

TO: The Environmental Protection Agency (the “**Agency**”)
PO Box 3000
Johnstown Castle Estate
Wexford
County Wexford
Ireland

Dated: [REDACTED]

On demand performance bond No: [NUMBER] dated [DATE]

Dear Sirs,

1. Definitions

In this bond instrument, capitalised terms shall, unless the context otherwise requires, have the meanings ascribed to such terms in Clause [9] of this bond instrument.

2. Background

We understand that:

- 2.1 The Licensee controls and operates the Licensed Site.
- 2.2 The Agency issued the Licence to the Licensee. Pursuant to the Licence, the Licensee is permitted to carry out [short description of licensed activities] at the Licensed Site.
- 2.3 The Agency is the competent public authority in relation to the licensing and regulation of such activities pursuant to the Agency’s rights, powers and obligations set out in Irish Environmental Law.
- 2.4 Pursuant to the Licence and Irish Environmental Law, the Licensee is required to make financial provisions for the benefit of the Agency as security for the Licensee’s Obligations. The Licensee has procured the issue of this bond instrument accordingly.

3. Bond

Further to the Licensee’s obligations under the Licence and at the request of the Licensee we, [insert name and address of issuer], irrevocably and unconditionally promise to pay, as primary obligor, to the Agency on a first written demand received from the Agency and waiving all rights of objection and defence and without reference to the Licensee an amount or amounts not exceeding in aggregate the Bond Amount provided that the demand of the Agency complies with the provisions of this bond instrument.

4. Demand

- 4.1 [Save for the service of any proceedings in accordance with Clause 8.2, [Any/any] demand or other notice of the Agency under this bond instrument

Address: Ulster Bank
Ireland DAC, C/O
National Westminster
Bank Plc, Trade
Services, Level 8, 1
Hardman Boulevard,
Manchester M3 3AQ
Attention: Bonds and
Guarantees
~~Fax No:—~~
~~Email Address:~~

before the Expiry Date and must be in the form of a statement signed by the Agency that:

- (a) the Licensee has:
 - (i) failed to perform one, or more, of the Licensee's Obligations;
 - (ii) specifies in what respects the Licensee has so failed; and
 - (ii) specifies the amount claimed; and/or
- (b) an Insolvency has occurred in relation to the Licensee; and/or
- (c) the Licensee has, by the commencement of one Month prior to the Expiry Date, failed to:
 - (i) provide a replacement bond instrument in favour of the Agency on terms, and from a bond provider, acceptable to the Agency; and/or
 - (ii) provide another financial provision or provisions in favour of the Agency acceptable to the Agency.

4.2 The Agency may make multiple demands under the bond instrument provided that our aggregate liability under this bond instrument is limited to the Bond Amount. The Bond Amount shall be reduced by any amount paid out by us under this bond instrument.

4.3 We shall accept a demand as evidence, for the purposes of this bond instrument alone, that the amount claimed is, or will be, due to the Agency.

5. Termination

5.1 This bond instrument shall expire on the Expiry Date.

5.2 On the Expiry Date, this bond instrument shall become null and void, whether returned to us for cancellation or not, and any demand received after the Expiry Date shall be ineffective.

6. Transfer

- 6.1 We agree that, if the Licence is suspended or revoked, this bond instrument shall continue in full force and effect until the Expiry Date.
- 6.2 The benefit of this bond instrument is not transferable or assignable by the Agency, other than to a successor governmental authority, ministry, body or agency, howsoever described, of the Agency. For the avoidance of doubt, nothing in this bond instrument shall confer on any third party any benefit or the right to enforce any term of this bond instrument.

7. Choice of Law

This bond instrument and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Ireland.

8. Jurisdiction

- 8.1 The parties to this bond instrument irrevocably agree that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this bond instrument or its subject matter or formation (including non-contractual disputes or claims).

- 8.2 Without prejudice to any other mode of service allowed under any relevant law, we hereby a) confirm that in respect of any proceedings before the Irish courts issued by the Agency in connection with this bond instrument, such proceedings may be served at Ulster Bank Group Centre, Central Park, Leopardstown, Dublin 18 for the attention of Gavin Murphy and/or Michael Ashe, with a copy to be sent to Ulster Bank Ireland DAC C/O National Westminster Bank Plc, Trade Services, 8th Floor, 1 Hardman Boulevard, Manchester M3 3AQ. For the avoidance of doubt, failure by the Agency to provide a copy of any proceedings served pursuant to this clause 8.2 to Ulster Bank Ireland DAC C/O, National Westminster Bank Plc, Trade Services, 8th Floor, 1 Hardman Boulevard, Manchester M3 3AQ shall not prejudice such proceedings in any way. ~~Without prejudice to any other mode of service allowed under any relevant law, we hereby:~~

~~(a) irrevocably appoint [] as our agent for service of process in relation to any proceedings before the Irish courts in connection with this bond instrument; and~~

~~(b) agree that failure by a process agent to notify us of the process will not invalidate the proceedings concerned.]¹~~

9. Definitions

¹~~Use this clause if the issuer is a financial institution located outside of the jurisdiction and if an Irish process agent has been appointed.~~

Capitalised terms used in this bond instrument shall, unless otherwise defined, have the following meanings:

“**Bond Amount**” means [insert maximum amount of bond].

“**Environment**” means the environment generally including all of its physical and ecological aspects including:

- (a) land including the sea bed and any natural or man-made structures;
- (b) water including rivers, lakes (man-made or natural), canals, the ocean (whether within or without territorial waters), ground waters and waters in drains and sewers; and
- (c) air including air within buildings and other natural and man-made structures above or below ground,

and “**Environmental**” shall be construed accordingly.

“**Environmental Law**” means all and any applicable law, including common law, statute, bye-law and subordinate legislation, regulations and directives and judgments and decisions, including notices, orders or circulars, of any court or authority competent to make such judgment or decision compliance with which is applicable in Ireland and which is mandatory for the Licensee with regard to Environmental matters and the protection of the Environment.

“**Expiry Date**” means the earlier of (a) close of normal banking hours on [insert hard date]; and (b) the delivery to the Agency of an effective replacement bond instrument in favour of the Agency on terms, and from a bond provider, acceptable to the Agency.

“**Insolvency**” in relation to a person means that it:

- (A) is dissolved;
- (B) becomes unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (D) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization, or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (E) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-

up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (D) above and:

- (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - (2) is not dismissed, discharged, stayed or restrained in each case within 14 days of the institution or presentation thereof;
- (F) has a resolution passed for its winding-up or liquidation;
- (G) seeks or becomes subject to the appointment of an administrator, examiner, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (H) has a creditor take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 14 days thereafter;
- (I) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (A) to (H) above; or
- (J) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Known Liabilities” means all present and future Environmental obligations and/or liabilities in connection with (a) the closure, decommissioning and/or residuals management of the Licensed Site (or any part of it); and/or (b) the rehabilitation, remediation, restoration, on-going emissions control, monitoring and/or aftercare of the Licensed Site (or any part of it) following closure.

“Licence” means the [insert] issued by the EPA on [insert] with Licence register number [insert] as [[revised, amended or extended]] by [Insert details of any amendments to the applicable Licence], as may be revised, amended or extended from time to time.

“Licensee” means [] a company registered in [Ireland] with company number [].

“Licensee’s Obligations” means all present and future obligations of the Licensee in respect of the Known Liabilities and the Unknown Liabilities, under Environmental Law and/or the Licence. Any reference to the Licensee’s Obligations includes a reference to any of them.

“Licensed Site” means the land and property which is the subject of the Licence, being the [property known as [insert location of licensed site] / the Licensee’s [insert nature of the licensed operations] facility at [insert location of licensed site]] and everything on, in,

attached to or forming part of that property, facility, installation, site and those lands.

“Month” means in relation to the Expiry Date, the period that ends on the Expiry Date and starts on the numerically corresponding day in the previous calendar month but (i) if such numerically corresponding day is not a business day, then such period shall start on the first next preceding business day in the previous calendar month and (ii) if there is no numerically corresponding day in the previous calendar month, then such period shall start on the last business day in the previous calendar month.

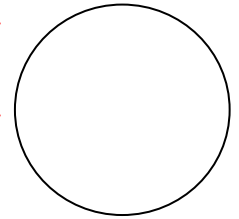
“Unknown Liabilities” means all present and future Environmental liabilities and obligations (whether under the Licence or Environmental Law) arising out of or in connection with incidents, accidents and/or other changes of circumstances from the norm with actual or potential negative consequences in relation to the Licensed Site and/or any other part of the Environment affected by any such incident, accident or other change of circumstance.

This bond instrument has been entered into as a deed by us on the date first set out above.

~~PRESENT when the Common Seal of
[Issuing Financial Institution] LIMITED
was affixed hereto and this deed
was delivered:~~

~~_____
Director~~

~~_____
Director / Secretary~~



~~EXECUTED as a deed by
[Issuing Financial Institution] LIMITED
on being signed by two directors
or a director and secretary~~

.....(Director)

.....(Director/Secretary)

Signed as a deed by _____ Signed as a deed by _____ in the presence of _____

As the attorney and on behalf of Ulster Bank Ireland DAC	As the attorney and on behalf of Ulster Bank Ireland DAC	Bank Official Ulster Bank Ireland DAC c/o National Westminster Bank Plc Bonds & Guarantees 8th Floor, 1 Hardman Boulevard Manchester M3 3AQ
_____	_____	_____
_____	_____	_____