitted to receive by law, the Borrower shall return to the Bank for onward transmission to the SBCI any such excess aid received under the SBCI Scheme in breach of law together with any other amount due in respect of that aid immediately upon: (i) the Borrower becoming aware of such excess receipt; and/or (ii) the Bank notifying the Borrower of same; and
- (l) will maintain and be able to produce all documentation related to any information supplied in connection with the Facility for a period of seven (7) years after the termination of the SBCI Scheme.

Events of Default – SBCI Scheme

- (iii) A term loan under the SBCI Scheme, though expressed to be repayable over or within a specified period, may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower upon the occurrence of any of the following events:
 - (a) the Facility ceasing to comply with the eligibility criteria under the SBCI Scheme;
 - (b) the information included in or documentation provided to the SBCI pursuant to the Pre-Eligibility Application Form being untrue or inaccurate at the time of provision to the extent that the Borrower did not satisfy the eligibility criteria under the SBCI Scheme;
 - (c) the termination of or the Bank becoming unable to rely on the guarantee from the SBCI; and/or
 - (d) The Borrower becomes a Sanctioned Person as a result of breaching any applicable laws or regulations, or the Borrower does not comply with the provisions of subparagraphs (i) and (ii) of paragraph 8.4 (i) (p).

Borrower Acknowledgements:

- (iv) the Borrower acknowledges that:
 - (a) the SBCI, the EIF, the DETE and/or the DAFM may be obliged to divulge such information relating to the Borrower and the Facility to any competent EU Body in accordance with the relevant mandatory provisions of EU law;
 - (b) the European Investment Fund (the "EIF"), the agents of the EIF, the European Investment Bank (the "EIB"), the Court of Auditors of the European Union (the "ECA"), the Commission, the agents of the Commission (including the European Anti-Fraud Office ("OLAF"), European Public Prosecutor's Office ("EPPO") and any other European Union institution or European Union body, which is entitled to verify the use of the Guarantee in the context of the InnovFin SME Guarantee Facility and any other duly authorised body under applicable law which is entitled to carry out audit or control activities (collectively, the "Relevant Parties") shall have the right to carry out controls and audits and to request information in respect of this agreement and its execution. The Borrower shall permit monitoring visits and

inspections by each of the Relevant Parties of its business operations, books and records. As these controls may include on the spot checks and inspections of the Borrower, the Borrower shall permit access to its premises to any Relevant Party during normal business hours;

- (c) pursuant to Article 5(1)(a) of the Data Protection Regulation, and Article 6(1)(e) of the GDPR, the name, address and purpose of the Borrower and other personal data information in connection with the Facility will be communicated to the SBCI, the EIB, the EIF and/or the Commission of the European Communities (the “**Commission**”) and/or any mandators/funding providers all acting as independent data controllers and such personal data may be made public in accordance with applicable laws;
- (d) any personal data communicated to the SBCI, the EIB, EIF and/or the Commission will be stored until seven (7) years after the termination of the SBCI Scheme;
- (e) requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the SBCI, the EIB, the EIF and/or the Commission, as the case may be, should be addressed to the SBCI, the EIB, the EIF and/or the Commission, as applicable, at the following address:

| IN RESPECT OF: | ADDRESS: |
|--------------------|---|
| EIF: | European Investment Fund 37B avenue J.F. Kennedy L-2968 Luxembourg Grand Duchy of Luxembourg Attention: Debt Services-Portfolio Guarantees |
| SBCI: | Treasury Dock North Wall Quay Dublin 1 D01 A9T8 Attention: SBCI Data Protection Officer |
| EIB: | European Investment Bank 98-100, boulevard Konrad Adenauer L-2950 Luxembourg Grand Duchy of Luxembourg Attention: EIB Data Protection Officer |
| Commission: | Commission Européenne Directorate General Economic and Financial Affairs L-2920 Luxembourg Grand Duchy of Luxembourg Attention: European Data Protection Supervisor |

Such requests shall be treated as described in Articles 17 to 24 of Chapter 3: “Rights of the Data Subject” of the Data Protection Regulation or, as applicable, as described in Articles 15 to 22, GDPR;

- (f) pursuant to Article 63 (i) of the Data Protection Regulation, the Borrower may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her rights under

Article 16 of the Treaty establishing the European Community have been infringed as a result of the processing of personal data by the EIB, the EIF and/or the Commission;

- (g) that pursuant to Article 77(1) of the GDPR, the Borrower may lodge a complaint with the Data Protection Commission if he or she considers that his or her rights under Article 16 of the Treaty on the Functioning of the European Union or the GDPR have been infringed as a result of the processing of personal data by the SBCI;
- (h) the EIF shall be entitled to publish on its website, or produce press releases containing, information on the Borrower including (i) the name, nature and purpose of the Facility; (ii) the name and address of the Bank and the type of financial support received; and (iii) the name, address and country of establishment of the Borrower, and the type of financial support received except if:
 - (a) the Facility does not exceed €1,250,000 (in which case the information published shall be limited to statistical data aggregated in accordance with relevant criteria, such as geographical situation, economic typology of Borrower, type of support received and the European Union policy area under which such support was provided); or
 - (b) prior to receiving financial support under the Facility, the Borrower confirms to the Bank in writing that:
 - (i) the publication requirement risks harming its commercial interests; or
 - (ii) it risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union; or
 - (iii) it would be illegal under the applicable laws and regulations; or
 - (iv) the Borrower is a natural person who objects to publication.

For the avoidance of doubt, any reference to personal data in this clause shall mean personal data as defined in the Data Protection Regulation.

Term loans to eligible Small and Medium Enterprises ('SMEs') and Small Mid-caps under the Strategic Banking Corporation of Ireland ('SBCI') Future Growth Loan Scheme (the 'SBCI Future Growth Loan Scheme')

8.5 Term loans under the SBCI Future Growth Loan Scheme are being made available with the benefit of a guarantee from the SBCI which is, in turn, supported with finance and/or support from the European Investment Fund, the Department of Enterprise, Trade and Employment and the Department of Agriculture, Food and the Marine. The Borrower is required to have read and understood the rules of the SBCI Future Growth Loan Scheme (which are posted on the SBCI website) prior to accepting the Facility. By accepting the Facility, the Borrower is deemed to have done so.

For the purposes of this section, the following definitions will apply:

“ABER” has the meaning given to it in paragraph (a) (ii) of the definition of Aid.

“ABER Loan” means a loan that complies with the requirements of the ABER Regulations including the ABER State Aid Criteria which are set out in the letter of sanction where a Facility relates to an ABER Loan.

“Aid” means:

- (a) any advantage granted by public authorities through state resources which, but for its compliance with the State aid rules set out in each of the following:

- (i) the State aid rules set out in the General Block Exemption Regulation (Commission Regulation (EU) No 651/2014) hereinafter referred to as “GBER”;
- (ii) the Agriculture Block Exemption Regulation (Commission Regulation (EU) No 702/2014) hereinafter referred to as “ABER”;

meets the criteria in Article 107(1) of the Treaty on European Union, and/or

- (b) any advantage granted by public authorities through state resources which, but for an exemption granted pursuant to regulations adopted by the Commission (including but not limited to the De Minimis Regulation), meets the criteria in Article 107(1) of the Treaty on European Union.

“Commission” means the Commission of the European Union.

“Commission Recommendation” means the Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises (OJ L124, 20.05.2003, p.36), as amended, restated, supplemented and/or substituted from time to time.

“DAFM” means the Department of Agriculture, Food and the Marine.

“DETE” means the to Department of Enterprise, Trade and Employment.

“De Minimis Loan” means a loan that complies with the requirements of the De Minimis Regulation including the De Minimis State Aid Criteria which are set out in the letter of sanction where a Facility relates to a De Minimis Loan.

“De Minimis Regulation” means EU Regulation No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.

“EIB” means the European Investment Bank.

“EIF” means the European Investment Fund.

“EIF Data Protection Statements” means the EIF Financial Intermediary Data Protection Statement together with the EIF Final Recipient Data Protection Statement.

“EIF Final Recipient Data Protection Statement” means EIF guidelines on the handling of personal data of Borrowers available at: <http://www.eif.org/attachments/processing-of-final-recipients-personal-data.pdf>, as such document may be updated and/or replaced from time to time in line with the Data Protection Regulation.

“EIF Financial Intermediary Data Protection Statement” means EIF guidelines on the handling of personal data of Financial Intermediaries available at: http://www.eif.org/attachments/eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf, as such document may be updated and/or replaced from time to time in line with the Data Protection Regulation.

“EPPO” means European Public Prosecutor’s Office in respect of those member states of the EU participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (OJ L 283, 21.10.2017, p.1).

“EU” means the European Union.

“Facility” means the loan offered to the Borrower by the Bank under the SBCI Future Growth Loan Scheme.

“Fraud” includes, without limitation, as set out in Article 1 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests (OJ C 316,

27.11.1995, p.49), fraud affecting the European Union’s financial interests.

“Future Growth Guarantee Facility” means the counter-guarantee provided by the EIF to the SBCI in connection with the SBCI Future Growth Loan Scheme. “GBER” has the meaning given to it in paragraph (a)(i) of the definition of Aid.

“GBER Loan” means a loan that complies with the requirements of the GBER Regulations including the State Aid Criteria which are set out in the letter of sanction where a Facility relates to a GBER Loan.

“Illegal Activities” means any of the following illegal activities or activities carried out for illegal purposes that may affect the financial interests of the EU, according to applicable laws: tax evasion, tax fraud, fraud, corruption, coercion, collusion, obstruction, money laundering, financing of terrorism or any other illegal activity.

“Non-Compliant Jurisdiction” means a jurisdiction:

- (a) listed in Annex I of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes;
- (b) included in the OECD/G20 list of jurisdictions that have not satisfactorily implemented the tax transparency standards;
- (c) listed in the Annex of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies;
- (d) rated as “partially compliant” or “non-compliant”, including corresponding provisional ratings, by the Organisation for Economic Cooperation and Development and its Global Forum on Transparency and Exchange of Information for Tax Purposes against the international standard on exchange of information on request;
- (e) included in the Financial Action Task Force statement “High risk Jurisdictions subject to a Call for Action”; or
- (f) included in the Financial Action Task Force statement “Jurisdictions under Increased Monitoring”, in each case as such statement, list, directive or annex may be amended and/or supplemented from time to time.

For the purpose of this definition of Non-Compliant Jurisdiction, relevant monitored or prohibited jurisdictions may be identified on the basis of lists of Lead Organisations, as such lists are updated, amended or supplemented from time to time, including: jurisdictions with strategic deficiencies in the area of AML-CFT as identified by FATF (<http://www.fatf-gafi.org/countries/#high-risk>); jurisdictions listed “partially compliant”, “provisionally partially compliant” or “non-compliant” in the OECD Global Forum progress reports/ Global Forum ratings (<http://www.oecd.org/tax/transparency/GFratings.pdf>; <http://www.oecd.org/tax/transparency/exchange-of-information-on-request/ratings/>); jurisdictions identified in EU delegated regulation 2016/1675 of 14.7.2016 supplementing Directive (EU) 2015/849 as high-risk third countries with strategic deficiencies (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R1675>); and jurisdictions included in the EU list of non-cooperative jurisdictions for tax purposes (https://ec.europa.eu/taxation_customs/tax-common-eu-list_en).

“OLAF” means the European Anti-Fraud Office, set up in accordance with the provisions of the Regulation (EC) No 1073/1999 of the European Parliament and of the

Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).

“Person” means any person, firm, company, corporation, government, state or agency of a state or any association, group, organisation (including, without limitation, terrorist organisation), trust or partnership (whether or not having separate legal personality) or two or more of the foregoing, or any other entity or body of any description.

“Pre-Eligibility Application Form” means in respect of each Facility, the completed pre-eligibility application form as delivered by the Borrower to the SBCI.

“Project” means any project or other undertaking in Ireland which is, or is intended to be, funded in whole or in part by an ABER Loan, a GBER Loan or a De Minimis Loan.

“Relevant Parties” means the SBCI, the EIF, the agents of the EIF, the EIB, the agents of the EIB, the European Court of Auditors, the Commission, agents of the Commission (including OLAF), any other EU institution or EU body which is entitled to verify the use of the Future Growth Guarantee Facility, the Minister for Enterprise, Trade and Employment the Minister for Agriculture, Food and the Marine of Ireland (including without limitation, the agents of the foregoing ministers), the following Irish authorities: the Comptroller and Auditor General and any other duly authorised body under applicable law to carry out audit or control activities.

“Sanctions” means any economic or financial sanctions, trade embargoes or similar measures enacted, administered or enforced by any of the following (or by any agency of any of the following):

- (a) the United Nations;
- (b) the United States of America;
- (c) the United Kingdom; or
- (d) the European Union,

including restrictive measures adopted pursuant to Article 215 of the Treaty on the Functioning of the European Union.

“Sanctioned Person” means any Person who is a designated target of Sanctions or is otherwise a subject of Sanctions (including, without limitation, as a result of being (i) wholly or majority owned or otherwise controlled directly or indirectly by any person or entity which is a designated target of Sanctions, or (ii) organized under the laws of, or a citizen or resident of, any country that is subject to general or country-wide Sanctions).

“SBCI” means the Strategic Banking Corporation of Ireland, which term shall include its successors, transferees and assignees, if any.

“SBCI Future Growth Loan Scheme” means the Future Growth Loan Scheme established by the SBCI.

“Small Mid-cap” means an enterprise within the meaning of Article 1 of the Title I of the Annex of the Commission Recommendation which:

- (a) has up to 499 employees calculated in accordance with Articles 3, 4, 5 and 6 of the Title I of the Annex of the Commission Recommendation; and
- (b) is not an SME.

“SME” means a micro, small or medium-sized enterprise as defined in the Commission Recommendation.

Term loans sanctioned under the SBCI Future Growth Loan Scheme are intended for the purposes of facilities which comply with the eligibility criteria for the SBCI Future Growth Loan Scheme set by the SBCI. The eligibility criteria applicable to Borrowers are available on business.aib.ie/sbci-future-growth. For as long as a Facility is sanctioned under the SBCI Future Growth Loan Scheme, the following additional

conditions will apply:

Borrower Representations, Warranties and Undertakings:

- (i) the Borrower represents, warrants and undertakes that the Borrower:
 - (a) is either an SME or a Small Mid-cap;
 - (b) is not an “undertaking in difficulty” (within the meaning of the Commission Regulation (EU) No C(2014) 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty as amended, restated, supplemented and/or substituted from time to time);
 - (c) does not engage in any of the business activities listed below (the “Restricted Sectors”):

Illegal Economic Activities

- (i) Any production, trade or other activity, which is illegal under the laws or regulations of the home jurisdiction for such production, trade or activity (“Illegal Economic Activity”) and human cloning for reproduction purposes shall be considered an Illegal Economic Activity;

Tobacco

- (ii) The production of and trade in tobacco and related products;

Production of and Trade in Weapons and Ammunition

- (iii) The financing of the production of and trade in weapons and ammunition of any kind. This restriction does not apply to the extent such activities are part of or accessory to explicit European Union policies;

Casinos

- (iv) Casinos and equivalent enterprises;

IT Sector Restrictions

- (v) Research, development or technical applications relating to electronic data programs or solutions, which:
 - a. aim specifically at:
 - i. supporting any activity included in the Restricted Sectors referred to under paragraphs (i) to (iv) (inclusive) above;
 - ii. internet gambling and online casinos; or
 - iii. pornography,
 - or which:
 - b. are intended to enable the illegal:
 - i. entry into electronic data networks; or
 - ii. downloading of electronic data;

Life Science Sector Restrictions

- (vi) providing support to the financing of the research, development or technical applications relating to:
 - a. human cloning for research or therapeutic purposes; and
 - b. Genetically Modified Organisms (“GMOs”) unless the Bank receives from the Borrower appropriate specific assurance on the control of legal, regulatory and ethical issues linked to such human cloning for research or therapeutic purposes and/or GMOs.
- (d) is not established in a Non-Compliant Jurisdiction;
- (e) is established in a member state of the EU;
- (f) if established in a member state of the EU other than Ireland, is operating in Ireland;
- (g) is incorporated in the European Union;
- (h) is not, nor is any corporate entity connected with it (where “connected” has the meaning given to it in Section 10 of the Taxes Consolidation Act, 1997 (as amended)), active in any sector in Ireland outside the scope of the SBCI Future Growth Loan Scheme being

- any of the Restricted Sectors;
- (i) has not received loans under the SBCI Future Growth Loan Scheme of more than €3,000,000 (which includes, for the avoidance of doubt, the proposed loan) in aggregate;
- (j) has not received, including under the applicable Facility, Aid in excess of what is permitted under the applicable state aid regulation;
- (k) is not and shall not be engaged in any Illegal Activities;
- (l) is not a Sanctioned Person;
- (m) is not delinquent or in default under any agreement with the Bank or another financial institution pursuant to checks made in accordance with the Bank's internal guidelines and credit and collection policy;
- (n) is not bankrupt or being wound up or having its affairs administered by the courts;
- (o) has not in the last 5 years entered into an arrangement with creditors, in the context of being bankrupt or wound-up or having its affairs administered by the courts;
- (p) has not been convicted of an offence or been made subject to a ruling concerning professional conduct, fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity where such illegal activity is detrimental to the European Union's financial interests;
- (q) has not performed and shall not perform illegal activities according to applicable legislation in the country of the SBCI, the Bank or the Borrower (including national, Union and international legislation, including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols);
- (r) has provided information to the SBCI and/or the Bank in the Pre-Eligibility Application Form that was accurate, correct, up-to-date, complete and not misleading as at the date it was given.

Borrower Representations, Covenants and Undertakings

- (ii) The Borrower represents, covenants and undertakes that the Borrower:
 - (a) as at the date of the contractual documents relating to the Facility, satisfies the eligibility criteria for the SBCI Future Growth Loan Scheme, including those pertaining to Aid in the State Aid Criteria in the letter of sanction which are applicable to Borrowers (and which are available on business.aib.ie/sbci-future-growth) and further undertakes to procure that it shall at all times during the lifetime of the Facility comply with those eligibility criteria;
 - (b) has not applied, and undertakes not to apply, for a loan under the SBCI Future Growth Loan Scheme from another financial institution which would cause it to borrow more than €3,000,000 under the SBCI Future Growth Loan Scheme in aggregate;
 - (c) shall comply in all respects with all laws and regulations (whether national laws and regulations or laws and regulations of the EU) to which it may be subject and, the breach of which may (i) adversely impact the performance of the Future Growth Guarantee Facility; or (ii) adversely prejudice the interests of the SBCI, the DAFM, the DETE, the EIF, the Commission or the EIB;
 - (d) shall comply in all respects with all laws and regulations (whether national laws and regulations or laws and regulations of the EU) to which it may be subject and the breach of which would constitute an Illegal Activity;
 - (e) has not and shall not commit any fraud (including any fraud affecting the EU's financial interests (having the meaning set out in Article 1 in the

- Convention drawn up on the basis of Article K.3 of the Treaty on the European Union, on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p.49));
- (f) without prejudice to clauses 8.5 (ii) (c), 8.5 (ii) (d) and 8.5 (ii) (e), shall, at all times, comply with relevant standards and applicable legislation on the prevention of tax evasion, money laundering, the fight against terrorism and tax fraud to which it may be subject;
- (g) shall promptly provide, upon request by the Bank (on behalf of itself or the SBCI (or any successor)), any document or information relating to itself or the letter of sanction and any related documents and required to be included in any report by the SBCI or any Relevant Party;
- (h) shall prepare, update and maintain available for the Relevant Parties, information necessary to verify the use of the drawings under the Facility and the eligibility of the Borrower and the Facility under the SBCI Future Growth Loan Scheme, to verify the proper implementation of the letter of sanction and any related documents, and the payment thereunder, and any other information reasonably required by the Relevant Parties;
- (i) shall maintain and be able to produce (including for inspection by any Relevant Parties) all documentation (to include, voice recordings where voice recordings have been provided in lieu of such documentation) related to the implementation of the letter of sanction and any related documents and the Facility for a period of seven (7) years after the termination of the letter of sanction and any related documents and if any deficiencies in the maintenance of records are identified by the Relevant Parties, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies (or such shorter period communicated to it by the Relevant Party), comply with the instructions given by any of the Relevant Parties and provide any additional information reasonably requested by any of the Relevant Parties;
- (j) shall co-operate in any evaluation of the Facility and/or case studies that may be carried out by the SBCI, and respond to any reasonable information requests in the context of any such evaluation and/or case studies;
- (k) shall repay all sums due under the Facility in the case of non-compliance with the terms and conditions of the Facility;
- (l) shall promptly supply, upon request by the Bank on behalf of itself or the SBCI (or any successor), such documentation and other evidence as is reasonably requested by the Bank (on behalf of itself or the SBCI (or any successor)) in order for the Bank or the SBCI (or any successor) to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any relevant person pursuant to the contractual documentation relating to the Facility;
- (m) shall confirm the amount of Aid received by it and the amount of Aid receivable by it under the Facility, in each case in respect of Aid under the De Minimis Regulation (if it is either an SME or a Small Mid-cap), ABER (if it is an SME) or GBER (if it is an SME) and if the Borrower receives, under the SBCI Future Loan Growth Scheme or otherwise, State Aid in excess of what that Borrower is permitted to receive by law, the Borrower shall return to the Bank for onward transmission to the SBCI any such excess State Aid received (including interest) under the SBCI Future Loan Growth Scheme in breach of law together with any other amount due in respect

of that State aid immediately upon: (i) the Borrower becoming aware of such excess receipt; and/or (ii) the Bank notifying the Borrower of same;

- (n) shall record and compile all the information required for the application of an ABER Loan, GBER Loan and/or De Minimis Loan (as relevant). Such information shall include all information necessary to demonstrate that the relevant Aid conditions have been complied with. Records (whether oral or written) regarding each ABER Loan, GBER Loan and De Minimis Loan (as relevant) shall be maintained by it for ten (10) fiscal years from the date on which the relevant ABER Loan, GBER Loan or De Minimis Loan was granted and if any deficiencies in the maintenance of records are identified by the Relevant Parties, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies (or such shorter period communicated to it by the Relevant Party), comply with the instructions given by any of the Relevant Parties and provide any additional information reasonably requested by any of the Relevant Parties;
- (o) shall ensure that the proceeds of the Facility are not used to finance artificial arrangements aimed at tax avoidance;
- (p) shall immediately inform the Bank to the extent not prohibited by law, of any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority, which is to the best of its knowledge and belief, current, imminent or pending against it or its controlling entities or members of its management bodies in connection with Illegal Activities related to the SBCI Future Growth Loan Scheme;
- (q) shall (i) request any payments from the Bank, and (ii) make any payments to the Bank, to or from (as appropriate) a bank account held by the Borrower held with a duly authorised financial institution in the jurisdiction where the Bank is incorporated or has its place of residence or, if this is not the case, in Ireland.
- (r) shall (i) not use the funds or economic resources made available to it by the Bank in any manner that would result in such funds or economic resources being made available to, or for the benefit of a Sanctioned Person, (ii) ensure that no person that is a Sanctioned Person will have any legal or beneficial interest in any funds repaid or remitted to the Bank in the context of the Facility, and (iii) promptly upon becoming aware, supply to the Bank, details of any claim, action, suit, proceedings or investigations with respect to Sanctions against it.
- (s) shall only use (subject always to the other restrictions on use contained in these Terms and Conditions and the relevant letter of sanction) the Facility for the purpose of:
 - (i) any investment allowing for the growth of the Borrower, including but not limited to investments in process and organisational innovation ("Growth Investment"),
 - (ii) investment in tangible and/or intangible assets linked to primary agriculture production, in which case the relevant Borrower shall be a Borrower active in Primary Agriculture ("Primary Agriculture Investment"),
 - (iii) to:
 - (A) refinance working capital facilities (including, without limitation, overdraft facilities) of Borrowers (the "Initial Liabilities") which have

been drawn down or increased and remain fully or partially undischarged in each case due to the consequences of the Covid-19 healthcare crisis; or

- (B) finance working capital for liabilities incurred, increased or remain fully or partially undischarged in each case due to the consequences of the Covid-19 healthcare crisis, ("Financing to Term-out") provided, in each case, that the Facilities have been made available on or after the date on which SBCI has notified the Bank in writing that facilities can be made available for the purpose of Financing to Term-out; or
- (iv) with effect from the date specified in paragraph (s)(iii) above, a combination of either Growth Investment or Primary Agriculture Investment and Financing to Term-out;
- (t) the investments supported by the Facility shall be located in Ireland; and
- (u) the Facilities shall not finance artificial arrangements aimed at tax avoidance.

Events of Default – SBCI Future Growth Loan Scheme

- (iii) A term loan under the SBCI Future Growth Loan Scheme, though expressed to be repayable over or within a specified period, may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower upon the occurrence of any of the following events:
 - (a) the Facility ceasing to comply with the eligibility criteria under the SBCI Future Growth Loan Scheme including the applicable State Aid Criteria;
 - (b) the information included in or documentation provided to the SBCI pursuant to the Pre-Eligibility Application Form being untrue or inaccurate at the time of provision.
 - (c) the Borrower becoming a Sanctioned Person as a result of breaching any applicable laws or regulations, or the Borrower not complying with the provisions of sub-paragraphs (i) and (ii) of clause 8.5 (ii) (r).

Borrower Acknowledgements

- (iv) the Borrower acknowledges that:
 - (a) the Bank may inform the SBCI in writing promptly upon becoming aware of any breach of any representation, warranty and/or undertaking contained in this agreement including but not limited to those contained in clauses 8.5 (i) (c), 8.5 (i) (k), 8.5 (i) (p) and 8.5 (i) (q) and clauses 8.5 (ii) (c), 8.5 (ii) (d), 8.5 (ii) (e), 8.5 (ii) (f) and 8.5 (ii) (p) by the Borrower;
 - (b) the SBCI, the EIF, the DETE and/or the DAFM may be obliged to divulge information relating to the Borrower and the Facility to any competent EU body in accordance with the relevant mandatory provisions of EU law;
 - (c) the Bank may provide information about the Borrower, its business, and the Facility which it is required to provide to SBCI, the Relevant Parties, the Minister for Agriculture, Food and the Marine, the Minister for Enterprise, Trade and Employment, the DAFM, the DETE, any EU body and any State body;
 - (d) pursuant to Article 5(a) of Regulation (EU) No 2018/1725 of the European Parliament and of the Council, dated 23 October 2018, as amended, relating to the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies and agencies and on the

free movement of such data as amended, restated, supplemented or substituted from time to time (the “Data Protection Regulation”), the name, address and purpose of the Borrower and other personal data information in connection with the Facility will be communicated to the SBCI, the EIB, the EIF and/or the Commission;

- (e) any personal data communicated to the SBCI, the EIB, EIF and/or the Commission will be stored until seven (7) years after the termination of the SBCI Future Growth Loan Scheme;
- (f) requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the SBCI, the EIB, the EIF and/or the Commission, as the case may be, should be addressed to the SBCI, the EIB, the EIF and/or the Commission, as applicable, at the following address:

| IN RESPECT OF: | ADDRESS: |
|--------------------|---|
| EIF: | European Investment Fund 37B avenue J.F. Kennedy L-2968 Luxembourg Grand Duchy of Luxembourg Attention: Debt Services-Portfolio Guarantees |
| SBCI: | Treasury Dock North Wall Quay Dublin 1 D01 A9T8 Attention: SBCI Data Protection Officer |
| EIB: | European Investment Bank 98-100, boulevard Konrad Adenauer L-2950 Luxembourg Grand Duchy of Luxembourg Attention: EIB Data Protection Officer |
| Commission: | Commission Européenne Directorate General Economic and Financial Affairs L-2920 Luxembourg Grand Duchy of Luxembourg Attention: European Data Protection Supervisor |

Such requests shall be treated as described in Articles 17 to 24 of the Data Protection Regulation;

- (g) pursuant to Article 15, paragraph (2) of the Data Protection Regulation, the Borrower may lodge a complaint with the European Data Protection Supervisor if he, she or they consider(s) that his, her or their rights under Article 16 of the Treaty on the Functioning of the European Union or the Data Protection Regulation have been infringed as a result of the processing of personal data by the SBCI, the EIB, the EIF and/or the Commission; and
- (h) all processing of personal data by an EU Body shall be in accordance with the EIF Data Protection Statements; and
- (i) the EIF shall be entitled to publish on its website, or produce press releases containing, information on the Borrower including (i) the name, nature and

purpose of the Facility; (ii) the name and address of the Bank and the type of financial support received; and (iii) the name, address and country of establishment of the Borrower, and the type of financial support received; except if:

- (a) the Facility does not exceed €780,000; or
- (b) prior to receiving financial support under the Facility, the Borrower confirms to the Bank in writing that:
 - (i) the publication requirement risks harming its commercial interests; or
 - (ii) it risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union; or
 - (iii) it would be illegal under the applicable laws and regulations; or
 - (iv) the Borrower is a natural person.

For the avoidance of doubt, any reference to personal data in this section shall mean personal data as defined in the Data Protection Regulation.

Term loans to eligible Small and Medium Enterprises ('SMEs') and Small Mid-caps under the Strategic Banking Corporation of Ireland ('SBCI') Brexit Impact Loan Scheme (BILS) 2021 (the 'BILS Scheme')

8.6 Term loans under the BILS Scheme are being made available with the benefit of a guarantee from the SBCI which is, in turn, supported with finance and/or support from the European Investment Bank, the European Investment Fund, the Department of Enterprise, Trade and Employment and the Department of Agriculture, Food and the Marine. The Borrower is required to have read and understood the rules of the BILS Scheme (which are posted on the SBCI website) prior to accepting the Facility. By accepting the Facility, the Borrower is deemed to have done so.

This Facility benefits from support by the EGF Guarantee Instrument implemented by the European Investment Fund with the financial backing of the Member States contributing to the EGF.

For the purposes of this section, the following definitions will apply:

“4th and 5th AML Directives” means Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849, and as further amended, supplemented or restated.

“Agriculture De Minimis Regulation” means Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9).

“AML Criminal Law Directive” means Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, as amended, supplemented or restated.

“AML Directives” means the 4th and 5th AML Directives and the AML Criminal Law Directive.

“Beneficial Ownership” means the ultimate ownership or control of a person according to the definition of “beneficial owner” set out in article 3(6) of the 4th and 5th AML Directives, it being specified that, for the purposes of this agreement, in relation to the Bank and

the Borrower, the threshold of beneficial ownership is the threshold set under the applicable laws or regulations implementing the 4th and 5th AML Directives.

“BILS Scheme” means the Brexit Impact Loan Scheme provided by the SBCI;

“Commission” means the Commission of the European Union;

“Commission Decision” means Commission decision C (2020) 9237 of 14 December 2020 not to raise objections to the Pan-European Guarantee Fund in response to COVID-19 on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union, as may be amended from time to time.

“Commission Recommendation” means Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises (OJ L124, 20.05.2003, p.36) as amended, restated, supplemented and/or substituted from time to time;

“Credit and Collection Policies” means the origination, risk, credit, collections, loan servicing and accounting policies and procedures (howsoever described) of the Bank as applied on a consistent basis without regard to this agreement across the Bank’s loan book to exposures of a substantially similar type to the Facility.

“DAFM” means the Department of Agriculture, Food and the Marine;

“Data Protection Regulation” means as applicable:

- (a) Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (“2018 Regulation”);
- (b) Regulation (EU) No 2016/679 of the European Parliament and of the Council dated 27 April 2016 relating to the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“GDPR”); and/or
- (c) all applicable laws and regulations relating to the processing of Personal Data, including national legislation implementing the 2018 Regulation and GDPR and the Directive on Privacy and Electronic Communications (Directive 2002/58/EC), and any other laws and regulations implementing, derogating from or made under them, and any legally binding orders and codes of practice, guidelines and recommendations issued by the applicable Regulatory Authorities.

In each case as amended, restated, supplemented or substituted from time to time.

“Delinquent” means in arrears for less than 90 days;

“De Minimis Regulations” means Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1), Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector (OJ L 352, 24.12.2013 p. 9), Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic

interest (OJ L 114 of 26.4.2012, p. 8), (each a “De Minimis Regulation”) as amended from time to time.

“DETE” means the Department of Enterprise, Trade and Employment;

“EBITDA Interest Coverage Ratio” means the ratio of earnings before interest, depreciation, taxes, depreciation and amortisation to interest costs;

“ECA” means the European Court of Auditors.

“Eligibility Criteria” refers to the eligibility criteria for a term loan under the BILS Scheme which are applicable to Borrowers as at the date of the letter of sanction for the Facility and the Ongoing Eligibility Criteria (and which are available on <https://aib.ie/business/sbci/sbci-brexite-impact>);

“EGF” or **“Fund”** means the Pan-European Guarantee Fund, established by certain Member States of the European Union to respond to the economic impact of the COVID-19 pandemic outbreak;

“EGF Regime by analogy to Section 3.1 TF” means the conditions set out in the Commission Decision which is based on the relevant terms and conditions from Section 3.1 of the Temporary Framework, as amended from time to time.

“EGF Regime by analogy to Section 3.2 TF” means the conditions set out in the Commission Decision which is based on the relevant terms and conditions from Section 3.2 of the Temporary Framework, as amended from time to time.

“EGF Guarantee Instrument” means the Pan-European Guarantee Fund Counter Guarantee.

“EIB” means the European Investment Bank;

“EIB Group Excluded Sectors” means the following sectors:

- (a) Production or activities involving harmful or exploitative forms of forced labour/harmful child labour.
- (b) Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements.
- (c) Any business relating to pornography or prostitution.
- (d) Production or trade in wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species or Wild Fauna and Flora (CITES).
- (e) Production or use of or trade in hazardous materials such as radioactive materials (except for medical isotopes and materials for diagnostics and treatment in healthcare provision), unbounded asbestos fibres and products containing polychlorinated biphenyls.
- (f) Cross-border trade in waste and waste products unless compliant with the Basel Convention and the underlying national and EU regulations but for the avoidance of doubt, use of waste as a fuel in district heating is not excluded.
- (g) Unsustainable fishing methods (i.e. drift net fishing in the marine environment using nets in excess of 2.5 km in length and blast fishing).
- (h) Production or trade in pharmaceuticals, pesticides/herbicides, chemicals, ozone depleting substances and other hazardous substances subject to international phase-outs or bans.
- (i) Destruction of Critical Habitats .Production and distribution of racist, anti-democratic and/or neo-Nazi media.
- (j) Tobacco, if it forms a substantial part of the Borrower’s primary financed business activities or a substantial part of the Facility.

- (k) Live animals for scientific and experimental purposes, including the breeding of these animals, unless in compliance with the EU Directive 2010/63/EU as amended by Regulation (EU) 2019/1010 of the European Parliament and of the Council on the protection of animals used for scientific purposes.
- (l) Ammunition and weapons, military/police equipment, infrastructure or correctional facilities, prisons.
- (m) Gambling, casinos and equivalent enterprises or hotels hosting such facilities.
- (n) Commercial concessions over, and logging on, tropical natural forest; conversion of natural forest into a plantation.
- (o) Purchase of logging equipment for use in tropical natural forests or high nature value forest in all regions; and activities that lead to clear cutting and/or degradation of tropical natural forests or high nature value forest.
- (p) New palm oil plantations.
- (q) Any business with a political or religious content.

“EIB Privacy Statement” means EIB guidelines on the handling of personal data available at: <https://www.eib.org/en/privacy/lending.htm>, as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation.

“EIF” means the European Investment Fund;

“EIF Final Recipient Data Protection Statement” means EIF guidelines on the handling of personal data of Borrowers available at: <http://www.eif.org/attachments/processing-of-final-recipients-personal-data.pdf>, as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation.

“EIF Financial Intermediary Data Protection Statement” means EIF guidelines on the handling of personal data of SBCI and the Banks available at: http://www.eif.org/attachments/eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf, as such document may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation and together with the EIF Borrower Data Protection Statement, the “EIF Data Protection Statements”.

“EPPO” means European Public Prosecutor’s Office in respect of those Member States of the European Union participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office (OJ L 283, 21.10.2017, p.1);

“EU Restrictive Measures” means any restrictive measures adopted pursuant to the Treaty on European Union or to the Treaty on the Functioning of the European Union;

“Excluded Activities” means research activities aiming at human cloning for reproductive purposes or research activity intended to modify the genetic heritage of human beings or research activity intended to create human embryos or research activity that is prohibited in Ireland;

“Exclusion Situation” means the Customer is in any of the following situations:

- (a) it is bankrupt, is subject to insolvency or is being wound up, is having its affairs administered by a liquidator or by the courts, in this context, is in an arrangement with creditors, is having its business activities suspended or a standstill (or equivalent) agreement has been signed with creditors and validated by the competent court when required by

the applicable law, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- (b) in the past five (5) years, it has been the subject of a final judgment or final administrative decision for being in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law and where such obligations remain unpaid unless a binding arrangement has been established for payment thereof;
- (c) in the past five (5) years, it or any of the persons having powers of representation, decision-making or control over it has been convicted by a final judgment or a final administrative decision for grave professional misconduct, where such conduct denotes wrongful intent or gross negligence, which would affect its ability to implement the Facility and which is for one of the following reasons:
 - (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;
 - (ii) entering into agreements with other persons aimed at distorting competition;
 - (iii) attempting to unduly influence the decision-making process of the contracting authority during the relevant “award procedure” as such term is defined in Article 2 of the Financial Regulation;
 - (iv) attempting to obtain confidential information that may confer upon it undue advantages in the relevant “award procedure” as such term is defined in Article 2 of the Financial Regulation;
- (d) in the past five (5) years, it or persons having powers of representation, decision-making or control over it has been the subject of a final judgment for:
 - (i) fraud;
 - (ii) corruption;
 - (iii) participation in a criminal organisation;
 - (iv) money laundering or terrorist financing;
 - (v) terrorist offences or offences linked to terrorist activities, or inciting, aiding, abetting or attempting to commit such offences;
 - (vi) child labour and other forms of trafficking in human beings;
- (e) it is subject to a decision on exclusion, it is under the published list of economic operators excluded or subject to financial penalty, in each case contained in the early detection and exclusion system database (the EDES database available at the official website of the EU) set up and operated by the Commission,

provided that the Bank may decide not to apply any of the items above if it is satisfied the Customer has adopted remedial measures to demonstrate its reliability, or that an exclusion would be disproportionate taking into account the circumstances.

“Extension Date” has the meaning given to that term in the guarantee agreement entered into between the Bank and the SBCI.

“Facility Effective Date” means the date of this letter of sanction.

“Financial Regulation” means Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, as it may be amended, supplemented or modified from time to time.

“Fishery and Aquaculture De Minimis Regulation”

means Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

“Fraud” includes, without limitation, as set out in Article 1 of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities’ financial interests (OJ C 316, 27.11.1995, p.49), fraud affecting the European Union’s financial interests.

“General De Minimis Regulation” means Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p.1).

“HPTR” means any preferential tax measure regarded as harmful under the EU list of non-cooperative jurisdictions for tax purposes, as set forth in Annex I and Annex II of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, initially adopted by the European Council on 5 December 2017 (under criterion 2.1), and as further detailed in the overview of the preferential tax regimes examined by the Code of Conduct Group (Business Taxation), as may be amended from time to time.

“Illegal Activities” means any of the following illegal activities or activities carried out for illegal purposes according to applicable laws in any of the following areas: (i) fraud, corruption, coercion, collusion or obstruction, (ii) money laundering, financing of terrorism or tax crimes each as defined in the AML Directives, and (iii) fraud and other illegal activity against the financial interests of the EIB, EIF and EU as defined in the PIF Directive.

“Member State” means any state that is or becomes a member state of the European Union, (collectively the “Member States”).

“Micro-Enterprise” means a micro-enterprise as defined in the Commission Recommendation.

“NCJ Implementation” means that the Customer is established and operating in Ireland and that there is no indication that the Facility supports actions that contribute to (i) criminal activities such as money laundering, financing of terrorism, tax crimes (i.e. tax fraud and tax evasion) and (ii) wholly artificial arrangements aimed at tax avoidance;

“Non-Compliant Jurisdiction” means a jurisdiction:

- (a) listed in Annex I of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes;
- (b) included in the OECD/G20 list of jurisdictions that have not satisfactorily implemented the tax transparency standards;
- (c) listed in the Annex of the Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies;
- (d) rated as “partially compliant” or “non-compliant”, including corresponding provisional ratings, by the Organisation for Economic Cooperation and Development and its Global Forum on Transparency and Exchange of Information for Tax Purposes against the international standard on exchange of information on request;
- (e) included in the Financial Action Task Force statement “High risk Jurisdictions subject to a Call for Action”; or

(f) included in the Financial Action Task Force statement “Jurisdictions under Increased Monitoring”,

in each case as such statement, list, directive or annex may be amended and/or supplemented from time to time.

“OLAF” means the European Anti-Fraud Office, set up in accordance with the provisions of the Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation *(Euratom) No 1074/1999.

“Ongoing Eligibility Criteria” refers to the eligibility criteria for a term loan under the BILS Scheme which are applicable to Borrowers at all times during the lifetime of the Facility (and which are available on <https://aib.ie/business/sbci/sbci-brexite-impact>);

“Pan-European Guarantee Fund Counter Guarantee” means the counter-guarantee given by the EIF to the SBCI in connection with the BILS Scheme.

“Participating Member States” means the countries contributing to the EGF;

“PIF Directive” means Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union’s financial interests by means of criminal law as amended, supplemented or restated;

“Pre-Eligibility Application Form” means in respect of each Facility, the completed pre-eligibility application form as delivered by the Borrower to the SBCI;

“Relevant Parties” means SBCI, the representatives of the relevant national authorities, ECA or other competent national court of auditors, the representatives and advisors of the Participating Member States, OLAF, the EIF, the EIB, the agents of the EIF or any other person designated by the EIF or the EIB, the Commission, the agents of the Commission (including OLAF), EPPO, any other European Union institution or European Union body which is entitled to verify the use of a guarantee from the SBCI in favour of the Bank and in the context of the Pan European Guarantee Fund Counter Guarantee and any other duly authorised body under applicable law to carry out audit or control activities.

“Relevant State Aid Regime” means a hybrid regime incorporating the EGF Regime by analogy to Section 3.1 TF and the De Minimis Regulations or the EGF Regime by analogy to Section 3.2 TF and the De Minimis Regulations.

“Restrictive Measures” means:

- (a) EU Restrictive Measures; and/or
- (b) Any economic or financial sanctions adopted from time to time by the United Nations and any agency or person which is duly appointed, empowered or authorised by the United Nations to enact, administer, implement and/or enforce such measures; and/or
- (c) Any economic or financial sanctions adopted from time to time by the United States Government and any department, division, agency or office thereof, including the United States Department of the Treasury Office of Foreign Asset Control (OFAC), the United States Department of State and /or the United States Department of Commerce;

“Sanctioned Person” means any person, entity, individual or group of individuals who is a designated target of or otherwise a subject of Restrictive Measures

“SBCI” means the Strategic Banking Corporation of Ireland, which term shall include its successors,

transferees and assignees, if any;

“Services of General Economic Interest De Minimis Regulation” means Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114 of 26.4.2012, p. 8).

“Small-Enterprise” means a small- enterprise as defined in the Commission Recommendation;

“Small Mid-cap” means an enterprise within the meaning of Article 1 of the Title I of the Annex of the Commission Recommendation which:

- (a) has up to 499 employees calculated in accordance with Articles 3, 4, 5 and 6 of the Title I of the Annex of the Commission Recommendation; and
- (b) is not an SME;

“SME” means a micro, small or medium-sized enterprise as defined in the Commission Recommendation;

“State Aid” means aid granted by a Member State or through State resources within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union, as interpreted by the Court of Justice and the General Court of the European Union;

“Temporary Framework” means the Temporary Framework for State aid Measures to Support the Economy in the Current COVID-19 Outbreak, Communication from the Commission of 19 March 2020, C(2020)1863 (OJ C 91, 20.3.2020, p. 1), as amended from time to time.

“Undertaking in Difficulty” means an undertaking in respect of which, one of the following circumstances had occurred:

- (a) In the case of a limited liability company (other than an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, ‘limited liability company’ refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU and ‘share capital’ includes, where relevant, any share premium.
- (b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, ‘a company where at least some members have unlimited liability for the debt of the company’ refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- (d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.

- (e) In the case of an undertaking that is not an SME, where, for the past two years:
 - (i) the undertaking’s book debt to equity ratio has been greater than 7.5:1 and
 - (ii) the undertaking’s EBITDA Interest Coverage Ratio has been below 1.0:1.

Term loans sanctioned under the BILS Scheme are intended for the purposes of facilities which comply with the eligibility criteria for the BILS Scheme set by the SBCI. The eligibility criteria applicable to Borrowers are available on <https://aib.ie/business/sbci/sbci-brex-it-impact>. For as long as a Facility is sanctioned under the BILS Scheme, the following additional conditions will apply:

(i) **Borrower Representations and Warranties**

the Borrower represents and warrants that the Borrower:

- (a) is an SME or Small Mid-Cap that is not active in the financial sector;
- (b) if the Customer is an Undertaking in Difficulty as at the Facility Effective Date, that it was not an Undertaking in Difficulty as of 31 December 2019.

As an exception to the above, if the Customer is a Micro-enterprise or a Small-Enterprise that was an Undertaking in Difficulty on 31 December 2019, it shall be eligible provided that on the Facility Effective Date;

- (i) It is not subject to collective insolvency procedure under the relevant national laws; and
- (ii) It has not received:
 - a Rescue aid (as defined in the Commission’s Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty), which has not been reimbursed (if the aid is in the form of a loan) or terminated (if the aid is in the form of a guarantee); or
 - b Restructuring aid to which it is subject to as at the Facility Effective Date (i.e. on the Facility Effective Date the Borrower is no longer subject to a restructuring plan);
- (c) does not have a substantial focus on one or more EIB Group Excluded Sectors (which determination shall be made by the Bank in its discretion based, without limitation, on the proportionate importance of such sector on revenues, turnover or client base of the relevant Borrower);
- (d) is established and operating in a Participating Member State and is not incorporated or established in a Non-Compliant Jurisdiction;
- (e) is established and operating in Ireland (an enterprise is established and operating in Ireland if it has a substantial operation within the Republic of Ireland);
- (f) has not drawn down and will not draw down any loan under the BILS Scheme from any other financial institution that would cause it to borrow more than €1,500,000 in aggregate under the BILS Scheme for SMEs or €1,400,000 in aggregate under the BILS Scheme for Small Mid-caps ;
- (g) has not benefitted of State Aid which has been declared illegal or noncompliant by the Commission which has not yet been returned;
- (h) in the case of loans granted under the applicable De Minimis Regulation:
 - (i) where the Customer is an SME, is not subject to, or fulfils the criteria under domestic law for being placed in, collective insolvency proceedings; and
 - (ii) where the Customer is a Small Mid-Cap, either (i) is subject to, or fulfils the criteria under

domestic law for being placed in collective insolvency proceedings or (ii) has a credit rating that is below B-;

- (i) is not engaged in any Illegal Activities;
- (j) is not performing any activities that are related to Illegal Activities or Excluded Activities;
- (k) it is not a Sanctioned Person and is not in breach of Restrictive Measures;
- (l) it is not, to the best of its knowledge, in an Exclusion Situation;
- (m) if it is established or incorporated in a country listed for HPTR in Annex I and/or Annex II of the European Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, the Customer does not benefit from any HPTR as evidenced by a self-declaration provided in a written form to the Bank;
- (n) is not Delinquent (for more than 20 days) or in default in respect of any transaction (in the case of refinancing, including the transaction that is being refinanced) granted by the Bank or by another financial institution or any agreement with the Bank or another financial institution in a manner that could materially affect the Customer's ability to meet his/her/its obligations under any such agreement. For these purposes, a failure to meet such obligations which is caused by short term cash flow pressures caused by prevailing market conditions will not, without prejudice to any events of default in any such agreement, be deemed to have such a material effect;
- (o) is not bankrupt or being wound up or having its affairs administered by the courts;
- (p) in the last 5 years has not entered into an arrangement with creditors, in the context of being bankrupt or wound-up or having its affairs administered by the courts;
- (q) has not been and will not be convicted of an offence or subject to a ruling concerning professional conduct, fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity where such illegal activity is detrimental to the European Union's financial interests;
- (r) it shall (i) not enter into a business relationship with and/or use the funds or economic resources made available to it by the Bank in any manner that would result in such funds or economic resources being made available to, or for the benefit of a Sanctioned Person, (ii) ensure that no person that is a Sanctioned Person will have any legal or beneficial interest in any funds repaid or remitted to the Bank in the context of the Finance Documents, and (iii) promptly upon becoming aware, supply to the Bank, details of any claim, action, suit, proceedings or investigations with respect to Restrictive Measures relating to it;
- (t) satisfies the eligibility criteria for a term loan under the BILS Scheme which are applicable to Borrowers (and which are available on <https://aib.ie/business/sbci/sbci-brexite-impact>) (including those pertaining to State Aid) as at the date of the letter of sanction for the Facility and that it will at all times during the lifetime of the Facility comply with the ongoing eligibility criteria;
- (x) has provided the Bank with a valid BILS Scheme eligibility code which has not been used to take out a loan with another financial institution;
- (y) representations made by it in the application form submitted to the SBCI in connection with the BILS Scheme remain true, accurate and complete in all respects.

- (z) is subject to one of the following:
 - (i) the combined exposure of the export/import of products, services or raw materials to/from the UK (including Northern Ireland) equates to at least 15% of business turnover;
 - (ii) export products, services or raw materials to the UK (including Northern Ireland) equates to at least 15% of business turnover;
 - (iii) import products, services or raw materials from the UK (including Northern Ireland) equates to at least 15% of business turnover;
 - (iv) the business is indirectly exposed to the UK (including Northern Ireland) i.e. transacts products, services or raw materials with an enterprise that is directly exposed to the UK (including Northern Ireland) equating to at least 15% of turnover; or
 - (v) such other criteria as SBCI may determine and notify to the Bank from time to time;

(aa) is adversely impacted by Covid-19.

(ii) Borrower Representations, Covenants and Undertakings

The Borrower represents, covenants and/or undertakes that the Borrower:

- (a) is not performing any activities that are related to Illegal Activities or Excluded Activities;
- (b) will comply in all respects with all laws and regulations to which it is subject, including, but not limited to, State Aid and procurement rules to which it may be subject and will comply in all respects with any laws to which it may be subject and the breach of which would constitute an Illegal Activity.
- (c) has not and shall not commit any fraud (including any fraud affecting the EU's financial interests (having the meaning set out in Article 1 in the Convention drawn up on the basis of Article K.3 of the Treaty on the European Union, on the protection of the European Communities' financial interests (OJ C 316, 27.11.1995, p.49))
- (d) will, without prejudice to the foregoing:
 - (i) at all times, comply with relevant standards and applicable legislation on the prevention of tax evasion, money laundering, the fight against terrorism and tax fraud to which it may be subject; and
 - (ii) not be established in a Non-Compliant Jurisdiction, unless in case of NCJ Implementation;
- (e) prepare, update and maintain available for the Relevant Parties, the following information:
 - (a) information necessary to verify that the use of the drawings under the Facility is in compliance with the relevant requirements set by any applicable European or national law (including regarding the Relevant State Aid Regime) and to verify the eligibility of the Borrower and the Facility under the BILS Scheme;
 - (b) information necessary to verify the proper implementation of the terms of the Facility and any payment and/or recovery process thereunder; and
 - (c) any other information reasonably required by the Relevant Parties
- (f) will maintain and be able to produce (including for inspection by any Relevant Parties) all documentation (to include, voice recordings where voice recordings have been provided in lieu of such documentation) related to the implementation of the Facility and the documents relating to the Facility for a period of ten (10) years after the date

of the Facility and if any deficiencies in the maintenance of records are identified by the Relevant Parties, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies (or such shorter period communicated to it by the Relevant Party), comply with the instructions given by any of the Relevant Parties and provide any additional information reasonably requested by any of the Relevant Parties;

- (g) will co-operate in any evaluation of the Facility and/or case studies that may be carried out by the SBCI, and to respond to any reasonable information requests in the context of any such evaluation and/or case studies. The information contained in the case study report may be passed to the SBCI, the National Treasury Management Agency, the European Investment Fund, the Commission and/or contractors of the Commission, and/or published. The SBCI, the Commission and/or contractors of the Commission may contact the Borrower so that its business case can be used to produce audio visual or print publications for the promotion of the BILS Scheme;
- (h) shall promptly provide, upon request by the Bank, any document or information relating to itself or the any documents relating to the Facility and required to be included in any report by the SBCI or any Relevant Party and any documentation and other evidence as is reasonably requested by the Bank (on behalf of itself or the SBCI (or any successor)) in order for the Bank or the SBCI (or any successor) to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any relevant person pursuant to the contractual documentation relating to the Facility;
- (i) will promptly supply, upon request by the Bank such documentation (including all the documents required to assess the applicable eligibility criteria) and other evidence as is [reasonably] requested about the Borrower, its business, and the facility which it is required to provide to SBCI, the Relevant Parties, the Minister for Agriculture, Food and the Marine; the Minister for Enterprise, Trade and Employment, the DAFM, the DETE, any EU Body and any State Body;
- (j) shall record and compile all the information required for the application of a Facility. Such information shall include all information necessary to demonstrate that the relevant State Aid conditions have been complied with. Records (whether oral or written) regarding each Facility shall be maintained by it for ten (10) fiscal years from the date on which the relevant loan was granted and, if any deficiencies in the maintenance of records are identified by the Relevant Parties, the Borrower undertakes to promptly, and in any event no later than three (3) months after being informed of such deficiencies (or such shorter period communicated to it by the Relevant Party), comply with the instructions given by any of the Relevant Parties and provide any additional information reasonably requested by any of the Relevant Parties
- (k) shall ensure that the proceeds of the Facility are not used to finance Illegal Activities, artificial arrangements aimed at tax avoidance or transactions with a Sanctioned Person.
- (m) shall immediately inform the Bank to the extent not prohibited by law, of any material litigation, arbitration, administrative proceedings or investigation, and respective development, carried out by a court, administration or similar public authority, which, to the best of its knowledge and belief, is current, imminent or pending against it or its controlling entities or members of its

management and decision making bodies in connection with any Illegal Activity related to the BILS Scheme.

- (n) without prejudice to any other restrictions on the use of the Facility, shall only use the Facility for the purpose of:
 - (a) investment in tangible and/or intangible assets;
 - (b) working capital/liquidity needs;
 - (c) to refinance existing obligations; or
 - (d) business transfers

and for the avoidance of doubt the Facility can only be being made available to refinance a facility/facilities to the Borrower in an amount not exceeding 30% of the initial principal amount of that Facility with the remaining 70% of the Facility to be used for other eligible purposes under the SBCI Scheme except when such facility/facilities were made available under the Brexit Loan and Covid-19 Working Capital Loan Scheme established by SBCI (the "Brexit and Covid-19 Scheme") to a Borrower who satisfied one of the Brexit Eligibility Criteria (as defined in the Brexit and Covid-19 Scheme), in which case the Borrower may refinance such facility/facilities in an amount not exceeding 100% of the initial amount of the Facility.

- (o) will inform the Bank immediately of any change in the Beneficial Ownership of the Borrower after the date hereof;
- (p) permits the Bank to provide information and documentation (including all the documents required to assess the applicable eligibility criteria) about the Borrower, its business, and the facility which it is required to provide to SBCI, the Relevant Parties, the Minister for Agriculture, Food and the Marine; the Minister for Enterprise, Trade and Employment, the DAFM, the DETE, any EU Body and any State Body;
- (q) will confirm the amount of Aid received by it and the amount of Aid receivable by it under the Facility, in each case in respect of Aid under the De Minimis Regulation and if the Borrower receives, under the BILS Scheme or otherwise, aid in excess of what that Borrower is permitted to receive by law, the Borrower shall return to the Bank for onward transmission to the SBCI any such excess aid received under the BILS Scheme in breach of law together with any other amount due in respect of that aid immediately upon: (i) the Borrower becoming aware of such excess receipt; and/or (ii) the Bank notifying the Borrower of same;
- (r) will maintain and be able to produce all documentation related to any information supplied in connection with the Facility for a period of ten (10) years after the termination of the BILS Scheme;
- (s) will hold and maintain amounts received in the context of this Agreement in a bank account held with a credit institution situated within the territory of a Member State of the EU; and
- (t) will (i) at all times comply with relevant standards and applicable legislation on the prevention of tax evasion, money laundering, the fight against terrorism and tax fraud, and (ii) not to be established in a Non-Compliant Jurisdiction, unless in case of NCJ Implementation.

(iii) Events of Default – BILS Scheme

A term loan under the BILS Scheme, though expressed to be repayable over or within a specified period, may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower upon the occurrence of any of the following events:

- (a) the Facility ceasing to comply with the eligibility criteria under the BILS Scheme;

- (b) the information included in or documentation provided to the SBCI pursuant to the Pre-Eligibility Application Form being untrue or inaccurate at the time of provision;
- (c) the termination of or the Bank becoming unable to rely on the guarantee from the SBCI; and/or
- (d) The Borrower becomes a Sanctioned Person as a result of breaching any applicable laws or regulations, or the Borrower does not comply with the provisions of subparagraphs (i) and (ii) of paragraph 8.6 (i)(t).

(iv) Maturity Extensions

Subject always to the Bank's right, in its absolute discretion, to refuse any such request (which right the Customer acknowledges and agrees to), the Borrower may request an extension to the final maturity date of the Facility.

From the Extension Date the Bank shall be entitled to amend or supplement, waive or make any other declaration of intent in relation to the Facility, which results in a maturity extension of the Facility and the Borrower is entitled to request an extension of maturity and any such extension will be granted or refused at the discretion of the Bank.

To the extent that the Bank refuses the request for an extension, the Borrower will not be prevented from prepaying the Facility and such maturity extension will not cause or be conditional on an increase to the level of the interest rate, rate of charges or rate of fees applicable to the Facility.

If the Extension Date does not occur, the Bank shall not be entitled to amend or supplement, waive or make any other declaration of intent in relation to the Facility which results in a maturity extension of the Facility.

(v) Borrower Acknowledgements:

the Borrower acknowledges and agrees that:

- (a) the SBCI, the EIF, the DETE and/or the DAFM may be obliged to divulge such information relating to the Borrower and the Facility to any competent EU Body in accordance with the relevant mandatory provisions of EU law;
- (b) the European Court of Auditors ("ECA"), the representatives and advisors of the Participating Member States, the European Anti-Fraud Office ("OLAF"), European Investment Fund (the "EIF"), the European Investment Bank ("EIB"), the agents of the EIF, or any other person designated by the EIF or the EIB, the Commission, the agents of the Commission (including OLAF, the European Public Prosecutor's Office ("EPPPO"), any other European Union institution or European Union body, which is entitled to verify the use of the Counter-Guarantee in the context of the EGF Guarantee Instrument and any other relevant national authorities and their representatives, or other competent national court of auditors or duly authorised body or institution under applicable law which is entitled to carry out audit or control activities (collectively, the "Relevant Parties") shall have the right to carry out audits and controls and to request information in respect of this agreement and its execution. Subject to applicable laws, the Borrower shall:
 - (a) permit remote monitoring and monitoring visits and inspections by each of the Relevant Parties of its business operations, books and records;
 - (b) allow interviews conducted by each of the Relevant Parties of its representatives and not obstruct contacts with representatives or any other person involved in the Pan European Guarantee Fund Counter Guarantee;
 - (c) permit the Relevant Parties to conduct on the spot audits and checks and for this purpose

permit access to its premises during normal business hours;

- (d) permit review of its books and records in relation to this agreement and to take copies of these and related documents to the extent permitted by applicable law and as may be required.
- (c) pursuant to Article 5(1)(a) of the Data Protection Regulation, and Article 6(1)(e) of the GDPR, the name, address and purpose of the Borrower and other personal data information in connection with the Facility will be communicated to the SBCI, the EIB, the EIF and/or the Commission of the European Communities (the "Commission"), any mandators/funding providers and/or any other Relevant Party all acting as independent data controllers and such personal data may be made public in accordance with applicable laws;
- (d) any personal data communicated to the SBCI, the EIB, EIF the Commission and/or any other Relevant Party will be stored until ten (10) years after the termination of the BILS Scheme;
- (e) requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the SBCI, the EIB, the EIF and/or the Commission, as the case may be, should be addressed to the SBCI, the EIB, the EIF, the Commission and/or any other Relevant Party, as applicable, at the following address:

IN RESPECT OF: ADDRESS:

EIF: European Investment Fund 37B avenue J.F. Kennedy L-2968 Luxembourg Grand Duchy of Luxembourg Attention: EIF Data Protection Officer

SBCI: Treasury Dock North Wall Quay Dublin 1 D01 A9T8 Attention: SBCI Data Protection Officer

EIB: European Investment Bank 98-100, boulevard Konrad Adenauer L-2950 Luxembourg Grand Duchy of Luxembourg Attention: EIB Data Protection Officer

Commission: Commission Européenne Directorate General Economic and Financial Affairs L-2920 Luxembourg Grand Duchy of Luxembourg Attention: Attention of Data Protection Officer

Such requests shall be treated as described in Articles 17 to 24 of Chapter 3: "Rights of the Data Subject" of the Data Protection Regulation or, as applicable, as described in Articles 15 to 22 GDPR;

- (f) pursuant to Article 63 (i) of the Data Protection Regulation, the Borrower may lodge a complaint with the European Data Protection Supervisor if he or she considers that his or her rights under Article 16 of the Treaty establishing the European Community have been infringed as a result of the processing of personal data by the EIB, the EIF and/or the Commission;
- (g) that pursuant to Article 77(1) of the GDPR, the Borrower may lodge a complaint with the Data Protection Commission if he or she considers that his or her rights under Article 16 of the Treaty on the Functioning of the European Union or the GDPR have been infringed as a result of the processing of personal data by the SBCI;
- (h) all processing of personal data by the EIF and the EIB shall be in accordance with the EIF data protection statements (available at http://www.eif.org/attachments/eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf and <http://www.eif.org/attachments/processing-of-final-recipients-personal-data.pdf>) and the EIB Privacy Statement (available at: <https://www.eib>).

org/en/privacy/lending.htm) respectively, as such documents may be updated and/or replaced from time to time in line with the applicable Data Protection Regulation;

- (i) the (i) EIF, (ii) the SBCI, (iii) the EIB or (iv) the Commission shall be entitled (and the Borrower acknowledges and agrees to such entitlement) to publish on its website, or produce press releases containing, information on the Bank and the Borrower supported under the Pan European Guarantee Fund Counter Guarantee including (i) the name, nature and purpose of this Facility; (ii) the name and address of the Bank and the type of financial support received; and (iii) the name, address and country of establishment of the Borrower and the region at NUTS 2 level, and the type of financial support received; except if:
 - (i) the Facility does not exceed EUR100,000 (EUR 10,000 in the case of Borrowers active in agricultural and fisheries sector) (in which case the information published shall be limited to statistical data, aggregated in accordance with relevant criteria, such as geographical situation, economic typology of Borrower, type of support received and the EU policy area under which such support was provided); or
 - (ii) prior to receiving financial support under the Facility, the Borrower confirms to the Bank in writing that the Borrower is a natural person who [does not consent or otherwise revokes their consent to publication].

For the avoidance of doubt, any reference to personal data in this clause shall mean personal data as defined in the Data Protection Regulation.

(vi) **General State Aid Conditions**

- (i) The Borrower undertakes to comply in all material respects with all State aid laws and regulations to which it may be subject by virtue of this Facility.
- (ii) The Borrower undertakes to confirm the amount of State Aid received by it and the amount of State Aid receivable by it under the Facility, in each case in respect of State Aid under the relevant De Minimis Regulation and the EGF.
- (iii) The Borrower represents and warrants that it has not received unlawful State Aid or State Aid which has been declared incompatible with the internal market by the Commission which has not yet been returned.
- (iv) The Borrower undertakes that, if it receives, under the BILS Scheme or otherwise, State Aid in excess of what it is permitted to receive by law, it will return to the Bank for onward transmission to the SBCI any such excess State Aid received (including interest) under the BILS Scheme in breach of law together with any other amount due in respect of that State Aid immediately upon: (i) the Borrower becoming aware of such excess receipt; and/or (ii) the Bank notifying the Borrower of same.
- (v) If the Borrower is an Undertaking in Difficulty on the Facility Effective Date, it must not have been an Undertaking in Difficulty on 31 December 2019.

As an exception to the above, if the Borrower is a Micro-Enterprise or a Small-Enterprise that was an Undertaking in Difficulty on 31 December 2019, it shall be eligible, provided that on the Facility Effective Date:

- (a) it is not subject to collective insolvency procedure under Irish law; and
- (b) it has not received:
 - (i) rescue aid (as defined in the Commission's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty), which has not been reimbursed (if

the aid is in the form of a loan) or terminated (if the aid is in the form of a guarantee); or

- (ii) restructuring aid in relation to which it continues to be subject to a restructuring plan (i.e. on the Facility Effective Date the Borrower is no longer subject to a restructuring plan).
- (vi) The Borrower shall supply all data necessary for State Aid reporting and transparency purposes. In particular, the Borrower shall maintain evidence of compliance with applicable rules and regulations relating to the granting and monitoring of the Relevant State Aid Regime.
- (vii) The Borrower represents and warrants that, as at the date it signs the letter of sanction, it satisfies all of the below applicable Specific State Aid Conditions and undertakes to procure that it shall at all times comply with those conditions.
- (viii) The Borrower acknowledges and undertakes that the self-declarations required by s.4(d) of the EGF Guarantee Instrument and provided in the Pre-Eligibility Application Form are correct and legally binding on the Borrower.

(vii) **Specific State Aid Conditions**

As set out in the letter of sanction, the Relevant State Aid Regime is a hybrid regime meaning that the Facility is partially granted under the De Minimis Regulations and partially under the EGF in accordance with the Commission Decision.

(A) **De Minimis Aid**

- (a) If the Facility is being granted under the General De Minimis Regulation, the Borrower represents and warrants that, as at the date it signs the letter of sanction, it satisfies all of the conditions of that Regulation and undertakes to procure that it shall at all times comply with those conditions.
- (b) If the Facility is being granted under the Agriculture De Minimis Regulation, the Borrower represents and warrants that, as at the date it signs the letter of sanction, it satisfies all of the conditions of that Regulation and undertakes to procure that it shall at all times comply with those conditions.
- (c) If the Facility is being granted under the Fishery and Aquaculture De Minimis Regulation, the Borrower represents and warrants that, as at the date it signs the letter of sanction, it satisfies all of the conditions of that Regulation and undertakes to procure that it shall at all times comply with those conditions.
- (d) If the Facility is being granted under the Services of General Economic Interest De Minimis Regulation, the Borrower represents and warrants that, as at the date it signs the Letter of Sanction, it satisfies the conditions of that Regulation and undertakes to procure that it shall at all times comply with those conditions.

(B) **EGF State Aid**

The following provisions are applicable regardless of whether the Borrower is an SME or a Small Mid-cap:

- (a) The Facility must have been entered into by no later than 31 December 2021.
- (b) The amount of the Facility benefitting a Borrower active in the primary production of agricultural products must not be fixed on the basis of the price or quantity of products put on the market.
- (c) If the Borrower is active in the fishery and aquaculture sector:
 - (i) The amount of the Facility must not be fixed on the basis of price or quantity of products purchased or put on the market;
 - (ii) The Facility must not be conditional on export-related activities towards third countries or Member States, namely financing directly

linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity. For the avoidance of doubt, regarding the latter, companies that export their goods or services can benefit from the EGF counter-guarantee, provided that the financing is not conditional on being used to cover costs specifically linked to the act of exporting (such as shipping costs).

- (iii) The Facility must not be contingent upon the use of domestic over imported goods;
 - (iv) The Facility must not relate to the purchase of fishing vessels;
 - (v) The Facility must not finance modernisation or replacement of main or ancillary engines of fishing vessels;
 - (vi) The Facility must not finance operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;
 - (vii) The Facility must not finance construction of new fishing vessels or importation of fishing vessels;
 - (viii) The Facility must not finance temporary or permanent cessation of fishing activities unless specifically provided for in Regulation (EU) No 508/2014;
 - (ix) The Facility must not finance exploratory fishing;
 - (x) The Facility must not finance transfer of ownership of a business;
 - (xi) The Facility must not finance direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking.
- (d) If the Borrower is active in the processing and marketing of agricultural products:
- (i) The Facility must not be conditional on being partly or entirely passed on to primary producers; and
 - (ii) the amount of the Facility must not be fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned.

The following provisions are only applicable if the Borrower is an SME:

- (i) The maximum amount of a loan is such that the total amount of State Aid received by the Borrower (and any other linked enterprises as per the Commission Recommendation) by virtue of a guarantee under Section 3.2 of the Temporary Framework or an interest rate subsidy under Section 3.3 of the Temporary Framework, whether through the SBCI, the Bank or otherwise, does not exceed the Borrower's foreseen financing needs for a period of 18 months.
- (ii) The Facility must be (a) financing transactions and take the form of a senior loan, finance leasing, revolving credit lines (including overdrafts), factoring transaction, bonds or (b) financing transactions providing recourse against the Borrower under bank guarantees or letters of credit.

The following provisions are only applicable if the Borrower is a Small Mid-cap:

- (i) The maximum amount of a loan must be such that the total amount of State Aid received by the Borrower (and any other linked enterprises as per the Commission Recommendation) under Section 3.1 of the Temporary Framework

whether through the SBCI, the Bank or otherwise does not exceed:

- (i) €100,000 if the Borrower is active in the primary production of agricultural products;
 - (ii) €120,000 if the Borrower is active in the fishery and aquaculture sector; and
 - (iii) €800,000 if the Borrower active in other sectors.
- (ii) If the Borrower (together with any other linked enterprises as per the Commission Recommendation) is active in several of the sectors set out in (i) to (iii) above, the Borrower may be considered eligible provided that the Borrower is able to demonstrate by appropriate means, such as separation of accounts, that the relevant ceiling is respected for each of those activities, that the overall maximum amount of €800,000 is not exceeded for the Borrower and that, where the Borrower is active in the fishery and aquaculture sector or in the primary production of agricultural products, the overall maximum amount of €120,000 and €100,000 respectively is not exceeded.
- (iii) The Facility must be (a) financing transactions and take the form of a senior loan, finance leasing, revolving credit lines (including overdrafts), factoring transaction, subordinated debt transaction, quasi-equity transaction, bonds or (b) financing transactions providing recourse against the Borrower under bank guarantees or letters of credit.

*Available at http://www.eif.org/attachments/eif_data_protection_statement_financial_intermediaries_due_diligence_en.pdf and <http://www.eif.org/attachments/processing-of-final-recipients-personal-data.pdf>

*Available at: <https://www.eib.org/en/privacy/lending.htm>

Section IX

Irish Government Covid-19 Credit Guarantee Scheme

Irish Government Covid-19 Credit Guarantee Scheme

9.0 The terms and conditions in this section apply to loan facilities sanctioned pursuant to the Covid-19 Credit Guarantee Scheme and are without prejudice to the applicability of the terms and conditions in any other section of this booklet.

Term loans to eligible Small and Medium Enterprises and Small Mid-caps under the Covid-19 Credit Guarantee Scheme in accordance with the Credit Guarantee Act 2012, as amended from time to time (including pursuant to the Credit Guarantee (Amendment) Act 2016 and the Credit Guarantee (Amendment) Act 2020)

9.1 Loans or other facilities under the Covid-19 Credit Guarantee Scheme are being made available with the benefit of a guarantee from the Minister for Enterprise, Trade and Employment. Those loans are sanctioned at an interest rate which is lower than the interest rate which would apply to such facilities without the support of the Irish government, which support has been made possible as a consequence of the Temporary Framework and the Commission's approval of the Covid-19 Credit Guarantee Scheme. The Borrower is required to have read and understood the rules of the Covid-19 Credit Guarantee Scheme (which are posted on the Department of Enterprise, Trade and Employment website; <https://dbei.gov.ie/en/What-We-Do/Supports-for-SMEs/Access-to-Finance/SME-Credit-Guarantee-Scheme/#COVID19CGS>) prior to accepting a Facility. By accepting a Facility, the Borrower is deemed to have done so.

For the purposes of this section, the following definitions will apply:

“Commission” means the Commission of the EU.

“Commission Recommendation” means the Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises (OJ L124, 20.05.2003, p.36), as amended, restated, supplemented and/or substituted from time to time.

“Covid-19 Credit Guarantee Scheme” means the Covid-19 Credit Guarantee Scheme established by the Department of Enterprise, Trade and Employment.

“DAFM” means the Department of Agriculture, Food and the Marine.

“DETE” means the Department of Enterprise, Trade and Employment.

“EU” means the European Union.

“Facility” means a loan or credit arrangement (including without limitation, a loan, working capital facility, credit facility, asset credit facility or invoice finance facility) offered to the Borrower by the Bank under the Covid-19 Credit Guarantee Scheme.

“General Block Exemption Regulation” means Commission Regulation (EU) No 651/2014 of 17 June 2014 (as amended from time to time).

“Group Companies” means companies that form part of the same corporate group (within the meaning of the Companies Act 2014) as the Borrower (but for the avoidance of doubt, this does not include the Borrower itself).

“Medium-Sized Enterprise” means an enterprise which employs fewer than 250 persons and whose annual turnover does not exceed EUR 50 million, and/or whose annual balance sheet total does not exceed EUR 43 million.

“Micro Enterprise” means a Borrower that employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

“person” means any person, firm, company, corporation, government, state or agency of a state or any association, group, organisation (including, without limitation, terrorist organisation), trust or partnership (whether or not having separate legal personality) or two or more of the foregoing, or any other entity or body of any description.

“Pre-Eligibility Application Form” means in respect of each Facility, the completed pre-eligibility application form as delivered by the Borrower to the Bank.

“Primary Producer” means a person engaged in primary production within the meaning of the term in Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002.

“Relevant Parties” means the DETE, the SBCI, the DAFM, the European Court of Auditors, the Commission, agents of the Commission (including OLAF), the Minister for Enterprise, Trade and Employment of Ireland (including without limitation, the agents of the Minister), the following Irish authorities: the Comptroller and Auditor General and any other duly authorised body under applicable law to carry out audit or control activities.

“SBCI” means the Strategic Banking Corporation of Ireland, which term shall include its successors, transferees and assignees, if any.

“Small Enterprise” means an enterprise which employs fewer than 50 persons and whose annual turnover and/or an annual balance sheet total does not exceed EUR 10 million;

“Small Mid-cap” means an enterprise within the meaning of Article 1 of the Title I of the Annex of the Commission Recommendation which:

- (a) has up to 499 employees calculated in accordance with Articles 3, 4, 5 and 6 of the Title I of the Annex of the Commission Recommendation; and
- (b) is not an SME.

“SME” means either a Micro Enterprise, a Small Enterprise or a Medium-Sized Enterprise;

“Temporary Framework” means the communication from the Commission entitled “Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak” as adopted by the Commission on 19 March 2020 (C(2020) 1863) and as amended on 3 April 2020 (C(2020) 2215), 8 May 2020 (C(2020) 3156) and 29 June 2020 (C(2020) 4509) and as may be further amended from time to time.

Facilities sanctioned under the Covid-19 Credit Guarantee Scheme are intended for the purposes of facilities which comply with the eligibility criteria for the Covid-19 Credit Guarantee Scheme set by the Department of Enterprise, Trade and Employment. The eligibility criteria applicable to Borrowers are available at www.aib.ie/business/sbci/government-credit-guarantee-scheme. For as long as a Facility is sanctioned under the Covid-19 Credit Guarantee Scheme, the following additional conditions will apply:

Borrower Representations, Warranties and Undertakings:

- (i) The Borrower represents, confirms, certifies, warrants and undertakes that the Borrower at the date of the contractual documents relating to a Facility:
 - (a) is either an SME or a Small Mid-cap;
 - (b) was on 31 December 2019:
 - (1) not in difficulty (within the meaning of Annex I of the General Block Exemption Regulation, as amended, restated, supplemented and/or substituted from time to time); or
 - (2) in the case of a Small Enterprise or a Micro Enterprise only, in difficulty (within the meaning of Annex I of the General Block Exemption Regulation, as amended, restated, supplemented and/or substituted from time to time), provided always that in those circumstances, such entities hereby certify that as at 31 December 2019 they:
 - a. were not subject to any collective insolvency procedures;
 - b. had not received rescue aid within the meaning of the Temporary Framework (or if an entity had received such aid, it has reimbursed the relevant loan and/or terminated the guarantee which constituted such rescue aid upon or prior to its entry into the letter of sanction); and
 - c. had not received restructuring aid within the meaning of the Temporary Framework (or if an entity had received such aid, it is no longer subject to a restructuring plan upon or prior to its entry into the letter of sanction);
 - (c) does not have a principal business activity within any of the sectors listed below which fall outside the scope of the Covid-19 Credit Guarantee Scheme (all such sectors together, being the “Restricted Sectors”):

Extraction of crude petroleum and natural gas

The extraction and production of:

- (i) crude petroleum; or
 - (ii) natural gas
- or any related products or processes;

Support activities for petroleum and natural gas extraction

- (iii) The provision of any support activities for petroleum and natural gas extraction;

Tobacco and tobacco products

- (iv) The production of tobacco and related products;

Production of Weapons and Ammunition

- (v) The production of weapons, arms and/or ammunition of any kind;

Production of Military Fighting Vehicles

(vi) The production of military or police fighting vehicles;

Development of building projects

(vii) Investing in, or developing real property assets;

Construction and development of residential and non-residential buildings

(viii) Real estate development activity (whether residential or non-residential);

Real estate

(ix) The purchase of, or sale of real estate for business purposes;

Gambling and betting activities

(x) Gambling, casinos and equivalent enterprises;

Other monetary intermediation

(xi) Banking activities and other monetary intermediation (including without limitation, acting as a clearing house, granting credit and facilitating savings);

Additional restricted sectors

(xii) Any other business activity that the Minister for Enterprise, Trade and Employment notifies to the Bank as a restricted sector from time to time during the operation of the Covid-19 Credit Guarantee Scheme. An up to date list of Restricted Sectors relevant to the Covid-19 Credit Guarantee Scheme is accessible at www.aib.ie/business/sbci/government-credit-guarantee-scheme.

(d) is established in Ireland;

(e) can return to being a viable business in the future;

(f) has already suffered or will suffer a reduction of at least fifteen per cent (15%) in its turnover or projected turnover and/or profit due to the impact of Covid-19;

(g) is not bankrupt or being wound up or having its affairs administered by the courts;

(h) has not in the last 5 years entered into an arrangement with creditors, in the context of being bankrupt or wound-up or having its affairs administered by the courts;

(i) has not been convicted of an offence or been made subject to a ruling concerning professional conduct, fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity where such illegal activity is detrimental to the EU's financial interests;

(j) has not, together with its Group Companies, received credit (which includes, for the avoidance of doubt, credit to be advanced pursuant to the letter of sanction) or had credit made available to it and/or its Group Companies in connection with the Covid-19 Credit Guarantee Scheme in an amount that exceeds the highest of the following:

(i) where the Borrower was created before 1 January 2019 only, an amount equal to double its annual wage bill (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available at the date of the letter of sanction; or where the Borrower was created on or after 1 January 2019, an amount equal to the Borrower's estimated annual wage bill for its first two years in operation;

(ii) an amount equal to 25% (twenty-five per cent) of the Borrower's total turnover in 2019; and

(iii) in limited cases and with appropriate justification only where a finance provider (including the Bank) agrees with a Borrower that this Clause 9.1 (i)(j)(iii) applies to it, an amount required to cover the liquidity needs of the Borrower (as confirmed by the Borrower) from the time the relevant letter of sanction or loan offer is entered into for:

a. the following 18 months in the case of a Borrower that is an SME, or

b. the following 12 months in the case of a Borrower that is a Small Mid-cap;

provided always that where the Borrower is a Micro Enterprise, a sole trader or a Primary Producer and it provides current account records to the Bank in support of its application for credit under this Clause 9.1 (i)(j)(iii), the amount advanced to that Borrower may not exceed the higher of:

a. an amount equal to 25% of the turnover of the relevant Borrower current accounts for the 2019 calendar year; and

b. €250,000;

and notwithstanding anything to the contrary in this sub-paragraph (j), the Borrower and its Group Companies will not avail of:

(1) loans and/or other credit under the Covid-19 Credit Guarantee Scheme; and/or

(2) any other loan amount from a public agency under either section 3.2 or section 3.3 of the Temporary Framework

in an aggregate amount that exceeds €1,000,000; and

(k) has provided information, certifications and/or confirmations to the DETE and/or the Bank in the Pre-Eligibility Application Form that were accurate, true, correct, up-to-date, complete and not misleading as at the date they were given.

Borrower Representations, Covenants and Undertakings

(ii) The Borrower represents, confirms, certifies, covenants and undertakes that the Borrower:

(a) satisfies the eligibility criteria for the Covid-19 Credit Guarantee Scheme, which are applicable to borrowers (and which are available on www.aib.ie/business/sbci/government-credit-guarantee-scheme) and further undertakes to procure that it shall at all times during the lifetime of a Facility comply with those eligibility criteria;

(b) itself and/its Group Companies have not applied for, and will not apply for credit under the Covid-19 Credit Guarantee Scheme from any financial institution which would cause the Borrower itself, or the Borrower, together with any other Group Companies, to exceed the borrowing thresholds applicable to them under the Covid-19 Credit Guarantee Scheme;

(c) shall only use (subject always to the other restrictions on use contained in these terms and conditions and the letter of sanction) a Facility for one or more of the following purposes:

(i) working capital purposes;

(ii) investment purposes; or

(iii) to refinance financial indebtedness incurred by the Borrower ("Existing Indebtedness") where:

a. the Existing Indebtedness to be refinanced was incurred by it due to the impact of Covid-19 prior to the date of the letter of sanction; and

b. the amount to be advanced by the Bank pursuant to the letter of sanction is for an amount greater than the Existing Indebtedness, subject always to the limits applicable to loans advanced pursuant to the Covid-19 Credit Guarantee Scheme;

(d) shall promptly provide, upon request by the Bank (on behalf of itself, the DETE or the SBCI (or any successor)), any document or information relating to the Borrower or the letter of sanction and any related documents which are required to be included in any report by the Bank, the DETE or any other Relevant Party;

- (e) shall keep and maintain adequate files and records relating to the letter of sanction, including, without limitation, all documentation prepared by it or provided by it to the Bank in the course of complying with its obligations under the letter of sanction for a period of 10 years from the date the letter of sanction was entered into. Such files and records shall be made available by the Borrower to the Bank, the DETE or any other Relevant Party promptly upon request being made by that party together with any other information reasonably requested by the relevant party; and
- (f) will, to the extent permitted by law, promptly inform the Bank of any credible allegation, complaint or information of which it becomes aware with regard to any criminal offence in relation to a Facility and/or the Borrower.

Events of Default – Covid-19 Credit Guarantee Scheme

(iii)

- (a) Any Facility advanced under the Covid-19 Credit Guarantee Scheme, even if expressed to be repayable over or within a specified period, may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower in the event that any premium relating to a Facility is not paid when due in accordance with the terms of the letter of sanction.
- (b) A Facility under the Covid-19 Credit Guarantee Scheme, even if expressed to be repayable over or within a specified period, may be terminated by the Bank and the Bank may demand early repayment at any time with or without notice to the Borrower upon the occurrence of any of the following events:
 - (i) a Facility ceasing to comply with the eligibility criteria under the Covid-19 Credit Guarantee Scheme;
 - (ii) the Bank becoming aware that any information or documentation provided to it by the Borrower in connection with a Facility is, or was at the time it was provided, untrue or inaccurate; or
 - (iii) the termination of, or the Bank becoming unable to rely on, the guarantee from the Minister for Enterprise, Trade and Employment pursuant to the Covid-19 Credit Guarantee Scheme in respect of a Facility provided always that the guarantee has not been withdrawn from the Bank as a consequence of the Bank's failure or refusal to comply with the terms of the Covid-19 Credit Guarantee Scheme.

Borrower Acknowledgements

(iv) The Borrower acknowledges that:

- (a) the Bank may, in its absolute discretion, at any time, agree to grant the Borrower a payment moratorium of principal and/or interest in respect of a Facility. The terms of any such moratorium would need to be expressly agreed to by the Bank in writing (for example, in a letter of sanction or written notification from the Bank to the Borrower) and would be subject to such conditions as the Bank may in its absolute discretion deem fit. In particular, it is acknowledged by the Borrower that:
 - (i) the Bank may require the Borrower to countersign any written notification relating to such a moratorium, but is not obliged to, in order for a moratorium to come into effect;
 - (ii) notwithstanding any moratorium agreed to by the Bank, interest will continue to accrue on any amounts already outstanding in respect of the relevant Facility at the date the moratorium period commences;
 - (iii) if the Bank agrees to a moratorium on a Facility in respect of principal payments only, interest payments in respect of that Facility and premium payments that would otherwise have

been made at the same time as the postponed principal payments shall continue to be debited to the Borrower's account in accordance with the terms of the letter of sanction for the duration of that moratorium period; and

- (iv) if the Bank agrees to a moratorium on a Facility in respect of principal and interest payments, any premium payments in respect of that Facility shall not be debited to the Borrower's account in accordance with the terms of the letter of sanction for the duration of that moratorium period, but those premium amounts will instead be capitalised and will be debited in full to the Borrower's account after the moratorium period has ended;
- (b) the Bank, the SBCI, and/or the DETE may be obliged to divulge information relating to the Borrower and the Facility to any competent EU body in accordance with the relevant mandatory provisions of EU law;
- (c) the Bank may provide information about the Borrower, its business, and the Facility to the DETE, and other Relevant Parties, any EU body and any State body;
- (d) pursuant to Article 5(1)(a) of Regulation (EU) No 2018/1725 of the European Parliament and of the Council, dated 23 October 2018, as amended, relating to the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies and agencies and on the free movement of such data as amended, restated, supplemented or substituted from time to time (the "Data Protection Regulation"), the name, address and purpose of the Borrower and other personal data information in connection with the Facility will be communicated to the Commission and pursuant to Article 6(1)(e) of Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "GDPR"), the name, address and purpose of the Borrower and other personal data information in connection with a Facility will be communicated to the SBCI (acting as processor) and the Minister for Enterprise, Trade and Employment, acting by the DETE;
- (e) any personal data communicated to the SBCI, DETE and/or the Commission will be stored for ten (10) years after the termination of the Covid-19 Credit Guarantee Scheme;
- (f) requests by the Borrower to verify, correct, delete or otherwise modify personal data communicated to the DETE and/or the Commission, as the case may be, should be addressed to the DETE and/or the Commission, as applicable, at the following address:

| IN RESPECT OF: | ADDRESS: |
|--------------------|---|
| Commission: | Commission Européenne Directorate General Economic and Financial Affairs L-2920 Luxembourg Grand Duchy of Luxembourg Attention: European Data Protection Supervisor |
| DETE: | 23 Kildare Street, Dublin 2 Attention: Data Protection Officer |

Such requests shall be treated by the Commission as described in Articles 17 to 24 of the Data Protection Regulation; and/or by the DETE as described in Articles 15 to 22 GDPR; and

- (g) pursuant to Article 63, paragraph (1) of the Data Protection Regulation, the Borrower may lodge a complaint with the European Data Protection Supervisor if he, she or they consider(s) that his, her or their rights under Article 16 of the Treaty on the Functioning of the EU or the Data Protection Regulation have been infringed as a result of the processing of personal data by the Commission and pursuant to Article 77 GDPR, the Borrower may lodge a complaint with the Data Protection Commission if he, she or they considers that his, her or their rights under the GDPR have been infringed as a result of the processing of the personal data by the SBCI and the DETE.

For the avoidance of doubt, any reference to personal data in this section shall mean personal data as defined in the Data Protection Regulation and GDPR.

Terms and conditions apply.

Allied Irish Banks, p.l.c. is regulated by the Central Bank of Ireland.