

EXECUTION VERSION

**ISSUER DISTRIBUTION
ACCOUNT BANK AGREEMENT**

11 OCTOBER 2019

**DELAMARE CARDS MTN ISSUER PLC
(Issuer)**

**ELAVON FINANCIAL SERVICES DAC, UK BRANCH
(Account Bank)**

**TESCO PERSONAL FINANCE PLC
(TPF, Cash Manager and Bank Account Operator)**

and

**THE BANK OF NEW YORK MELLON, LONDON BRANCH
(Note Trustee)**

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THIS AGREEMENT is made on 11 October 2019

BETWEEN:

- (1) **DELAMARE CARDS MTN ISSUER PLC**, a public limited company incorporated in England & Wales on 22 July 2008 with company number 6652499 and having its registered office at Asticus Building, 2nd Floor, 21 Palmer Street, London SW1H 0AD (**Issuer**);
- (2) **ELAVON FINANCIAL SERVICES DAC, UK BRANCH** a designated activity company registered in Ireland with the Companies Registration Office (registered number 418442), with its registered office at Block E, Cherrywood Science & Technology Park, Loughlinstown, Co. Dublin 16, Ireland, acting through its UK Branch (registered number BR009373), from its offices at 125 Old Broad Street, Fifth Floor, London EC2N 1AR (including its successors, the **Account Bank**);
- (3) **TESCO PERSONAL FINANCE PLC**, a public limited company incorporated in Scotland with company number SC173199 and having its registered office at 2 South Gyle Crescent, Edinburgh EH12 9FQ (**TPF**, the **Cash Manager** and the **Bank Account Operator**); and
- (4) **THE BANK OF NEW YORK MELLON**, acting through its London Branch at One Canada Square, London E14 5AL (as **Note Trustee**, which expression shall include the trustee or co-trustees and its successors as Note Trustee pursuant to the Note Trust Deed as hereinafter defined).

WHEREAS:

- (A) TPF has issued and will from time to time issue credit cards within the United Kingdom, and TPF may, from time to time, assign to the Receivables Trustee as trustee of a trust (the **Delamare Cards Receivables Trust**) established by a declaration of trust dated 24 April 2013 certain present and future receivables arising under certain MasterCard[®] and VISA[®] revolving credit card accounts in respect of such credit cards.
- (B) The Account Bank has agreed to maintain the Account opened with it by the Issuer, on the terms and subject to the conditions contained in this Agreement.

IT IS HEREBY AGREED as FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless otherwise defined in this Agreement or the context requires otherwise, words and expressions used in this Agreement including the recitals hereto shall have the meanings and constructions given to them in Schedule 1 (Master Definitions Schedule) to the issuer master framework agreement dated 31 October 2008 as amended and restated on 24 April 2013, on 19 May 2014, on 1 November 2017 and on 11 October 2019 between, *inter alios*, the parties to this Agreement (as the same may be amended, varied, restated, replaced, novated and/or supplemented from time to time) (the **Issuer Master Framework Agreement**).

Unless the contrary intention appears, expressions used in this Agreement have the meaning which they bear in the rules made by the relevant Regulatory Authority under the Financial Services and Markets Act 2000.

1.2 Incorporation of Common Terms

(a) The Common Terms set out in Schedule 2 and the Notices Details set out in Schedule 3 to the Issuer Master Framework Agreement apply to this Agreement, where applicable, and shall be binding on the parties to this Agreement as if set out in full in this Agreement.

(b) In this Agreement:

Account means the Issuer Distribution Account;

Authorised Person means a person named as such in the List of Authorised Signatories (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions) an authorised representative of the Note Trustee);

Callback Contact means a person named as such in the List of Authorised Signatories;

Central Bank means the Central Bank of Ireland;

Client Assets Sourcebook means the CASS sourcebook as set out in the FCA Rules;

Client Money Distribution and Transfer Rules means the client money distribution and transfer rules set out in Chapter 7A of the Client Assets Sourcebook;

Client Money Rules means the client money rules set out in Chapter 7 of the Client Assets Sourcebook of the FCA Rules;

electronic means transfers by way of the Clearing House Automated Payment System or such other system(s) as may replace it;

Electronic Banking customer agreement means the agreement between the Issuer and the Account Bank relating to the provision of the Services;

FCA Rules means the rules promulgated by the Financial Conduct Authority under FSMA as amended or replaced from time to time;

FSMA means the Financial Services and Markets Act 2000;

Instructions means any written instructions or directions in the form set out in Schedule 2 and provided by an Authorised Person in accordance with Clause 3.2 (Notices and Instructions) and Clause 5.1 (Timing of Payment) or any instructions or directions made in accordance with the terms and conditions of the Electronic Banking customer agreement;

Issuer Distribution Account means the account entitled "Delamare Cards MTN Issuer Plc Distribution Account" in the name of the Issuer and maintained by the Account Bank, having account number 73542801, sort code 00-99-64, or any successor or replacement to such account at any other branch of the Account Bank or a Qualified Institution;

List of Authorised Signatories means a certificate in substantially the form set out at Schedule 3 (Authorised Persons and Callback Contacts) which has been duly completed, signed and delivered by the Issuer and the Bank Account Operator to the Account Bank, as may be amended from time to time in accordance with Clause 3.2(e);

Mandate means the resolutions and instructions relating to the Account in the form set out in the Schedule hereto as may be amended from time to time by the Issuer with the prior written consent of TPF and notified as provided herein;

Priority of Payments means as applicable (i) prior to any Enforcement Notice, the priority of payments (as specified in the Note Trust Deed and each relevant Note Trust Deed Supplement and (ii) after any Enforcement Notice, the priority of payments as specified in Condition 4;

Regulations means those rules that apply to the Account Bank as promulgated by any Regulatory Authority;

Regulatory Authority means any regulatory authority to which the Account Bank is subject in Ireland and the United Kingdom, including the Central Bank, the Financial Conduct Authority and the Prudential Regulation Authority;

Services means any electronic banking or related services and ancillary services that the Account Bank provides, procures or makes available from time to time; and

System means an electronic banking system (including any software) of the Account Bank (if made available by the Account Bank) which the Issuer and the Bank Account Operator wish to use to operate the Account in connection with this Agreement, such system being accessed via such access point or means as the Account Bank may notify from time to time.

1.3 Limited recourse and non-petition

Paragraphs 8 (Limited Recourse; Non-Petition) and 10 (Obligations as Corporate Obligations) of the Common Terms apply to this Agreement and shall be deemed set out in full herein.

1.4 Conflict with Common Terms

If there is any conflict between the provisions of the Common Terms and the provisions of this Agreement, the provisions of this Agreement shall prevail.

1.5 Further assurance

For the purpose of this Agreement, paragraph 1 (Further Assurance) of Schedule 2 to the Issuer Master Framework Agreement applies to this Agreement as if set out in full in this Agreement, and as if the Issuer was the Obligor (as defined therein) and the Account Bank was the Obligee (as defined therein).

2. APPOINTMENT

2.1 Appointment

- (a) The Issuer hereby appoints Elavon Financial Services DAC, UK Branch to be the Account Bank and instructs the Account Bank to open and maintain the Account on the terms and subject to the conditions of this Agreement.
- (b) The Account Bank accepts such appointment on the terms and subject to the conditions of this Agreement.

2.2 Effectiveness of appointment

The appointment of the Account Bank pursuant to this Agreement shall automatically become effective from the date hereof without any need for further action on the part of any person.

2.3 Duration

The appointment of the Account Bank under this Agreement will continue until termination under Clause 13 (Termination).

2.4 Power and authority

The Account Bank will, subject to the terms and conditions of this Agreement, have the full power, authority and right to do or cause to be done any and all things which the Account Bank reasonably considers necessary, convenient or incidental to the performance of its services under this Agreement or any other Transaction Document to which it is a party (in such capacity) unless it receives written notice to the contrary from the Issuer or the Note Trustee.

2.5 Tax Status

- (a) The Account Bank represents that it is a bank for the purposes of Section 991 of the Income Tax Act 2007, is entering into this Agreement in the ordinary course of its business, will pay interest pursuant hereto in the ordinary course of its business, will bring into account payments and receipts (other than deposits) made under this Agreement in computing its income for United Kingdom corporation tax purposes and undertakes that it will not cease to be so or to do so otherwise than as a result of the introduction of, change in, or change in the interpretation, administration or application of, any law or regulation or any practice or concession of HM Revenue & Customs occurring after the date of this Agreement.
- (b) The Account Bank undertakes to notify the Issuer and the Note Trustee promptly if, at any time during the term of this Agreement, any of the statements contained in Clause 2.5(a) cease to be true.
- (c) Subject to Clause 2.5(d), if the Issuer exercises its right to appoint or select a successor account bank, the Issuer will procure that any successor account bank will provide the same representation as to its Tax status as is provided by the Account Bank in Clause 2.5(a) above and 13.3(a) below.
- (d) If the Account Bank exercises its right to select any successor account bank in accordance with this Agreement, the Account Bank will procure that any successor, assignee or replacement account bank will provide the same representation as to its Tax status as is provided by the Account Bank in Clause 2.5(a) above and Clause 13.3(a) below.

2.6 Regulatory status

- (a) The Account Bank is authorised and regulated by the Central Bank and its activities in the United Kingdom are subject to limited regulation by the Prudential Regulation Authority and the Financial Conduct Authority.
- (b) The Account Bank has permission under the FSMA to carry on the regulated activity of accepting deposits.

2.7 No regulated activities

Nothing in this Agreement shall require the Account Bank to carry on an activity of the kind specified by any provision of Part II (other than article 5 (accepting deposits)) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or to lend money to the Issuer.

2.8 Money held as banker

All money held for the Issuer is held by the Account Bank as banker and not as a trustee under the Client Money Rules. If the Account Bank fails, the Client Money Distribution and Transfer Rules will not apply to such money and so the Issuer will not be entitled to share in any distribution under the Client Money Distribution and Transfer Rules. The Account Bank shall not exercise any right of set-off, lien or similar claim in respect of the money and, subject to Clause 7 (Interest), it shall not be liable to account to the Issuer (as applicable) for any interest, profit or other amounts in respect of the money.

2.9 No implied duties

The Account Bank shall be obliged to perform such duties and only such duties as are expressly set out in this Agreement and no implied duties or obligations of any kind (including, without limitation, duties or obligations of a fiduciary or equitable nature) shall be read into this Agreement against the Account Bank. In no event will the Account Bank be required or obliged to do anything which would, at such time, be illegal or contrary to any rules or regulations and/or policies applicable to it.

2.10 Reliance on Instructions and communications from authorised persons

- (a) The Account Bank is entitled to treat any notice, instruction, request or order given in accordance with Schedule 3 (Notice Details) to the Issuer Master Framework Agreement from a person purporting to be (and whom the Account Bank believes in good faith to be) an Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions) the Note Trustee) as sufficient instructions and authority of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee) for the Account Bank to act.
- (b) The Account Bank shall be protected and incur no liability for or in respect of any action taken, omitted or suffered in reliance upon such notice, instruction, request or order referred to in (a) above, or any document which it reasonably believes to be genuine and to have been delivered by the proper party or parties or upon written instructions from an Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee).
- (c) The Account Bank in making payment from the Account, in accordance with this Agreement, shall be entitled to act as directed by an Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee) pursuant to Clause 3.2 and to rely as to the amount of any such transfer or payment on the confirmation of an Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee) in accordance with the Mandate.
- (d) The Account Bank may in connection with its acting under this Agreement, assume that all conditions for the making of any payment out of the amount standing to the credit of the Account which are specified in any Instruction from the Issuer, the Bank Account Operator or the Note Trustee have been satisfied, unless it has actual notice to the contrary.
- (e) Notwithstanding anything to the contrary express or implied herein (but subject to Clause 2.10(b) above), the Account Bank shall not:

- (i) unless required by law, be bound by or recognise any lien, pledge or security interest (or similar entitlement to any cash held for the Issuer) for the benefit of any person, other than the Issuer's and Bank Account Operator's entitlement under this Agreement and the Note Trustee's entitlement under the Security Documents. For the avoidance of doubt, the Account Bank shall in no circumstances have any obligation to, and shall not: (i) review, or monitor compliance by the Issuer with, any term of any other Transaction Document, Document or Series Document; (ii) take or omit any action by reference to any terms of the Transaction Documents, Documents or Series Documents; (iii) have any responsibility for the perfection, preservation or accuracy of any filing of any security; or (iv) have any responsibility for the adequacy, sufficiency or efficacy of any security granted under any Transaction Document, Document or Series Document;
- (ii) have any responsibility to ensure that the information set out in any Instructions received by it hereunder is correct or to check or to enquire as to or otherwise be affected by whether any condition has been or will be met or fulfilled or any Instruction is properly given on behalf of the person from whom it purports to be given or any Instruction is given properly; or
- (iii) have any responsibility to any party if any Instruction which should be given by the Issuer, the Bank Account Operator or the Note Trustee to the Account Bank under and in connection with this Agreement or any other agreement or document (as applicable) is for any reason not received by the Account Bank or is not made at the time it should be made.
- (f) Each of the parties agrees that it will not assert or seek to assert against any director, officer or employee of any other party any claim it might have against that party in respect of this Agreement.
- (g) Notwithstanding any other provision of this Agreement, the Account Bank may make a payment out of the Account in accordance with a final, non-appealable decision of a court of competent jurisdiction.
- (h) If the Account Bank becomes aware of confidential information which prevents it from effecting a particular transaction under this Agreement, then the Account Bank may refrain from effecting that transaction without any obligation to disclose the reasons for doing so to the Issuer, the Bank Account Operator and/or the Note Trustee.

2.11 Other interests

Any of the Account Bank, its officers, directors and employees may become the owner of, and/or acquire any interest in, any Notes with the same rights that it or he would have had if the Account Bank were not appointed under this Agreement, and may engage or be interested in any financial or other transaction with the Issuer and may act on, or as depositary, trustee or agent for, any committee or body of holders of Notes or other obligations of the Issuer, as freely as if the Account Bank were not appointed under this Agreement. The Account Bank shall be entitled to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transaction without regard to the interests of the Issuer and notwithstanding that the same may be contrary or prejudicial to the interests of the Issuer and shall not be responsible for any loss or damage occasioned to the Issuer thereby and shall be entitled to retain and shall not be in any way liable to account for any profit made or share of brokerage or commission or remuneration or other amount or benefit received thereby or in connection therewith.

2.12 Compliance

- (a) The Account Bank shall be entitled to take any action or to refuse to take any action, and shall have no liability for taking or refusing to take action, which the Account Bank regards

as necessary for the Account Bank to comply with any applicable policy, law, regulation or fiscal requirement (whether or not having the force of law) affecting it, or the rules, operating procedures or relevant market practice of any relevant stock exchange or other market or clearing system.

- (b) The Issuer acknowledges and agrees that the Account Bank:
 - (i) has a duty to comply with all relevant Regulations and applicable anti-money laundering laws, regulations and rules in the United Kingdom and the United States; and
 - (ii) may be required to report suspicious transactions to the appropriate law enforcement agencies.

2.13 Agent of the Issuer only

In acting under this Agreement, the Account Bank shall act solely as a banker of the Issuer and will not assume any obligation or responsibility towards or relationship of agency or trust for or with any of the owners or holders of the Notes or any other third party.

2.14 Validity of Transaction Documents

The Account Bank shall not be responsible to anyone with respect to the validity of this Agreement or any other Transaction Document.

2.15 Account Bank not responsible on the Issuer's default

The Account Bank shall have no duty or responsibility in the case of any default by the Issuer in the performance of its obligations under the Conditions.

2.16 Reliance on advisors

The Account Bank may, at the expense of the Issuer (provided that the costs in respect of such legal and other professional advice has been first approved in writing by the Issuer and the Bank Account Operator and such approval is not unreasonably withheld or delayed), in connection with its duties, rights, discretions and obligations hereunder, consult with legal and other professional advisers and the opinion of the advisers shall be full and complete protection in respect of any action taken, omitted or suffered under this Agreement in good faith and in accordance with the opinion of the advisers.

2.17 No additional liability or expense

The Account Bank shall not be under any obligation to take any action under this Agreement which it expects will result in any expense or liability to which Clause 11.1 (Indemnity) applies accruing to it, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it, or which are, or which it is reasonable to assume are, covered by its fees.

2.18 Several obligations

The obligations of the agents under this Agreement are several and not joint.

2.19 Data Protection

The Account Bank may collect, use and disclose personal data about the Issuer and/or other transaction parties (if any are an individual) or individuals associated with the Issuer and/or other

transaction parties as is necessary in order to permit the Account Bank to carry out its obligations to the Issuer and for auditing, monitoring and analysis of its business, fraud and crime prevention, money laundering, legal and regulatory compliance. The Account Bank will keep the personal data up to date. The Account Bank may also transfer the personal data to its Affiliates or any third party contractor in any country (including countries outside the European Economic Area where there may be less stringent data protection laws) to process information on the Account Bank's behalf. Wherever it is processed, the personal data will be protected by a strict code of secrecy and security to which all members of the Account Bank's corporate group, their staff and any third parties are subject, and will only be used in accordance with the Account Bank's instructions.

3. THE ACCOUNT

3.1 Establishment of Account

The Issuer hereby agrees to deliver the Mandate in the form set out in Schedule 1 (Bank Mandate) to the Account Bank and the Account Bank hereby confirms that:

- (a) it has received from the Issuer the Mandate; and
- (b) the Mandate is operative and will, in conjunction with the terms of this Agreement, govern all arrangements relating to the Account.

3.2 Notices and instructions

- (a) The Issuer, the Bank Account Operator and the Note Trustee hereby agree to ensure that all Instructions given to the Account Bank are given by an Authorised Person and are sufficient to enable the Account Bank to operate the Account in accordance with the terms of this Agreement and the Mandate.
- (b) The Account Bank shall comply with any Instruction of an Authorised Person in respect of the Issuer or the Bank Account Operator unless or until instructed otherwise by the Note Trustee, to debit the Account but only if the relevant Instruction:
 - (i) is in respect of a specified sum of money;
 - (ii) is in writing or, in the case of a transfer of funds by electronic transmission, evidenced in accordance with normal banking practice for such transfers; and
 - (iii) complies with the Mandate.
- (c) In no event shall the Account Bank be liable for any Losses arising from the Account Bank receiving or transmitting any data to the Issuer and/or the Bank Account Operator and/or the Note Trustee (or any Authorised Person) via any non-secure method of transmission or communication, such as, without limitation, by facsimile or email. The Issuer, the Bank Account Operator and the Note Trustee accept that some methods of communication are not secure and the Account Bank shall incur no liability for acting upon any notice, Instructions or other communications received by any such non-secure method. The Issuer, the Bank Account Operator and the Note Trustee agree that the security procedures, if any, to be followed in connection with a transmission of any such notice, Instructions or other communications, provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.
- (d) Prior to giving any Instructions to the Account Bank, the Issuer and the Bank Account Operator shall provide the Account Bank with a certificate in the form set out in Schedule 3

(the **List of Authorised Signatories**) containing (i) the names, specimen signatures and contact telephone numbers of each Authorised Person and (ii) the names and telephone numbers of each Callback Contact that the Account Bank is authorised to contact to authenticate Instructions with respect to the Account. The Account Bank is authorised to comply with and rely upon any such notices, Instructions or other communications believed by it to have been sent or given by any Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions) the Note Trustee) in accordance with the terms of this Agreement and the Mandate without being under any obligation to verify or ascertain its truthfulness, genuineness, correctness or adequacy.

- (e) The Issuer and the Bank Account Operator may amend the List of Authorised Signatories or add any person to or delete any person from such List of Authorised Signatories by delivering a replacement List of Authorised Signatories to the Account Bank. However, until the Account Bank actually receives such replacement List of Authorised Signatories, the Account Bank may rely upon, and shall incur no liability for relying upon, the most recent List of Authorised Signatories provided to it. The Issuer, Bank Account Operator and the Note Trustee shall be responsible for ensuring that only Authorised Persons transmit such Instructions to the Account Bank and that all Authorised Persons treat applicable user and authorisation codes, passwords and authentication keys with extreme care.
- (f) The Issuer, the Bank Account Operator and (where applicable) the Note Trustee shall use all reasonable endeavours to ensure that Instructions transmitted to the Account Bank pursuant to this Agreement are correct and complete. Any Instructions shall be conclusively deemed to be valid Instructions to the Account Bank for the purposes of this Agreement. The Account Bank may in its sole discretion decline to make any payment or otherwise act upon any instructions which are insufficient or incomplete (other than any Instructions duly completed in the form of Schedule 2 (Form of Instructions)), not permissible or in line with internal or regulatory requirements, do not comply with any callback or other procedures required by the Account Bank from time to time, or are not received by the Account Bank in sufficient time for the Account Bank to act upon such Instructions (subject to Clause 5 (Timing of Payments) below) or it is unable to verify any signature on an Instruction against the specimen signature provided for the relevant Authorised Person. When legally able to do so, the Account Bank shall inform the Issuer in such case as soon as reasonably practicable. For the avoidance of doubt, where the Account Bank has callback procedures in relation to Instructions, the Account Bank may at its sole discretion, but shall have no obligation to, apply such procedures.
- (g) The Issuer undertakes to provide the Account Bank promptly upon request with all the information and documentation in its control that the Account Bank may reasonably require in order to allow the Account Bank to perform its duties under this Agreement and the Account Bank is hereby authorised to rely and act upon such information and documentation as it shall receive from the parties.

3.3 Cash Manager

The parties hereto agree that for so long as the Cash Manager and the Bank Account Operator remain the same entity, the Cash Manager shall be entitled to make the withdrawals, payments, debits, credits, transfers, applications and other movements of monies to or from the Account as described in this Agreement on the same terms and subject to the same provisions as those applicable to the Bank Account Operator as set out herein.

3.4 ELECTRONIC BANKING SYSTEM

Notwithstanding anything to the contrary herein, the Issuer and the Bank Account Operator may operate the Account via the System if available. To the extent the Account is operated within the System, it shall be operated by the Issuer and/or the Bank Account Operator subject to the System, the Services and the terms of the Electronic Banking customer agreement (and the Account Bank's control over the Account is limited accordingly). In the event the Account is operated outside of the System and/or the System is not operational for any reason, the Account Bank shall, in relation to the Account, send all notices to, and comply with the instructions of, an Authorised Person of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee) provided that such instructions are Instructions given in accordance with, and comply with, the terms of this Agreement and the Mandate. This Agreement is subject to the Electronic Banking customer agreement. The Electronic Banking customer agreement shall apply only with respect to the System or Services.

4. BANK STATEMENTS

Until the Account Bank shall have been notified by the Issuer that none of the Notes are outstanding, the Account Bank shall provide each of the Issuer and the Bank Account Operator with a monthly statement in respect of the Account on the first Business Day of the month or upon request from time to time, and in the latter case such statement shall be provided as soon as reasonably practicable after receipt of a request for a statement.

5. TIMING OF PAYMENTS

- 5.1 The Account Bank agrees that if it receives an Instruction in respect of a transfer of funds, in or substantially in the form of Schedule 2 (Form of Instruction), it shall make the transfer referred to in such Instruction for value on the Business Day specified in such Instruction (the **Transfer Day**), **provided that** (i) the Transfer Day must be no earlier than the day such Instruction is received by the Account Bank and (ii) if (x) such Instruction is received by the Account Bank after the Cut-off Time (as defined below) on the Transfer Day or (y) the Transfer Day is not a Business Day, and the Account Bank determines that it is unable to make the transfer requested in such Instruction for value on that Transfer Day in accordance with the provisions of this Clause 5, then the Account Bank shall make such transfer for value as soon as reasonably practicable on the following Business Day.
- 5.2 The Issuer or the Bank Account Operator shall, no later than 3.00 p.m. (London time) (the **Cut-Off Time**) on the Business Day upon which any payment is due to be made from the Account submit to the Account Bank irrevocable Instructions in compliance with the Mandate, as to the payments to be made out of the Account on such date.
- 5.3 The Account Bank is not liable where, upon receipt of an Instruction from an Authorised Person in respect of the Issuer or the Bank Account Operator (or, after receiving notification from the Note Trustee pursuant to Clause 9 (Compliance with Instructions), the Note Trustee), it has acted in accordance with the provisions in this Clause 5 (Timing of Payments) for effecting a transfer from the Account, but, owing to a technical or administrative problem beyond the control of the Account Bank, payment cannot be made for value on the required day.
- 5.4 Notwithstanding the provisions of this Clause 5, the Account Bank shall not be obliged to make any payment if the making of such payment would cause the Account to have a negative balance. Furthermore, without prejudice to Clause 5.8, credits are only required to be made to the Account when the Account Bank is satisfied that it has received cleared funds and the Account Bank shall have no obligation whatsoever to extend any credit or to make advance of any cash to the Issuer or

any other party to facilitate the execution of any Instruction. No liability shall attach to the Account Bank if there are insufficient funds to make a payment in whole or in part.

- 5.5 The Account Bank hereby agrees that it will notify the Issuer, the Bank Account Operator and the Note Trustee if the Account has a negative balance, such notification to be given immediately and not later than the first Business Day after it determines that such account has a negative balance.
- 5.6 The Account Bank shall not have responsibility to any party for any failure by the Account Bank to take any step or action required under this Agreement if the failure to take such step or action is a result of the Account Bank not receiving (for any reason) any Instruction which is required to be given by the Issuer, the Bank Account Operator, the Note Trustee or any other authorised party to the Account Bank under and in connection with this Agreement prior to the Account Bank taking such step or action.
- 5.7 The Account Bank is under no duty to enquire whether funds withdrawn from the Account are actually applied for the purpose for which they were withdrawn or that any Instruction or direction by the relevant party is accurate, correct or in accordance with this Agreement or any other transaction document.
- 5.8 Any debit from or credit to the Account shall be made by the Account Bank in accordance with its usual practice and, in the case of credits made by the Account Bank in its sole discretion in anticipation of the receipt of funds, subject to receipt of such immediately available funds. In the event that such funds are not received or payment is reversed, the Account Bank may debit the Account with an amount representing (i) funds which are not actually received for value at such later date or (ii) the reversed payment. If the Issuer becomes indebted to the Account Bank (including indebtedness incurred as a result of overdrafts in the Account), on the Interest Payment Date immediately following the last day of the calendar month in which the Account Bank becomes aware of the amount of the advance, overdraft or indebtedness and in accordance with the applicable Priority of Payments, the Issuer shall pay to the Account Bank such amounts in the same currency plus any interest on such amounts and the relevant cost of funding as certified by the Account Bank to the Issuer. For the purposes of this Agreement, payment will not be "final" until the Account Bank has received immediately available funds which, under applicable local laws, regulations, rules, customs or practices, are not reversible and are not subject to any encumbrance.
- 5.9 The Issuer represents that no other security over the Account has been granted other than under the Note Trust Deed as supplemented by the relevant Note Trust Deed Supplement.
- 5.10 In making any transfer or payment from the Account, the Account Bank may in its sole discretion use (and its performance will be subject to the rules of) any communications, clearing or payment system or other system and any correspondent banks.

6. AUTHORITY TO ACT

- 6.1 The Account Bank, in making any payment from the Account shall be entitled to act:
- (a) before the receipt of a notice pursuant to Clause 9 (Compliance with Instructions) or 9(b) (Compliance with Instructions), as instructed by the Issuer or the Bank Account Operator; or
 - (b) following receipt of a notice pursuant to Clause 9 (Compliance with Instructions), as instructed by the Note Trustee; or
 - (c) following receipt of a notice pursuant to Clause 9(b) (Compliance with Instructions) and before receipt of a notice pursuant to Clause 9(a) (Compliance with Instructions), as instructed by the Note Trustee or any successor bank account operator (subject to the

successor bank account operator having entered into an agreement with the Account Bank on substantially the same terms as this Agreement).

- 6.2 In the case of any conflict between any valid instructions given to the Account Bank in respect of the Account by the Note Trustee and any other person, the instructions of the Note Trustee will prevail.

7. INTEREST

- (a) The Account Bank may hold cash in the Account subject to and in accordance with applicable local law, rule or practices. Where cash is on deposit with the Account Bank, it will be subject to the terms of this Agreement and such deposit terms and conditions as may be issued by the Account Bank from time to time, including rates of interest (including negative interest where applicable) and deposit account access. If in respect of Sterling:
- (i) any recognised overnight benchmark rate or any official overnight interest rate set by a central bank or other monetary authority is negative or zero; or
- (ii) any market counterpart or market maker applies a negative interest rate or any related charge to any account or balance of the Account Bank or any Account or balance opened for the Issuer by the Account Bank,

the Account Bank may adjust the interest rate applicable to any such Account or balances. The Account Bank will give the Issuer prompt written notice of the application of any such change.

- (b) The Issuer, the Account Bank Operator and the Note Trustee each acknowledges and agrees that the application of a charge or an interest rate adjustment by the Account Bank, including as referred to in paragraph (a) above, may cause the effective interest rate applicable to an Account or balance to be negative, notwithstanding that one or more of the rates set by third parties specified in paragraph (a) above may be zero.
- (c) If a negative interest rate is applied to the Account pursuant to this Clause 7, the relevant charged interest will be billed (and a written invoice will be delivered) to the Issuer by the Account Bank and will be paid concurrently with the fees payable by the Issuer to the Issuer Account Bank, subject to the applicable Priority of Payments **provided that** the Account Bank has delivered a written invoice to the Issuer in respect of the relevant charged interest.

8. FEES AND CHARGES

- 8.1 The fees and charges of the Account Bank for the operation of the Account including any such fees and charges due and payable to the Account Bank shall be payable by the Issuer in accordance with the relevant Priority of Payments **provided that** either (x) the Account Bank has delivered a written invoice to the Issuer in respect of the relevant fee or charge or (y) the amount of such fee or charge is expressly agreed to be payable to the Account Bank in the fee letter entered into between the Issuer and the Account Bank dated on or about the date hereof. Such payment shall be (i) limited to the amount comprising the Loan Note Holder's Costs Amount, and (ii) subject as provided in Clause 10.4 (Restriction on Exercise of Certain Rights). The fees and charges charged by the Account Bank for the operation of the Account will be as separately agreed from time to time between the Account Bank and the Issuer.
- 8.2 The Issuer shall also pay to the Account Bank any VAT for which it may become accountable in respect of services provided to the Issuer under this Agreement as calculated on the fees and charges received by it under Clause 8.1 together with all reasonable expenses (including such part as represents VAT but save to the extent that the Account Bank is entitled to obtain credit in respect of

or repayment of such VAT from any relevant Tax Authority) incurred by the Account Bank in connection with its services under this Agreement. Unless otherwise agreed, the fees, commissions and expenses payable to the Account Bank for services rendered and the performance of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Account Bank (or to its knowledge by any of its associates) in connection with any transaction effected by the Account Bank with or for the Issuer.

9. COMPLIANCE WITH INSTRUCTIONS

It is agreed as follows:

- (a) as soon as reasonably practicable upon receipt of a copy of a Security Protection Notice (as defined in the relevant Note Trust Deed Supplement) or an Enforcement Notice from the Note Trustee, the Account Bank will comply at all times with any instruction of the Note Trustee and the Account Bank shall be entitled to rely on any instruction in writing given which, in its opinion (acting reasonably and in good faith), purports to be given by any authorised person of the Note Trustee;
- (b) as soon as reasonably practicable upon receipt of a notice from the Note Trustee to the effect that the Bank Account Operator's appointment as Bank Account Operator has terminated, the Account Bank will comply with any instruction of the Note Trustee or any successor bank account operator (subject to the successor bank account operator having entered into an agreement with the Account Bank on substantially the same terms as this Agreement);
- (c) the Account Bank may assume that no Security Protection Notice or Enforcement Notice has been given and that no party to this Agreement is in breach of, or in default of, its obligations hereunder, unless it has actual written notice to the contrary; and
- (d) the Account Bank shall not be bound to enquire as to the occurrence or otherwise of an Event of Default or Loan Note Event of Default, the service of a Security Protection Notice or an Enforcement Notice or the performance by any party to this Agreement or the other Transaction Documents of its obligations hereunder or thereunder.

10. RESTRICTION ON EXERCISE OF CERTAIN RIGHTS

10.1 The Account Bank waives any right it has or may acquire to combine, set-off, consolidate or merge the Account with:

- (a) any other account of the Issuer, the Bank Account Operator, the Note Trustee or any other person; or
- (b) any liabilities of the Issuer, the Bank Account Operator, the Note Trustee or any other person to the Account Bank.

10.2 Save as otherwise expressly stated herein, the Account Bank hereby agrees that it may not and shall not exercise and hereby waives any lien, any security interest, set-off, counterclaim, suspension of performance or other rights in respect of or transfer any sum standing to the credit of or to be credited to the Account, in or towards satisfaction of any liabilities to it of the Issuer, the Bank Account Operator, the Note Trustee or any other person.

10.3 In the event that the Account Bank breaches its obligations in Clauses 10.1 (Restriction on Exercise of Certain Rights) and 10.2 (Restriction on Exercise of Certain Rights), the Account Bank shall as soon as reasonably practicable re-credit the Account, with the amount required to restore the balance

on the Account to that which it would have been if no such breach had occurred, without prejudice to any other liability which may arise in respect thereof.

- 10.4 Notwithstanding any other provision of this Agreement or any other Transaction Document the Account Bank agrees that amounts owing to it by the Issuer or the Note Trustee under this Agreement, shall be payable by the Issuer to the extent the Issuer has sufficient funds available or (following enforcement of the Security) the Note Trustee has realised sufficient funds from the Security to pay such sum, subject to and in accordance with the relevant Priority of Payments.
- 10.5 The Account Bank hereby acknowledges that the Issuer has, pursuant to the Note Trust Deed as supplemented by each Note Trust Deed Supplement, *inter alia*, charged by way of security any rights, interests, claims or receivables to which the Issuer is entitled in respect of the Account and under this Agreement to the Note Trustee.

11. INDEMNITY

- 11.1 The Issuer shall indemnify and keep the Account Bank indemnified against all losses, liabilities, costs, claims, actions, damages, expenses and demands (together, **Losses**) (including, but not limited to, all properly incurred costs, legal fees, charges and expenses (together, **Expenses**) paid or incurred in disputing or defending any actions, proceedings or claims) which the Account Bank may incur or which may be made or brought against it as a result of or in connection with its appointment or the exercise of its powers or duties under this Agreement including, without limitation, by reason of its complying with or relying upon any such notice, Instruction or other communication given by the Issuer pursuant to this Agreement, save that this indemnity shall not extend to (i) any Losses or Expenses resulting from its own wilful default, negligence or fraud or that of its directors, officers or employees, (ii) any Losses or Expenses arising in respect of Tax (other than VAT or similar tax) imposed on or calculated by reference to the net income received or receivable by the Account Bank and, (iii) any Losses and Expenses incurred and paid by the Issuer pursuant to Clause 8.1 of this Agreement.
- 11.2 The Account Bank will only be liable to the Issuer and/or the Note Trustee for Losses arising directly from the performance of its obligations under this Agreement suffered by or occasioned to the Issuer (and/or the Note Trustee where applicable) to the extent that the Account Bank has been negligent, fraudulent or in wilful default in connection with the performance of its obligations under this Agreement.
- 11.3
- (a) Subject to paragraph (b) below, in order to comply with applicable tax laws (inclusive of any current and future laws, rules, regulations, intergovernmental agreements and interpretations thereof promulgated by competent authorities) related to this Agreement in effect from time to time (**Applicable Law**) that a foreign financial institution, issuer, trustee, paying agent or other party is or has agreed to be subject to, the Issuer agrees (i) to provide to the Account Bank sufficient information about the parties and/or transactions (including any modification to the terms of such transactions) reasonably requested by the Account Bank so the Account Bank can determine whether it has tax-related obligations under Applicable Law provided such information is within (or should reasonably be within) the Issuer's possession, (ii) that the Account Bank shall be entitled to make any withholding or deduction from payments required by Applicable Law for which the Account Bank shall not have any liability, and (iii) to hold harmless the Account Bank for any losses it may suffer due to the reasonable actions it takes to comply with Applicable Law except where such losses arise as a result of the fraud, wilful misconduct or negligence of the Account Bank.

- (b) The Issuer is not obliged to do anything under paragraph (a) above which would or might in its reasonable opinion constitute a breach of any applicable law or regulation, fiduciary duty or duty of confidentiality.

11.4 In no event, whether for negligence, breach of contract, misrepresentation or otherwise, shall the Account Bank (other than to the extent specified in this Agreement) be liable for:

- (a) any loss of profits, business or opportunity or any indirect, special or consequential Losses (including, but not limited to, loss of business, goodwill, opportunity or profit), or any special or punitive damages of any kind whatsoever; in each case however caused or arising and whether or not such liability is foreseeable and even if the Account Bank has been advised or was aware of the possibility of such losses and regardless of whether the claim for loss or damage is made in negligence, for breach of contract or otherwise;
- (b) any Losses, delay or failure to perform under this Agreement due, in whole or in part, to forces beyond the control of the Account Bank, including without limitation strikes, work stoppages, acts of war, terrorism, acts of God, governmental actions, exchange or currency controls or restrictions, devaluations or fluctuations, interruption, loss or malfunction of utilities, communications or any other computer (software or hardware) services, the application of any law or regulation in effect now or in the future, or any event in the country in which the relevant Account is held, (including, but not limited to, nationalisation, expropriation or other governmental actions or regulation of the banking industry) which may affect, limit, prohibit or prevent the transferability, convertibility, availability, payment or repayment of any cash or sums until such time as such law, regulation or event shall no longer affect, limit, prohibit or prevent such transferability, convertibility, availability, payment or repayment and in no event shall the Account Bank be obliged to substitute another currency for a currency whose transferability, convertibility or availability has been affected, limited, prohibited or prevented by such law, regulation or event;
- (c) any Losses arising from a delay or failure to perform by the Account Bank to act subject to and in accordance with an Instruction where such delay or failure is due to any procedure or process to be performed by the Account Bank and required in accordance with local laws and regulations, court or regulatory order;
- (d) any Losses arising from the use of any third party appointed by the Issuer, the Bank Account Operator or by the Account Bank at the express request of the Issuer or Bank Account Operator;
- (e) any Losses arising due to the Account Bank receiving or transmitting any data to or from the Issuer and/or Bank Account Operator and/or the Note Trustee or any Authorised Person via any non-secure method of transmission or communication;
- (f) any Losses arising from an unauthorised or incorrectly executed funds transfer or a non-executed or defectively executed funds transfer (except where such Losses arise as a result of the fraud or wilful misconduct of the Account Bank) unless the Issuer or Bank Account Operator has given written notice thereof to the Account Bank without undue delay, and in any event no later than thirty (30) days after the Account Bank makes available to the Issuer and Bank Account Operator the relevant statement with respect to the Account containing details of the funds transfer or (in the case of a non-executed or defectively executed fund transfer) after the date of the Instruction, provided always that where the Issuer or Bank Account Operator has given such written notice, the Account Bank's liability shall be subject to the other exclusions and limitations set out in and provisions of this Agreement and (in the case of a non-executed or defectively executed fund transfer) the Issuer or Bank Account

Operator's sole remedy shall be to request that the Account Bank make reasonable efforts to recover the funds involved; or

- (g) any Losses arising where the Account Bank properly executes an Instruction in accordance with the unique numeric or alpha-numeric identifier of the beneficiary, the beneficiary's bank or any intermediary bank included in the Instruction or with any other unique identifier specified by the Account Bank to the Issuer or Bank Account Operator, given by the Issuer or Bank Account Operator in that Instruction.

11.5 This Clause 11 (Indemnity) and Clause 8 (Fees and Charges) shall continue in full force and effect notwithstanding any termination or expiry of this Agreement or the resignation or replacement of the Account Bank.

11.6 Notwithstanding any other provision of this Agreement, the Issuer shall indemnify and keep the Account Bank indemnified against any liability or loss incurred in connection with the Issuer's obligation to withhold or deduct an amount on account of Tax.

12. TAX

The Issuer agrees to pay any and all stamp and other documentary Taxes or duties which may be payable in connection with the execution, delivery, performance and enforcement of this Agreement by the Account Bank.

13. TERMINATION

13.1 Resignation of Account Bank

The Account Bank may resign its appointment upon not less than 45 days prior written notice to the Issuer, the Bank Account Operator and the Note Trustee provided that:

- (a) such resignation will not take effect until a successor has been duly appointed by the Issuer or the Bank Account Operator on behalf of the Issuer (with the prior approval of the Note Trustee), in accordance with the conditions in Clause 13.4 (Appointment of successor account bank); and
- (b) the Issuer and the Bank Account Operator agree with the Account Bank that if, by the day falling 10 days before the expiry of any notice, the Issuer and the Bank Account Operator have not appointed a successor account bank then the Account Bank shall be entitled, on behalf of the Issuer to appoint in its place as a successor account bank a reputable financial institution of good standing, subject to and accordance with Clause 13.4 (Appointment of successor account bank), which the Issuer as is practical in the circumstances, the Bank Account Operator and the Note Trustee shall approve and provided that such approval may not be unreasonably withheld.

13.2 Termination of Account Bank

- (a) The Issuer or the Bank Account Operator on behalf of the Issuer (with the prior written consent of the Note Trustee) or, following steps being taken by the Note Trustee to enforce the Security, the Note Trustee, may terminate the appointment of the Account Bank upon not less than 45 days' prior written notice to the Account Bank (with a copy to the Issuer and the Note Trustee (as applicable)) subject to a successor account bank having been appointed in accordance with the conditions of Clause 13.4 (Appointment of successor account bank).

- (b) The Issuer or the Bank Account Operator on behalf of the Issuer (with the prior written consent of the Note Trustee) or, following steps being taken by the Note Trustee to enforce the Security, the Note Trustee may terminate the appointment of the Account Bank immediately upon the occurrence of an Account Bank Termination Event by notice in writing to the Account Bank (such termination to take effect from the date (not earlier than the date of the notice) specified in the notice) subject to a successor account bank having been appointed in accordance with the conditions of Clause 13.4 (Appointment of successor account bank).
- (c) An **Account Bank Termination Event** means any of the following circumstances:
- (i) if a deduction or withholding for or on account of any Tax, or otherwise pursuant to, FATCA is imposed, or it appears likely that such a deduction or withholding will be imposed, in respect of the interest payable on the Account; or
- (ii) any of the following occurs:
- (A) an order is made or an effective resolution passed for the winding up of the Account Bank;
- (B) the Account Bank ceases or threatens to cease to carry on its business or stops payment or threatens to stop payment of its debts or is deemed unable to pay its debts within the meaning of any applicable insolvency laws in its jurisdiction of incorporation or any other jurisdiction proceedings of the type referred to in Clause 13.2(c)(ii)(C) may be commenced against it or becomes unable to pay its debts as they fall due or the value of its assets falls to less than the amounts of its liabilities (taking into account, for both these purposes, contingent and prospective liabilities) or otherwise becomes insolvent; or
- (C) proceedings shall be initiated against the Account Bank under any applicable liquidation, insolvency, composition, reorganisation (other than a reorganisation where the Account Bank is solvent) or other similar laws (including, but not limited to, presentation of a petition for the appointment of an administrator, examiner or liquidator or the filing of documents with the court for the appointment of an administrator) and such proceedings are not being disputed in good faith with a reasonable prospect of success, or an administration order shall be granted or the appointment of an administrator takes effect or an administrative receiver or other receiver, liquidator or other similar official shall be appointed in relation to the Account Bank or in relation to the whole or any substantial part of the undertaking or assets of the Account Bank, or an encumbrancer shall take possession of the whole or any substantial part of the undertaking or assets of the Account Bank, or a distress, execution, diligence or other process shall be levied or enforced upon or sued against the whole or any substantial part of the undertaking or assets of the Account Bank and such possession or process (as the case may be) shall not be discharged or otherwise ceases to apply within 30 days, or the Account Bank initiates or consents to judicial proceedings relating to itself under applicable liquidation, insolvency, composition, reorganisation or other similar laws or makes a conveyance or assignment for the benefit of its creditors (or any class thereof) generally or enters into a composition or similar arrangement with its creditors or takes step with a view to obtaining a moratorium in respect of its indebtedness (including, without limitation, the filing of documents with the court), or any event occurs or proceedings are taken with respect to the Account Bank in any jurisdiction to which it is subject or in which it has assets which has and effects similar to or any one of the foregoing events; or

- (iii) if the Account Bank fails to perform any of its obligations under this Agreement and such failure remains unremedied for three Business Days after the Account Bank has received notice of such failure from the Issuer, the Bank Account Operator or the Note Trustee.
- (d) The Account Bank will deliver to the Issuer, the Bank Account Operator, the Note Trustee and the Rating Agencies as soon as reasonably practicable, but in any event within two Business Days of becoming aware thereof, a notice of any Account Bank Termination Event or event which, with the giving of notice or lapse of time, would constitute an Account Bank Termination Event.

13.3 Loss of status

- (a) As at the date of this Agreement the Account Bank represents that it is a Qualified Institution and if the Account Bank ceases to be a Qualified Institution, it must as soon as reasonably practicable give written notice to the Issuer, the Bank Account Operator, the Note Trustee and the Rating Agencies.
- (b) Notwithstanding any other provision in this Agreement, within 30 days of the date on which the Account Bank ceases to be a Qualified Institution, the Issuer or the Bank Account Operator on behalf of the Issuer must procure the transfer of the Account (and any other accounts of the Issuer that are held with the Account Bank) to a successor account bank in accordance with the conditions of Clause 13.4 (Appointment of successor account bank) and the Account Bank must fully co-operate in ensuring the timely transfer of any sums standing to the credit of such accounts.

13.4 Appointment of successor account bank

- (a) The Account Bank must at all times be a Qualified Institution.
- (b) Any change in the Account Bank is subject to the conditions that:
 - (i) the Account has been transferred to the successor account bank that is a Qualified Institution on terms substantially similar to those contained in this Agreement and all steps necessary are taken and all consents as may be required are obtained to ensure that the terms of this Agreement, the Note Trust Deed and each Note Trust Deed Supplement apply to such new bank account of the Issuer;
 - (ii) security equivalent to the existing Security created under the Note Trust Deed as supplemented by each Note Trust Deed Supplement has been created in favour of the Note Trustee for the benefit of the Secured Creditors in relation to the successor bank account of the Issuer; and
 - (iii) a change of Account Bank under this Clause 13 (Termination) only becomes effective when the proposed successor account bank agrees with each party hereto, by novation or any other manner satisfactory to the Note Trustee, to fulfil the role of Account Bank under this Agreement (or on terms that are substantially similar to the terms of this Agreement). The Issuer or the Bank Account Operator on behalf of the Issuer (and following steps being taken to enforce the Security, the Note Trustee) agrees to notify the Rating Agencies of any change of the Account Bank under this Clause 13 (Termination).
- (c) If this Agreement is terminated the Account Bank must take all reasonable steps to assist the other parties to this Agreement in effecting an orderly termination of the banking arrangements provided for in this Agreement, including arranging the transfer of any sums

standing to the credit the Account to any new account established by or on behalf of the Issuer with a successor account bank.

- (d) On termination of the appointment of the Account Bank under Clause 13.2(a) above, the Account Bank shall be entitled to receive all fees and other moneys accrued up to the date of termination but shall not be entitled to any other or further compensation. Such moneys so due to the Account Bank shall be paid by the Issuer on the Interest Payment Date immediately following the last day of the calendar month in which the date of termination occurs. The Account Bank shall not be responsible for any expenses or other liabilities incurred by the Issuer by reason of the termination of its appointment (including the costs of appointing any successor account bank).
- (e) Termination of this Agreement will not affect accrued rights or existing commitments under this Agreement and will be without prejudice to the completion of any transactions already initiated.

13.5 Merger of Account Bank

- (a) Any corporation into which the Account Bank may be merged or converted, or any corporation with which the Account Bank may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Account Bank shall be a party, or any corporation to which the Account Bank shall sell or otherwise transfer all or substantially all of its assets shall, on the date when the merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws and subject to any credit rating requirements set out in this Agreement, become the successor account bank under this Agreement without the execution or filing of any paper or any further act on the part of the parties to this Agreement, unless otherwise required by the Issuer, the Bank Account Operator or the Note Trustee, and after the said effective date all references in this Agreement to the Account Bank shall be deemed to be references to such successor corporation.
- (b) Written notice of any such merger, conversion, consolidation or transfer shall immediately be given to the Issuer, the Bank Account Operator and the Note Trustee by the Account Bank.
- (c) In the event of such merger, conversion, consolidation or transfer, the Issuer, the Bank Account Operator, the Note Trustee, and such successor will acquire and become subject to the same rights and obligations between themselves as if they had entered into an agreement in the form of (and on the same terms as) this Agreement.

14. CHANGE OF ACCOUNT BANK

If there is a change in the identity of the Account Bank (in accordance with Clause 13 (Termination)), then the Issuer, the Bank Account Operator and the Note Trustee shall execute such documents and take such actions as the successor account bank and the Account Bank and the Note Trustee may require for the purpose of vesting in the successor account bank the rights and obligations of the Account Bank from its future obligations under this Agreement.

15. MISCELLANEOUS

- 15.1 If a provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
 - (a) the validity or enforceability in that jurisdiction of any other provision of this Agreement; or

(b) the validity or enforceability in other jurisdictions of that or any other provision of this Agreement.

15.2 No printed or other material in any language, including prospectuses, notices, reports, and promotional material which mentions "Elavon Financial Services" by name or the rights, powers, or duties of the Account Bank under this Agreement shall be issued by the Issuer, or on the Issuer's behalf, without the prior written consent of the Account Bank.

15.3 The Account Bank may with respect to the Account and the services provided under this Agreement be carrying out a payment service for the purposes of the Payment Services Regulations 2009 (as amended from time to time, the **PSR Regulations**). To the extent it is, the Issuer represents and warrants that it is not a consumer, micro-enterprise or charity as defined in the PSR Regulations and undertakes to notify the Account Bank promptly if at any time it becomes a consumer, micro-enterprise or charity. Broadly, for these purposes, a micro-enterprise is an autonomous enterprise that employs fewer than ten people and whose annual turnover and/or balance sheet total does not exceed €2 million (or its Sterling equivalent), a consumer is an individual acting for purposes other than a trade, business or profession, and a charity includes only those whose annual income is less than £1 million. On the basis of the foregoing and in accordance with regulations 33(4) and 51(3) of the PSR Regulations (which provide that the parties may agree that certain provisions of the Regulations shall not apply), the Issuer agrees that all of the provisions of Part 5 of the PSR Regulations and regulations 54(1), 55(3), 55(4), 60, 62, 63, 64, 67, 75, 76 and 77 of Part 6 of the PSR Regulations shall not apply with respect to the Account and services to be provided under this Agreement and that a different time period shall apply for the purposes of regulation 59(1).

15.4 The rights and remedies conferred upon the parties shall be cumulative, and the exercise or waiver of any such right or remedy shall not preclude or inhibit the exercise of any additional rights or remedies. The waiver of any right or remedy hereunder shall not preclude the subsequent exercise of such right or remedy.

15.5 The Issuer and Bank Account Operator hereby agrees that it will do all such further acts and things and execute any further documents as the Account Bank may reasonably require as being necessary to give full effect to the arrangements contemplated by this Agreement.

16. NOTE TRUSTEE

16.1 Change of Note Trustee

In the event that there is any change in the identity of the Note Trustee or an additional note trustee is appointed in accordance with the Note Trust Deed, the Account Bank (being duly indemnified by the Issuer for any costs incurred) shall execute such documents with any other parties to this Agreement and take such actions as such new note trustee may reasonably require for the purposes of vesting in such new note trustee the rights of the Note Trustee under this Agreement and under the Note Trust Deed and releasing the Note Trustee from further obligations thereunder.

16.2 No obligation on Note Trustee

The Note Trustee has agreed to become a party to this Agreement for the better preservation and enforcement of its rights under this Agreement and the Note Trust Deed, and each of the Account Bank and the Bank Account Operator agrees with the Issuer and the Note Trustee that the Note Trustee has no obligation to perform any of the obligations of the Issuer, the Bank Account Operator or the Account Bank under this Agreement.

17. REPRESENTATIONS AND WARRANTIES

- (a) The Account Bank represents and warrants that:
- (i) it is duly incorporated, organised and validly existing under the laws of its jurisdiction of incorporation;
 - (ii) it has full corporate power and authority to enter into and perform its obligations under this Agreement;
 - (iii) it has been duly authorised to sign and deliver this Agreement and to perform the transactions contemplated herein; and
 - (iv) the execution and delivery by it of this Agreement and the performance by it of the obligations and transactions contemplated hereunder do not conflict with, or result in a breach of the terms of, or constitute a default under, its constitutive documents.
- (b) The Issuer represents, warrants and undertakes that:
- (i) it is duly incorporated, organised and validly existing under the laws of its jurisdiction of incorporation;
 - (ii) it has full corporate power and authority to enter into and perform its obligations under this Agreement;
 - (iii) it has been duly authorised to sign and deliver this Agreement and to perform the transactions contemplated herein;
 - (iv) the execution and delivery by it of this Agreement, the performance by it of the obligations and transactions contemplated hereunder do not conflict with, or result in the breach of the terms of, or constitute a default under, its articles of association;
 - (v) in relation to data disclosed to the Account Bank in connection with this Agreement, it has complied with, and shall continue to comply with, the provisions of all relevant data protection laws and regulations and shall not do anything, or permit anything to be done, which might lead to a breach of such laws or regulations by the Account Bank;
 - (vi) it is fully authorised and empowered and has the capacity to engage in the transactions contemplated by this Agreement; and
 - (vii) it is acting on its own behalf and not on behalf of others.

18. VARIATION AND BENEFIT

- 18.1 No variation of this Agreement shall be effective unless it is duly executed by (or by some person duly authorised by) each of the parties.
- 18.2 TPF is a party to this Agreement for the purpose of taking the benefit of the Agreement and the undertakings given by the Account Bank and to have the right to consent to any amendments to this Agreement and shall assume no liabilities, or obligations whatsoever in connection with the activities contemplated thereby.
- 18.3 Each of the parties to this Agreement (other than the Account Bank and the Note Trustee) shall not agree to any variation, modification or amendment to any Relevant Document, Security Document

or Document which will, in such party's reasonable opinion, materially impact the rights or obligations of the Account Bank without the prior written consent of the Account Bank (such consent not to be unreasonably withheld).

19. ASSIGNMENT

19.1 This Agreement shall bind and enure for the benefit of the parties hereto and their respective successors and permitted assigns.

19.2 The Issuer will grant security over its right and interest in this Agreement to the Note Trustee pursuant to the Note Trust Deed as supplemented by each Note Trust Deed Supplement and may in the future take such other action, do such other things or execute such other documents as are necessary to perfect the Note Trustee's security over this Agreement. However, the Issuer shall not otherwise assign, transfer, charge or otherwise grant security over all or any rights or benefits hereunder without the written consent of the Account Bank.

19.3 The Account Bank may not assign, transfer or charge all or any of its rights or benefits hereunder without the written consent of the Issuer, the Bank Account Operator and the Note Trustee.

20. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Without prejudice to the rights of the persons mentioned in Clauses 9.1 and 9.3 of the Common Terms, no person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

21. GOVERNING LAW

This Agreement and all non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with English law.

22. JURISDICTION

22.1 English Courts

The courts of England have exclusive jurisdiction to settle any dispute (a **Dispute**) arising out of or in connection with this Agreement (including a dispute relating to any non-contractual obligation arising out of or in connection with this Agreement) or the consequences of its nullity.

22.2 Convenient Forum

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1

BANK MANDATE

DELAMARE CARDS MTN ISSUER PLC (the Company).

At a meeting of the Board of Directors of the Company held at its registered office at Asticus Building, 2nd Floor, 21 Palmer Street, London SW1H 0AD, on [8] October 2019:

IT WAS RESOLVED THAT the following form of bank mandate be approved:

The account in the name of the Company held with Elavon Financial Services DAC, UK Branch at 125 Old Broad Street, Fifth Floor, London EC2N 1AR (the **Bank**) and specified in the table below (the **Account**) be used as an account for the benefit of the Company. The account number and the name of the Account are as follows:

Name of Account	Account Number	Sort Code
Delamare Cards MTN Issuer Plc Distribution Account	73542801	00-99-64

1. The mandate given to the Bank by virtue of this document (the **Mandate**) is given on the basis that the Bank complies with the procedure set out in, and the terms of, this document.
2. In relation to the Account, the Bank is hereby authorised to honour and comply with all payment orders given in writing in respect of the Account to the extent that compliance with the same should not result in a debit balance PROVIDED THAT (and subject to paragraph 6) any such payment orders are signed by two people specified as Authorised Persons in the list of authorised signatories duly completed and signed by the Issuer and the Bank Account Operator in substantially the form set out in the Issuer Distribution Account Bank Agreement dated on or about the date hereof between, inter alios, the Issuer and the Bank (as amended, restated or supplemented from time to time, the **Issuer Distribution Account Bank Agreement**) and delivered to the Bank at the time the Account was opened (as amended from time to time, the **List of Authorised Signatories**). PROVIDED, FURTHER that any direction may be given on behalf of the Company by email by any of the Authorised Persons specified in the List of Authorised Signatories and shall be confirmed in writing, such direction to be signed on behalf of the Company as aforesaid. Unless or until notified otherwise by The Bank of New York Mellon (the **Note Trustee**), the Bank is hereby authorised to act on any information given by the Company or Tesco Personal Finance PLC (the **Bank Account Operator**) regarding changes to the List of Authorised Signatories.
3. This Mandate is given on the basis that the Bank:
 - (a) acknowledges that pursuant to the Note Trust Deed as supplemented by each Note Trust Deed Supplement, the Company will charge its interest in the Account to the Note Trustee by way of security;
 - (b) unless or until notified otherwise by the Note Trustee, agrees to comply with the instructions of the Bank Account Operator in respect of the operation of the Account and the Bank shall be entitled to rely on any such written direction reasonably purporting to have been given by or on behalf of the Bank Account Operator without enquiry; and
 - (c) upon receipt of a notice from the Note Trustee:

- (i) agrees to comply with the instructions of the Note Trustee in respect of the operation of the Account and the Bank shall be entitled to rely on any such direction purporting to have been given on behalf of the Note Trustee without enquiry; and
 - (ii) agrees that all right, authority and power of the Bank Account Operator in respect of the operation of the Account shall be deemed terminated and of no effect and the Bank agrees that it shall, upon receipt of a notice from the Note Trustee, comply with the instructions of the Note Trustee or any receiver, the appointment of whom has been notified to the Bank by the Note Trustee, in relation to the operation of the Account unless otherwise required by operation of law or by the order or direction of a competent Court or Tribunal.
4. These resolutions shall be communicated to the Bank and such resolutions shall remain in force until an amendment resolution (approved by the Note Trustee) shall be passed by the Board of Directors of the Company and a copy thereof, certified by any two of the Directors and/or the Secretary of the Company, shall be received by the Bank.
5. The Company authorises the Bank Account Operator to instruct the Bank in relation to the Account unless and until notified otherwise by the Note Trustee and authorises the Bank to act on those instructions in the manner set forth in the Issuer Distribution Account Bank Agreement.
6. This Mandate (and any non-contractual obligations arising out of or in connection with it) are governed by, and shall be construed in accordance with, English law.

Authorised Signatory

SCHEDULE 2

FORM OF INSTRUCTION

[On headed paper of instructing party]

Elavon Financial Services DAC, UK Branch
125 Old Broad Street
Fifth Floor
London, EC2N 1AR
For the attention of: [●]
Fax number: [●]
Email: [●]

[●] 20[●]

Issuer Distribution Account Bank Agreement by and between, among others, Delamare Cards MTN Issuer Plc as Issuer (as Issuer) and Elavon Financial Services DAC, UK Branch (as Account Bank) dated [●] 2019 (the Agreement)

Dear Sirs,

This Instruction is being given to you pursuant to Clause [5.1 and 9] of the Agreement. Capitalised terms not otherwise defined herein shall have the meanings given thereto in the Agreement.

You are hereby instructed to pay the following amount[s] from the Account specified below:

- | | | |
|-----|----------------------|---|
| (a) | payment from: | Cash Account [●] |
| (b) | transfer to: | [SWIFT code/sort code]
[account name]
[account number/IBAN] |
| (c) | beneficiary bank: | [SWIFT code/sort code] |
| (d) | account name: | [●] |
| (e) | account number: | [●] |
| (f) | IBAN: | [●] |
| (g) | amount and currency: | [●] |
| (h) | reference: | [●] |
| (i) | value date: | [●] |

The governing law of the Agreement shall apply equally to this Instruction

Yours faithfully,

[Issuer]/[Bank Account Operator]/[Note Trustee]

By: _____



Name: _____

Title: _____

SCHEDULE 3

AUTHORISED PERSONS AND CALLBACK CONTACTS

AUTHORISED PERSONS

Name	Specimen signature	Telephone Number
Cheryl Strock		0131 274 3286
Chris Reid		0131 274 3610

ADDITIONAL CALLBACK CONTACTS

Name	Telephone number
Cheryl Strock	0131 274 3286
Ruth Schofield	0131 274 3037

SIGNATORIES

Issuer

SIGNED for and on behalf of)
DELAMARE CARDS MTN ISSUER PLC By:)
)

A handwritten signature in black ink, consisting of a stylized initial 'B' followed by a horizontal line extending to the right.

Account Bank

SIGNED for and on behalf of)
ELAVON FINANCIAL SERVICES DAC, UK)
BRANCH

By:)



James Preuss

Authorised Signatory

TPF, Cash Manager and Bank Account Operator

SIGNED for and on behalf of
TESCO PERSONAL FINANCE PLC
By: *ROY LINNELL*

)
)
)

A handwritten signature in blue ink, appearing to read 'Roy Linnell', with a period at the end.

Note Trustee

SIGNED for and on behalf of
THE BANK OF NEW YORK MELLON
By:

)
)
)


Ion Soltoian
Vice President