Dated the 22nd day of July 2015

MINISTER FOR THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT

"the Licensor"

One part

AND

AMERICA EUROPE CONNECT LIMITED

"the Licensee"

Other part

FORESHORE LICENCE

Eileen Creedon

Chief State Solicitor

Osmond House

Little Ship Street

Dublin 8

MB/2015/03432

LICENCE AGREEMENT made the 22nd day of July 2015

BETWEEN THE MINISTER FOR THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT, the Custom House, Dublin 01 W6XO (hereinafter called "the Licensor" which expression shall include his Successors or Assigns where the context so requires or admits) of the One Part; and **AMERICA EUROPE CONNECT LIMITED** having its registered office at 26 Fitzwilliam Street Upper, Dublin 2 (hereinafter called "the Licensee") of the other part.

INTRODUCTION

A. The Licensee has applied to the Licensor for a Foreshore Licence to enter onto, use and occupy the Licensed Area for the purpose of laying using and maintaining a submarine fibre optic cable thereon and for no other purpose whatsoever

B. The Licensor in exercise of the power conferred on him by section 3(1) of the Foreshore Act, 1933 as amended has agreed to grant a Foreshore Licence to the Licensee on the terms and conditions set out in this Deed.

IT IS HEREBY AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

In this Licence, the following words and expressions have the following meaning:

1.1 **"Business Day"** means a day that is not a Saturday, Sunday or a bank or public holiday in a place where an act is to be performed or a payment is to be made;

1.2 **"Commencement Date"** has the meaning in clause 4.1;

1.3 **"Cure Notice"** has the meaning set out in clause 11.1;

1.4 **"Dispute"** means a difference or dispute of whatsoever nature arising between all or any of the parties under or in connection with this Licence;

1.5 **"Dispute Notice"** has the meaning set out in clause 20.2;

1.6 **"Dispute Resolution Procedure"** means the procedure outlined in clause 20;

1.7 **"Environment"** includes any Foreshore, reclaimed Foreshore, land (including without limitation soil, surface land and subsurface strata, sea bed or river bed and any natural or man made structures), any sea water, inland waters, surface waters, ground waters and water in pipes, drains or other conduits and air (including without limitation air within buildings and other natural or man made structures above or below ground);

1.8 **"Environmental Law"** means all laws (whether criminal, civil or administrative) including common law, statutes, regulations, statutory instruments, directives, bye-laws, orders, codes and judgements having the force of law in Ireland concerning Environmental Matters and protection of the Environment including without limitation the Air Pollution Act, 1987, the Dangerous Substances Act, 1972, the Dumping at Sea Act, 1996, the Litter Act, 1982, the Planning and Development (Amendment) Act, 2010, the Waste Management Act, 1996, the Environmental Protection Agency Acts, 1992 to 2007, the Protection of the Environment Act, 2003, the European Communities (Birds and Natural Habitats) Regulations, 2011 and all other regulations, bye-laws, orders and codes made thereunder;

1.9 **"Environmental Licences"** means any permit, licence, approval, consent, registration or other authorisation required by or pursuant to any applicable Environmental Law or relating to Environmental Matters;

1.10 **"Environmental Matters"** means any matter arising out of, relating to or resulting from pollution, contamination, protection of the Environment, human health or safety, health and safety of animal and plant life, sanitation and any matters relating to emissions, discharges, releases or threatened releases of hazardous materials into the Environment;

1.11 **"Euro"** means the single currency of participating member states of the European Union or such replacement equivalent currency thereof'

1.1 **"Force Majeure"** means an event or circumstance or a combination of events and/or circumstances not within the reasonable control of a party which has the effect of delaying or preventing that party from complying with its obligations under this Licence including:

(a) acts of terrorists or protesters;

(b) war declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, invasion or armed conflict;

(c) sabotage, acts of vandalism, criminal damage or the threat of such acts;

(d) extreme weather or environmental conditions including lightning, fire, landslide, accumulation of snow or ice, meteorites or volcanic eruption or other natural disasters, measured by reference to local meteorological records published by Met Eireann over the previous ten years;

(e) the occurrence of radioactive or chemical contamination or ionizing radiation, explosion including nuclear explosion, pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds and impact by aircraft or other vehicles;

(f) any strike or other industrial action which is part of a labour dispute of a national or industry wide character occurring in Ireland;

(g) the act or omission of any contractor or supplier of a party, provided that the act or omission was due to an event which would have been an event of Force Majeure had the contractor or supplier been a party to this Licence;

(h) the unavailability of essential infrastructure or services required to comply with obligations pursuant to this Licence, other than due to an act or omission of the Licensee;

(i) mechanical or electrical breakdown or failure of machinery, plant or other facilities owned, installed or utilized by any party, which

breakdown or failure was outside the control of the party acting in accordance with Environmental Law or the Law;

provided that Force Majeure shall not include:

(a) lack of funds and/or the inability of a party to pay;

(b) mechanical or electrical breakdown or failure of Plant or other facilities owned or utilized by any party other than as a result of the circumstances identified in clauses 1.13(a) to 1.13(i), above; or

(c) any strike or industrial action not falling within clause 1.13(f) above;

1.14 "**Foreshore**" has the same meaning as in section 1 of the Foreshore Act as amended by section 60 of the Maritime Safety Act, 2005;

1.15 "**Foreshore Act**" means the Foreshore Act 1933 as amended;

1.16 "**Foreshore Licence**" means a licence granted by the Licensor pursuant to section 3(1) of the Foreshore Act;

1.17 "**Insured Risks**" means any or all of the following risks: fire (including subterranean fire), storm, tempest, flood, earthquake, lightning, explosion, impact, riot, civil commotion, aircraft, labour disturbance and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks as the Licensor may in his absolute discretion from time to time determine;

1.18 "**Law**" means any Act of the Oireachtas, regulation, statutory instrument, European Community obligation, direction of a regulatory or other competent authority, condition of any consent, authorization, licence or other permission granted by any regulatory or other competent authority and any decision of a court of competent jurisdiction, but does not include this Licence;

1.19 "**Licence**" means this Deed and any Schedule to it, as may be amended by Supplemental Indenture from time to time or which is entered into pursuant to or in accordance with the terms hereof;

1.20 "**Licensee**" means the party or parties named as the licensee at the commencement of this Licence ;

1.21 "**License Fee**" has the meaning set out in Clause 5.1;

1.22 "**Licensed Area**" means that part of the Foreshore more particularly described in Part 1 of the First Schedule;

1.23 "**Material**" means marine aggregate extracted during cable laying operations at Ross Beach Kilala including, but not limited to sand and gravel and "Materials" shall have a corresponding meaning;

1.24 "**Operations**" means collectively the carrying out of the cable laying operations and the extraction of Materials for disposal at a licenced dump, and related ancillary activities;

1.25 "**Outgoings**" means all rates, taxes and charges (including emergency service charges) of any description (whether or not of a capital or non-recurring nature) which may at any time during the Term be payable in respect of the Licensed Area and the Utilities enjoyed in connection therewith including any insurance excesses or other sums not recoverable by the Licensee (unless due to its own neglect or default);

1.26 "**Permitted Use**" means the use of the Licensed Area for the purpose of laying, using and maintaining a submarine fibre-optic cable on the terms and conditions set out in this Licence;

1.27 "**Plant**" means any mechanical machinery, vessels, equipment and apparatus of whatsoever nature or kind located within the Licensed Area;

1.28 "**Representations and Warranties**" mean the representations and warranties given by the Licensee to the Licensor pursuant to clause 15.1;

1.29 "**Review Dates**" means the first day of the sixth, the eleventh, the sixteenth, the twenty first , the twenty sixth and the thirty first year of the Term Commencement Date and the Relevant Review Date shall be construed

accordingly;

1.30 **"Specific Conditions"** mean the specifications set out in the Second Schedule, as may be amended from time to time pursuant to clause 8.2;

1.31 **"Term"** has the meaning set out in clause 4;

1.32 **"Utilities"** mean water, soil, steam, air, gas, electricity, radio, television, telegraphic, telephonic, computer linking, electronic and other communications, oil and heating fuels and other services of whatsoever nature.

1.33 **"Value Added Tax"** means value added tax as applied under the Value Added Tax Act, 1972, as amended, or any similar tax substituted for it.

2 INTERPRETATION

2.1 Where two or more persons are included in the expression "the Licensor" or "the Licensee", such expressions include all or either or any of such persons and the covenants which are expressed to be made by the Licensor, or the Licensee shall be deemed to be made by or with such persons jointly and severally.

2.2 Unless the context otherwise requires:

2.2.1 words importing a person include any unincorporated association or corporate body and vice versa;

2.2.2 any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders;

2.2.3 any reference to the singular includes reference to the plural.

2.3 Any covenant in the Licence by the Licensee not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.

2.4 References to any right of the Licensor to have access to or entry upon the Licensed Area shall be construed as extending to all persons lawfully authorised by the

Licensor including agents, professional advisers, prospective purchasers of any interest of the Licensor in the Licensed Area or in the Adjoining Property or Foreshore, contractors, workmen and others provided that such persons have given reasonable notice (except in the case of an emergency) and have sufficient reason to require access.

2.5 Any reference to a statute (whether specifically named or not) or to any sections or sub-sections therein includes any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans for the time being made, issued or given there-under or deriving validity there-from.

2.6 Headings are inserted for convenience only and do not affect the construction or interpretation of this Licence.

2.7 Any reference to a clause, sub-clause or schedule means a clause, sub-clause or schedule of this Licence.

2.8 If any term or provision in this Licence is held to be illegal or unenforceable in whole or in part, such term shall be deemed not to form part of this Licence but the enforceability of the remainder of this Licence is not affected.

2.9 References in this Licence to any rights granted to the Licensee shall be construed as being granted to the Licensee and all persons authorised by the Licensee to exercise such rights.

2.10 Rights excepted to the Licensor or reserved to any indemnities to the Licensor are to benefit also any other licensor and if necessary and appropriate the occupiers of the remainder of the Licensed Area, any occupier of adjoining or neighbouring property or Foreshore and any other person authorised by the Licensor or having similar rights.

2.11 Any right or privilege conferred on the Licensor under this Licence shall be deemed to be exercisable by the Licensor during the Term.

2.12 References to "month" or "months" mean a calendar month or months.

2.13 The Term shall extend to and include the term set out herein and if properly determined prior to the expiry of the Term, the Term shall mean the Term up to the date of such determination and expression such as the last year of the Term shall be construed accordingly.

3 GRANT OF LICENCE

3.1 The Licensor in exercise of the powers vested in him by section 3(1) of the Foreshore Act 1933 hereby grants to the Licensee a licence to enter onto, use and occupy the Licensed Area, on the terms and conditions set out in this Licence and in particular the Specific Conditions set out in the Second Schedule for the purpose of the Permitted Use.

3.2 Unless otherwise permitted by Law and with the written consent of the Licensor, the Licensee shall not use the Licensed Area for any other purpose other than the Permitted Use.

4 TERM

4.1 This Licence shall commence on the 22nd day of July 2015.

4.2 Subject to clause 12, this Licence shall remain in force for a period of thirty five (35) years from the Commencement Date.

5 LICENCE FEE

5.1 In consideration of the grant of this Licence, the Licensee shall pay to the Licensor the sum of:

(i) [redacted] on the execution of this Licence;and

(ii) [redacted] annually payable from the Commencement Date of the Licence and no less amount annually thereafter, but subject to revision by increase for each successive period of five years on the Review Dates.

6 COMMENCEMENT OF OPERATIONS

6.1 The Licensee shall not commence the Operations or works in the Licensed Area without the prior written consent of the Licensor.

6.2 The Licensor is not obliged to grant consent pursuant to clause 6.1 unless and until the Licensee has obtained and provided to the Licensor in respect of the relevant works, activities or Operations copies of all the necessary consents, permissions, permits, licences and authorizations.

7 COMPLIANCE WITH APPLICABLE LAWS

7.1 The Licensee shall at all times comply with all applicable Law and Environmental Law.

7.2 Without prejudice to the generality of clause 7.1, the Licensee shall at all times hold all necessary licences, consents, permissions or authorisations associated with any activities of the Licensee in connection with the Licensed Area (to include Plant and equipment utilised therein).

8 SPECIFIC CONDITIONS

8.1 Unless the prior written approval of the Licensor is obtained, which approval may be granted subject to conditions, the Licensee shall ensure that:

8.1.1 all Operations are in accordance with the Specific Conditions and such Operations at all times comply with the Specific Conditions which are applicable at the date that such Operations took place; and

8.1.2 no Operations. development, work, construction or installation is undertaken in the Licensed Area that does not comply with the Specific Conditions.

8.2 The Specific Conditions may be amended from time to time:

8.2.1 by agreement between the parties;

8.2.2 by the Licensor by notice in writing to the Licensee if the Licensor reasonably considers it necessary to do so for reasons of public safety or protection of the environment.

8.3 If at any stage the Licensee becomes aware that any Operations do not comply with the Specific Conditions that were applicable at the date that such Operations took place (whether as a result of notification by the Licensor or other competent authority or otherwise), the Licensee shall immediately:

8.3.1 notify the Licensor, unless the Licensee was notified by the Licensor;

8.3.2 unless the Licensor otherwise agrees in writing, take all reasonable steps to ensure that:

(a) such Operations comply with the Specific Conditions that were applicable at the date that such Operations took place; and

(b) any adverse consequence arising out of the fact that the Operations did not comply with the Specific Conditions are rectified to the satisfaction of the Licensor as soon as is reasonably practicable.

9 OPERATIONS IN CONNECTION WITH THIS LICENCE

9.1 The Licensee may, from time to time, with the prior consent of the Licensor occupy and use such area adjacent to the Licensed Area as is reasonably required by the Licensee to exercise its rights pursuant to clause 3.1.

9.2 Without prejudice to any other rights and obligations under this Licence or at Law or Environmental Law, in exercising any of the rights or performing any obligations in connection with this Licence, the Licensee shall:

9.2.1 not use the Licensed Area or permit the same to be used otherwise than for the Permitted Use and for no other purpose or purposes whatsoever;

9.2.2 comply with the Specific Conditions described in the Second Schedule hereto at all times;

9.2.3 ensure that all Plant, works or structures in the Licensed Area (if any) are at all times maintained in a good and proper state of repair and condition to the

satisfaction of the Licensor, ensuring that they do not constitute a public health hazard or danger to persons, animals, marine life or the environment, not be injurious to navigation, the adjacent lands or the public interest;

9.2.4 not encumber this Licence without the prior written consent of the Licensor such consent not to be unreasonably withheld;

9.2.5 at all times maintain appropriate resources to ensure the proper exercise of all rights and the performance of all obligations in connection with this Licence including:

(a) ensuring that all necessary competent persons are engaged to carry out any works, activities, or Operations pursuant to this Licence;

(b) using suitable Plant, machinery and equipment which is in good repair and condition and maintained to proper safety standards;

9.2.6 use all reasonable endeavours to minimize damage and disturbance to the environment, fisheries and all other maritime activities and restore any damage which does occur, to the satisfaction of the Licensor;

9.2.7 not commit or suffer any waste, spoil or destruction on the Foreshore, other than waste, spoil or destruction:

(a) which is reasonably necessary as a consequence of the exercise of rights and performance of obligations pursuant to this Licence; and

(b) in respect of which the Licensee holds all necessary consents, licences or permissions required by Law or Environmental Law;

9.2.8 carry out an analysis and monitoring of the Licensed Area and the waters within the immediate vicinity and to pay to the Licensor all expenses incurred by the Licensor or a person duly authorised by him, to carry out such analysis and monitoring;

9.2.9 not, without the prior written consent of the Licensor, carry out any works, activities or operations which, in the reasonable opinion of the Licensor, are

injurious to or interfere unreasonably with fishing, navigation, adjacent lands, approved scientific research or the public interest;

9.2.10 ensure that adequate warning notices, fencing or other appropriate security and safety measures are in place at all works and structures associated with the Operations and, where necessary for the duration of this Licence;

9.2.11 permit the Licensor and any persons duly authorised by him at any time to remove from the Licensed Area and abate all buildings, works or materials which may have become dilapidated or abandoned or which may have been constructed without the consent required under this Licence or which may in the opinion of the Licensor be injurious to navigation, the adjacent land or the public interest and to restore the Licensed Area to its former or proper condition and to erect or construct any building or works which in the opinion of the Licensor may be required for the purposes of navigation, the adjacent land or the public interest. The Licensee shall compensate the Licensor for all costs associated with the aforesaid removal or abatement.

9.3 Without prejudice to any other remedy under this Licence, at Law or Environmental Law, if the Licensor is of the view that the Licensee is in breach of any obligation pursuant to clause 9.2, the Licensor may, by notice in writing, require that the Licensee rectify such breach within such reasonable time period as is specified by the Licensor.

9.4 The Licensee shall comply with any direction of the Licensor under clause 9.3 within the time specified in the notice.

10 INVESTIGATIONS, INSPECTIONS AND ENQUIRIES

10.1 The Licensor may conduct or cause to be conducted such investigations, inspections and enquiries in connection with this Licence as he sees fit.

10.2 The Licensee shall use all reasonable endeavours to co-operate fully and provide all reasonable assistance in relation to any investigation, inspection or enquiry conducted pursuant to clause 10.1.

10.3 The Licensee acknowledges and agrees that, unless the contrary intention is

expressed, any investigation, inspection or enquiry undertaken pursuant to this Licence:

(a) is without prejudice to the Licensee's rights and obligations under this Licence, at Law or Environmental Law and does not amount to a waiver of any such rights or relieve the Licensee from any such obligations; and

(b) does not amount to an acknowledgement by the Licensor, or any officer, servant or agent of the Licensor, that the Licensee has complied with this Licence, Law or Environmental Law in relation to any matters to which the investigation, inspection or enquiry relates.

11 STEP IN RIGHTS

11.1 If at any time any obligation of the Licensee under this Licence is not performed, the Licensor may give written notice to the Licensee (hereinafter referred to as a **"Cure Notice"**) describing the obligation which is not performed and requiring such failure to be remedied within the period specified in the Cure Notice (which period must be reasonable having regard to the nature of the obligation which was not performed).

11.2 If the failure to perform the obligation referred to in the Cure Notice is not remedied within the period specified in such Cure Notice, the Licensor shall be entitled to engage any personnel, execute any works and to provide and install any equipment which in the opinion of the Licensor may be necessary to secure the performance of the relevant obligations.

11.3 The Licensor may recover the costs and expenses of exercising all rights under clause 11.2 from the Licensee as a civil debt in any court of competent jurisdiction.

11.4 The rights under this clause 11 are without prejudice to any other remedies available to the Licensor under this Licence, at Law or Environmental Law.

12 TERMINATION

12.1 The Licensor may, without prejudice to any other remedies available under this Licence, at Law or Environmental Law, terminate this Licence, by notice in writing to the Licensee upon the occurrence of the following events without payment of any

compensation or refund by the Licensor to the Licensee and without prejudice to any claim by the Licensor in respect of any antecedent breach of any covenant or condition herein contained or without prejudice to any obligation or liability on the part of the Licensee arising under any applicable Law or Environmental Law pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence):

(i) Where, in respect of the application for this Licence, information has been wilfully withheld from the Licensor by the Licensee or information provided to the Licensor by the Licensee is false or misleading in any material particular;

(ii) if any moneys payable by the Licensee under this Licence are not paid by the due date for payment and such failure is not remedied within 21 days after receipt by the Licensee of a notice from the Licensor requiring such breach or non-observance or non-performance to be remedied and stating that this Licence may be terminated pursuant to clause 12.1(ii) if such breach or non-observance or non-performance is not remedied;

(iii) any breach, non-performance, or non-observance by the Licensee of any covenant on the Licensee's part, condition or agreement contained in this Licence, applicable Law or Environmental Law, which is capable of being remedied and which is not remedied within 21 days after receipt by the Licensee of a notice from the Licensor requiring such breach or non-performance or non-observance to be remedied and stating that this Licence may be terminated pursuant to clause 12.1(iii) if such breach or non-performance or non-observance is not remedied;

(iv) any breach, non-observance or non-performance by the Licensee of any covenant on the Licensee's part, condition or agreement contained in this Licence, applicable Law or Environmental Law, which is not capable of being remedied;

(v) repeated breach, non-observance or non-performance by the Licensee of any provision of this Licence, applicable Law or Environmental Law which has been notified to the Licensee by the Licensor and which has not been disputed in good faith, whether or not they are remedied, which are reasonably

determined by the Licensor to constitute a breach and which continue after receipt by the Licensee of a notice from the Licensor stating that the Licence may be terminated if such repeated breach, non-observance or non-performance continues

(vi) the Licensor is of the view that the capability of the Licensee to discharge fully its obligations under this Licence is materially impaired, including by reason of:

(a) the occurrence of the Insolvency / Liquidation (other than a voluntary liquidation for the purposes of reconstruction or amalgamation) of the Licensee; or

(b) any other adverse change in the managerial, technical or financial competence of the Licensee.

12.2 Without prejudice to Clause 12.1, this Licence may be determined at any time by the Licensor giving three months notice in writing, expiring on any day, to the Licensee, and upon the termination of such notice the Licence and permission hereby granted shall be deemed to be revoked and withdrawn without payment of any compensation or refund by the Licensor to the Licensee and without prejudice to any claim by the Licensor in respect of any antecedent breach of any covenant or condition herein contained or without prejudice to any obligation or liability on the part of the Licensee arising under any applicable Law, Environmental Law or pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence).

13 RIGHTS AND OBLIGATIONS ON TERMINATION OR EXPIRY

13.1 On the termination or expiry of this Licence:

13.1.1 All rights and powers exercisable by the Licensee pursuant to this Licence shall cease and determine, but without prejudice to any obligation or liability arising under any applicable Law, Environmental Law or pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence) or without prejudice to any claim

by the Licensor in respect of any antecedent breach of any covenant or condition herein contained.

13.1.2 All Operations belonging to the Licensee shall be removed by the Licensee on the termination or expiry of this Licence at its own expense to the satisfaction of the Licensor and the Licensee shall make good any damage cuased by such removal and shall restore the Licensed Area to its former condition.

In the event that the Operations shall not be removed in agreement with the Licensor on the termination or expiry of this Licence the Licensee shall pay to the Licensor all reasonable costs, expenses and outgoings incurred in so removing the Operations and making good any damage thereby occasioned.

Any moneys paid to the Licensor under the terms of this Licence shall not be re-paid.

14 PAYMENT AND INVOICING

14.1 All payments by the Licensee in connection with this Licence:

(a) shall be made by electronic funds transfer, delivered on or before the due date for payment, to the Licensor's address for service pursuant to clause 25 or such other address notified to the Licensee by the Licensor in writing and;

(b) shall be paid in full, without deduction or set off in respect of any amounts in dispute or any other amounts whatsoever.

14.2 If any amount which is payable under this Licence has not been paid on or before the date that payment is due:

(a) the party to whom payment is due may institute proceedings for recovery from the other party; and

(b) in addition to any other remedies under this Licence, the party to whom payment is due is to be paid interest on the outstanding amount at Euribor + 1%, such interest to be calculated from the date that payment was due until the date of actual repayment.

15 REPRESENTATION AND WARRANTIES (IF LICENSEE IS A COMPANY)

15.1 The Licensee represents and warrants to the Licensor that:

(a) The Licensee is duly incorporated and organised under the laws of its place of incorporation;

(b) The Licensee has the corporate capacity and authorisation (internal and external) to enter into and perform the terms of the Licence;

(c) The representative signing this Licence on behalf of the Licensee is duly authorised in that behalf.

15.2 This Licence expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the parties, other than as expressly provided for in this Licence.

16 ASSIGNMENT

The benefit of this Licence is personal to the Licensee and not assignable and the rights given hereunder may only be exercised by the Licensee.

17 INDEMNITIES

17.1 The Licensee hereby indemnifies (as well as after the expiration of the Term by effluxion of time or otherwise as during its continuance) and agrees to keep indemnified and hold harmless the State, the Licensor and his/her officers, servants, agents and employees, against all or any actions, expenses, costs, claims, demands, damages and other liabilities whatsoever in respect of:

(i) the performance of works, the Operations and use of Plant and equipment in the Licensed Area by the Licensee or its servants, agents, employees or contractors; or

(ii) the injury, sickness or death of any person (including the Licensor's servants, agents and employees and any other occupants of the Licensed Area or any adjoining property or Foreshore); or

(iii) all damage to or loss to or of any property or business arising out of or in any

way connected with the Licensed Area or the exercise of any of the Licensee's rights herein contained; or

(iv) as a result of any breach by the Licensee of the terms of this Licence; or

(v) any acts or omissions or negligence of the Licensee, its servants, agents,invitees, or any persons in or about the Licensed Area expressly or impliedly with the Licensee's authority or consent;

save to the extent that such actions, loss, claims, damages, expenses and demands are directly attributable to the negligence of the Licensor and/or his officers, agents or employees.

18 JOINT AND SEVERAL LIABILITY (IF MORE THAN ONE LICENSEE)

Save where otherwise specified, any obligations of the Licensee under this Licence are joint and several obligations.

19 FORCE MAJEURE

19.1 Except as otherwise provided by this Licence, where any party or parties are rendered wholly or partially incapable of performing all or any of their obligations under this Licence by reason of Force Majeure:

19.1.1 as soon as is reasonably practicable, the party affected by Force Majeure shall notify the other parties, identifying the nature of the event, its expected duration and the particular obligations affected and shall furnish reports at such intervals reasonably requested by the other party during the period of Force Majeure;

19.1.2 this Licence shall remain in effect but that party's obligations, except for an obligation to make payment of money, and the corresponding obligations of the other party, shall be suspended, provided that the suspension shall be of no greater scope and no longer duration than is required by the Force Majeure;

19.1.3 subject to full compliance with this clause 19.1, during suspension of any obligation pursuant to clause 19.1.2, the relevant party or parties shall not be treated as being in breach of that obligation;

19.1.4 the party affected by the Force Majeure shall use all reasonable efforts to remedy its inability to perform all or any of its obligations under this Licence by reason of Force Majeure and to resume full performance of its obligations under this Licence as soon as is reasonably practicable;

19.1.5 as soon as is reasonably practicable after notification of the Force Majeure, each party shall use all reasonable endeavours to consult with the other party as to how best to give effect to their obligations under this Licence so far as is reasonably practicable during the period of the Force Majeure;

19.1.6 upon cessation of a party's inability to perform all or any of its obligations under this Licence by reason of Force Majeure, that party shall notify the other party; and

19.1.7 insofar as is possible, any party affected by an event of Force Majeure shall do all things reasonably practicable to mitigate the consequences of the Force Majeure.

19.2 Clause 19.1.4 shall not require the settlement of any strike, walk-out, lock-out or other labour dispute on terms which, in the sole judgement of the party involved in the dispute, are contrary to its interests.

20 DISPUTE RESOLUTION

20.1 Subject to clause 20.10, no party may commence proceedings in relation to any Dispute in connection with this Licence without first complying with the provisions of clause 20.

20.2 Any party may notify the other party of the occurrence or discovery of any item or event which the notifying party acting in good faith considers to be a Dispute under or in connection with this Licence (hereinafter referred to as a "**Dispute Notice**").

20.3 A Dispute Notice shall:

(1) set out the particulars of the issues in dispute in sufficient detail and be accompanied by sufficient supporting documentation (if relevant) to enable the recipient or recipients of the notice to fully understand the Dispute; and

(a) (2) identify an individual to represent that party in discussions in relation to the Dispute, such individual to have:

(b) (a) expertise or experience in the subject matter of the Dispute; and

(c) (b) authority to negotiate in relation to the Dispute.

20.4 Any recipient of a Dispute Notice shall, within 10 Business Days after the date of the Dispute Notice:

(1) appoint an individual to represent that recipient in discussions in relation to the Dispute, such individual to have:

(a) expertise or experience in the subject matter of the Dispute; and

(b) authority to negotiate in relation to the Dispute; and

(2) notify the details of that individual to the sender of the Dispute Notice.

20.5 The nominated representatives shall meet as soon as practicable, but in any event not more than 20 Business Days after the date of the Dispute Notice, to attempt in good faith using all reasonable endeavours to resolve the Dispute satisfactorily.

20.6 If a Dispute is not resolved to any party's satisfaction by the nominated representatives under clause 20.5 within 30 Business Days after the date of the Dispute Notice, the Dispute may, by notice in writing by any party to the other party to the Dispute, be referred to Arbitration for determination by a single arbitrator appointed by agreement between the parties.

20.7 Failing agreement on the appointment of an arbitrator within the time frame set out in clause 20.6, the arbitrator shall be appointed at the request of any party, after giving notice in writing to the other party to the Dispute, by the President for the time being of the Law Society of Ireland.

20.8 The provisions of the Arbitration Acts 1954 to 2010 and any amendments thereto shall apply to the Arbitration.

20.9 Performance of obligations under this Licence shall continue during any Dispute Resolution Procedure pursuant to this clause 20.

20.10 Nothing in this clause 20 prevents any party from seeking urgent declaratory injunctive or other interlocutory relief.

21 COMPLIANCE WITH PLANNING

21.1 Where applicable, the Licensee shall obtain all planning permissions, fire safety certificates, Environmental Licences, permissions and other consents required for the Licensed Area, the Operations, Plant and equipment as appropriate and comply at its own cost therewith and any Local Authority requirements. On the completion of the Operations, the Licensee shall furnish the Minister with its Architects Certificate of Compliance in respect of such permissions.

21.2 The Licensee shall not implement any planning permission before it and all required fire safety certificates and Environmental Licences have been produced to the Licensor.

21.3 In the event of the Licensed Area not conforming to the planning permission, fire safety certificate or Environmental Licences procured in respect thereof, the Licensee shall carry out such amendments as shall be necessary to comply therewith. However in the event of it becoming impossible to comply with the planning permission, fire safety certificate or Environmental Licences procured, to restore the Licensed Area to its former condition and to the satisfaction of the Licensor.

21.4 The Licensee shall not do any anything on or in connection with the Licensed Area, Plant and equipment the doing or omission of which shall be a contravention of the Planning and Development Acts, 2000 to 2010, the Building Control Acts, 1990 to 2007 and the Safety, Health and Welfare at Work Act, 1989 to 2005. In the event of permission or approval from any local authority under the Planning and Development Acts, 2000 to 2010 or Building Control Acts, 1990 to 2007 or the Public Health Acts 1878 to 2001 being necessary for any addition, alteration or change in or to the Licensed Area for the change of user thereof, to apply, at its own cost to the relevant local authority for all approvals, certificates, consents and permissions which may be required in connection therewith and to give notice to the Licensor of the grant or refusal (as the case may be) together with copies of all such approvals, certificates, consents and permissions forthwith on receipt thereof and to comply with all conditions, regulations, bye-laws and other matters prescribed by any competent

authority whether generally or specifically in respect thereof and to carry out such works at the Licensee's own expense in a good and workmanlike manner to the satisfaction of the Licensor. The Licensee shall produce to the Licensor on demand all plans, documents and other evidence as the Licensor may reasonably require in order to satisfy himself that the provisions of this Licence have been complied with in all respects.

21.5 The Licensee shall give notice forthwith to the Licensor of any notice, order or proposal for a notice under the Planning and Development Acts, 2000 to 2010 or the Building Control Acts, 1990 to 2007 or the Public Health Acts, 1878 to 2001 and comply at its own cost therewith.

21.6 The Licensee shall at the request of the Licensor, but at its own cost, make or join in making such objections or representations in respect of any proposal the Licensor may require to be made.

22 OUTGOINGS

22.1 The Licensee shall pay and discharge:

(i) All rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever charged, levied, assessed, imposed upon or payable in respect of the Operations - hereby granted; and

(ii) All costs associated with the Operations and the continued operatation and use thereof including the cost of any work which the Licensor may have to do to facilitate the carrying out of the works or any act or thing hereby authorised.

23 EXERCISE OF RIGHTS

To exercise the Licence hereby granted in such a manner as to cause no damage or injury to the Licensed Area, the Licensor, the occupants of the Licensed Area and any adjoining property or Foreshore and to forthwith from time to time with due diligence repair and make compensation for any such damage or injury that may be so caused.

24 INSURANCE

24.1 Without prejudice to the Licensee's liability to indemnify the Licensor in accordance

with the provisions of clause 17, the Licensee shall effect and maintain in the joint names of the Licensor and the Licensee from the Commencement Date until the termination or expiry of this Licence (and for such further period thereafter as the Licensor may reasonably require) the following policies of insurance in an insurance office licensed to operate in the State or which has received official authorisation to operate in the State in accordance with Article 6 of Directive 73/239/EEC:-

(a) The Licensed Area, Plant and equipment, in the full reinstatement cost thereof (to be determined from time to time by the Licensor or his surveyor and including any inflationary factor) against loss or damage by fire, explosion or lightning, impact, earthquake, aircraft, floods, storm and tempest, riot, civil commotion and malicious damage or bursting or overflowing of water tanks, apparatus or pipes and including demolition and site clearance expenses, architect's and other fees and taxes in relation to the reinstatement of the Licensed Area. In the event that the Licensed Area or any part thereof shall be destroyed or damaged by fire or any of the aforesaid risks, then and as often as shall happen, the Licensee shall lay out all monies received in respect of such insurance as aforesaid as soon as practicable in or upon rebuilding, repairing or reinstating the Licensed Area in a good and substantial manner and in the event that such monies shall be insufficient for the said purpose, the Licensee shall make good the deficiency;

(b) A public liability insurance policy of indemnity with a limit of €6,500,000.00 (six million five hundred thousand euro) (or such increased amount as the Licensor may from time to time determine) in respect of any one claim and unlimited as to the number of accidents or claims during the currency of this Licence in respect of any one claim for any damage, loss or injury which may occur to any property (not being the property of the Licensor or the Licensee) or to any person by or arising out of the admission of any person to the Licensed Area;

(c) To effect and keep in force an employer's liability insurance policy with a limit of €12,700,000.00 (twelve million seven hundred thousand euro) (or such increased amount as the Licensor may from time to time determine) and to extend such policy so that the Licensor is indemnified by the insurers in the

same manner as the Licensee in respect of all actions, costs, proceedings, losses, damages, or claims for personal injuries by employees of the Licensee;

(d) In the event that the Licensed Area or any part thereof, shall be destroyed or damaged by fire or any of the Insured Risks, then and as often as shall happen, to lay out all monies received in respect of such insurance as aforesaid as soon as practicable in or upon rebuilding, repairing or reinstating the Licensed Area in a good and substantial manner and in the event that such monies shall be insufficient for the said purpose, to make good the deficiency;

(e) Whenever required to do so by the Licensor, to produce to the Licensor for inspection the said policy or policies together with the latest receipt of the premium paid for renewal of the said policy or policies together with evidence of waiver of subrogation rights against the Licensor by the Licensee's insurers, and to comply with all conditions pertaining to any such policy or policies;

(f) Such joint policy or policies to contain a non vitiation clause whereby subject to the terms, conditions, limitations of the policy or policies, any non disclosure, mistake or misrepresentation of a material fact by the Licensee gives sufficient reason for the insurer to prove the insurance policy to be void, the Licensor will not be denied the protection of the policy;

(g) Not to do or omit to do anything which might cause any policy of insurance relating to the Licensed Area, the Operations, Plant and equipment any adjoining property or Foreshore owned by the Licensor to become void or voidable, wholly or in part, nor (unless the Licensee has previously notified the Licensor and the Licensee has agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable;

(h) To immediately notify the Licensor in writing of the making of any claim under any policy of insurance and to provide the Licensor with all information in relation to any such claim; and

(i) To ensure that any contractors engaged in connection with activities in the Licensed Area or otherwise in connection with this Licence have appropriate insurance and that all copies of such insurance policies shall be provided to the

Licensor as soon as is reasonably practicable.

24.2 The Licensee shall produce such policy or policies of insurance and the latest receipt of the premium paid for renewal of the said policy or policies to the Licensor for inspection as and when called upon to do so by the Licensor and to comply with all conditions pertaining to any such policy or policies.

24.3 The Licensee must immediately notify the Licensor in writing of the making of any claim under any policy of insurance and must provide the Licensor with all information in relation to any such claim.

24.4 The Licensee must ensure that any contractors engaged in connection with activities in the Licensed Area or otherwise in connection with this Licence have appropriate insurance and all copies of such insurance policies should be provided to the Licensor as soon as is reasonably practicable.

25 NOTICES

25.1 Save where otherwise specified, any notice to be given on foot of this Licence may be given in writing sending same by pre-paid post to (i) the registered office of the Licensee being 26 Fitzwilliam Street Upper, Dublin 2 or such other address as shall be notified to the Licensor or (ii) the office of the Licensor being the Custom House, Dublin W6XO or such other address as shall be notified to the Licensee.

25.2 Any such written notice shall be deemed to have been given when posted at the expiration of three working days after the envelope containing the same and properly addressed was put in the post.

26 VARIATION

No amendment to this Licence shall be effective unless it is in the form of a Supplemental Iindenture executed by the Parties.

27 RELATIONSHIP OF THE PARTIES

27.1 Nothing in this Licence may be interpreted or construed as creating any landlord and

tenant relationship, any tenancy in or right to possession of or any right of easement over or in respect of the Licensed Area or adjoining property/Foreshore of the Licensor, or any agency, association, joint venture or partnership between the Licensor and the Licensee.

27.2 Except as is expressly provided for in this Licence, nothing in this Licence grants any right, power or authority to any party to enter into any agreement or undertaking for, act on behalf of or otherwise bind any other party.

27.3 It is hereby certified for the purposes of Section 29 of the Companies Act 1990 that the Licensor is not a director or a person connected with a director of the Licensee.

28 SEVERABILITY

28.1 If any provision of this Licence is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or by order of the relevant body of the European Union, that provision shall be severed and the remainder of this Licence shall remain in full force and effect.

28.2 The parties shall comply with this Licence as amended in accordance with this clause 28.

29 STAMP DUTY

To stamp (if applicable) this Licence and counterpart thereof as soon as practicable after the execution of same and to furnish the counterpart duly stamped to the Chief State Solicitor on behalf of the Licensee within three months of the date of execution of the Licence.

30 GOVERNING LAW

30.1 The Licence shall be governed and construed in accordance with the laws of Ireland.

30.2 Subject to clause 20, the Parties hereby submit irrevocably to the non-exclusive jurisdiction of the courts of Ireland.

REPAIRING OR REINSTATING THE LICENSED AREA FIRST SCHEDULE

PART ONE

"LICENSED AREA"

ALL THAT AND THOSE Foreshore comprising 2.6 hectares or thereabouts statute measure, together with any works or other structures to be hereafter constructed thereon (if any), situate at Ross Beach, Killala Bay, in the County of Mayo as shown outlined in red on drawings numbered 1251/206 and 207 attached hereto and including, without prejudice to the generality of the foregoing, the Plans.

SECOND SCHEDULE

"SPECIFIC CONDITIONS"

31. The Licensee shall throughout the Term:

31.1 Use that part of the Foreshore the subject matter of this Licence for the purposes as outlined in the application and for no other purposes whatsoever.

31.2 Notify the Department of the Environment, Community and Local Government at least 14 days in advance of the commencement of the works on the foreshore.

31.3 Ensure the cable is installed as detailed in the submitted "Planning Report: February 2015" unless otherwise approved by the Department of the Environment, Community and Local Government. Method Statements for all construction operations on the foreshore shall be submitted by the Licensee and agreed with the Department of the Environment, Community and Local Government prior to the commencement of any works.

31.4 Ensure the "Ocean Ground Bed" will be installed as set out at Section 6.15 of the "Planning Report: February 2015". A drawing detailing the "as laid location" of the said "Ocean Ground Bed" shall be submitted to Department of the Environment, Community and Local Government on completion of the works on the foreshore.

31.5 Ensure that the target burial depth for the length of the near shore (beach,

shallow and intertidal zones to LWM) foreshore involved shall be at least 1.5 M as per Application documents with target minimum depths for offshore burial as set out in the Application documents.;

31.6 Ensure material/debris collected as a result of the proposed pre-lay grapnel run shall be disposed of on shore to a licensed Landfill site in accordance with the applicable Waste Disposal Legislation subject to the appropriate agreement and approval of the relevant Local Authority;

31.7 During the course of the works in the inshore / beach area at the landfall site the working areas shall be secured from unauthorised public access encroachment by means of suitable barriers and signage and the Licensee shall comply with all relevant safety legislation in this regard

31.8 Ensure that public access arrangements to the general foreshore area at Ross beach are not impeded by any vehicle / plant / equipment or materials used in connection with the works and where relevant this access should be made safe and guaranteed by the provision of appropriate signage, notices or barriers to the satisfaction of the Department of the Environment, Community and Local government.

31.9 Be fully compliant with the requirements set out in the National Parks and Wildlife Service Document "Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters (January 2014)" in respect of the cable installation activity on the foreshore.

31.10 Implement in full the mitigation measures set out in documented entitled "Marine and Intertidal Ecological Impact Assessment for the American-Europe Connect Ltd. Trans-Atlantic fibre optic cable landing in Killala Bay, Co. Mayo (Supplement Appendix to NIS)" dated 16th February 2015.

31.11 Adopt appropriate methods of operation in order to ensure that no spillages of hydrocarbons, cement or other hazardous substance occur to the Foreshore during the course of the works. Contractors arrangements for the control of pollutants should be notified to Department of the Environment, Community and Local Government and Inland Fisheries Ireland (Ballina) prior to the commencement of works.

31.12 Liaise with the Irish Coast Guard to arrange appropriate Radio / nav-text broadcast warnings to advise shipping approaching the works area.

31.13 Furnish the names / registered number of all vessels involved in the operation to the Marine Survey Office in Dublin to ensure compliance with respect to Irish Load line and other relevant vessel certification.

31.14 Arrange the publication of a Marine Notice, issued by the Irish Maritime Administration, giving a general description of operations and approximate dates of commencement and completion.

31.15 Arrange the publication of a local marine notice giving a general description of operations and approximate dates of commencement and completion in respect of near shore and landfall cable laying operations.

31.16 Engage the services of a suitably qualified archaeologist to carry out an inter-tidal survey of the landfall, incorporating metal detector survey, under licence from the Department of Arts, Heritage and the Gaeltacht. This survey shall be carried out well in advance of the proposed construction works.

31.17 Maintain an Exclusion Zones of 100 metres around the furthest known extent of all anomalies (EECS-S5RVG-SC002, EECS-S5-RVG-SC001, EECS-S5-RVG-MC004, EECS-S5-RVG-MC003, EECS-S5-RVG-MC002, EECS-S5-RVG-MC001, EECS-S5-RVG-MC005 & EECS-S5-RVG-MC006) listed on pages 35 and 36 of the report titled " AEConnect Cable System Irish Territorial Waters Marine Cultural Heritage Assessment". A chart showing the route of the cable in relation to the anomalies and associated exclusion zones shall be supplied to the Department of Arts, Heritage and the Gaeltacht in advance of the works proceeding. Put in place procedures to ensure that anchoring activities taking place during the works do not impact upon the exclusion zones.

31.18 Engage the services of a suitably qualified maritime archaeologist to monitor all in water disturbance works associated with the development including beach preparations works and foreshore works at the landfall, pre-lay grapnel run operations and cable burial operations in order to ensure the preservation of potential archaeological sites, wrecks and features. The archaeological monitoring shall be licensed under the National Monuments Acts 1930-2004.

31.19 A detailed method statement shall accompany the archaeological licence application and shall include details on the proposed works, duration of works; archaeological monitoring team proposed and a find's retrieval strategy.

31.20 Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. Shall be advised by the National Monuments Service of the Department of Arts, Heritage and the Gaeltacht with regard to any necessary mitigating action (e.g. preservation *in situ*, dive and/or geophysical survey or excavation). The Licensee shall facilitate the archaeologist in recording any material found.

31.21 Ensure that the Department of Arts, Heritage and the Gaeltacht is furnished with a report describing the results of the monitoring.

31.22 Ensure that all vehicles, plant, equipment and materials are removed from the foreshore on completion of the works on the foreshore.

31.23 Ensure that the foreshore and adjacent seashore and beach area shall be restored to its original condition on completion of the beach manhole, Ocean Ground Bed and cable installation and that no open excavation shall be left on the foreshore.

31.24 Provide to the Department of the Environment, Community and Local Government a chart and a route position list detailing the "as laid location" of the cable on completion of the works. Information on the location where the cable has been "buried" and "surface laid".

IN WITNESS whereof a person so authorised by the Licensor under Section 15(1) of the Ministers and Secretaries Act 1924 has hereunto subscribed his name and the Licensee has hereunto affixed his seal the day and year first herein **WRITTEN.**

PRESENT WHEN THE OFFICIAL SEAL OF THE MINISTER FOR THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT WAS AFFIXED HERETO:-

A person authorised by Section 15(1) of the Ministers and Secretaries Act, 1924 to authenticate the seal of the said Minister.

Signature: Peter Sheehan

Address: Personnel
Dept. of Environment, Community
& Local Government

Occupation: Civil Servant

PRESENT when the **COMMON SEAL**)

of **AMERICA EUROPE CONNECT LIMITED** was)

affixed hereto in accordance with its)

Memorandum and Articles of Association)

)

)**Director**

)

Signature:)

)

Address:)

)

)

)

)

Occupation :)

Chartered Accountant

Discovery Map with National Grid Co-ordinates

Scale

1:50,000 @ A1

1:100,000 @ A3

6" OS Map - ITM Co-ordinates

Scale

1:10,560 @ A1

1:21,120 @ A3

1:2,500 OS Map - ITM Co-ordinates

Scale

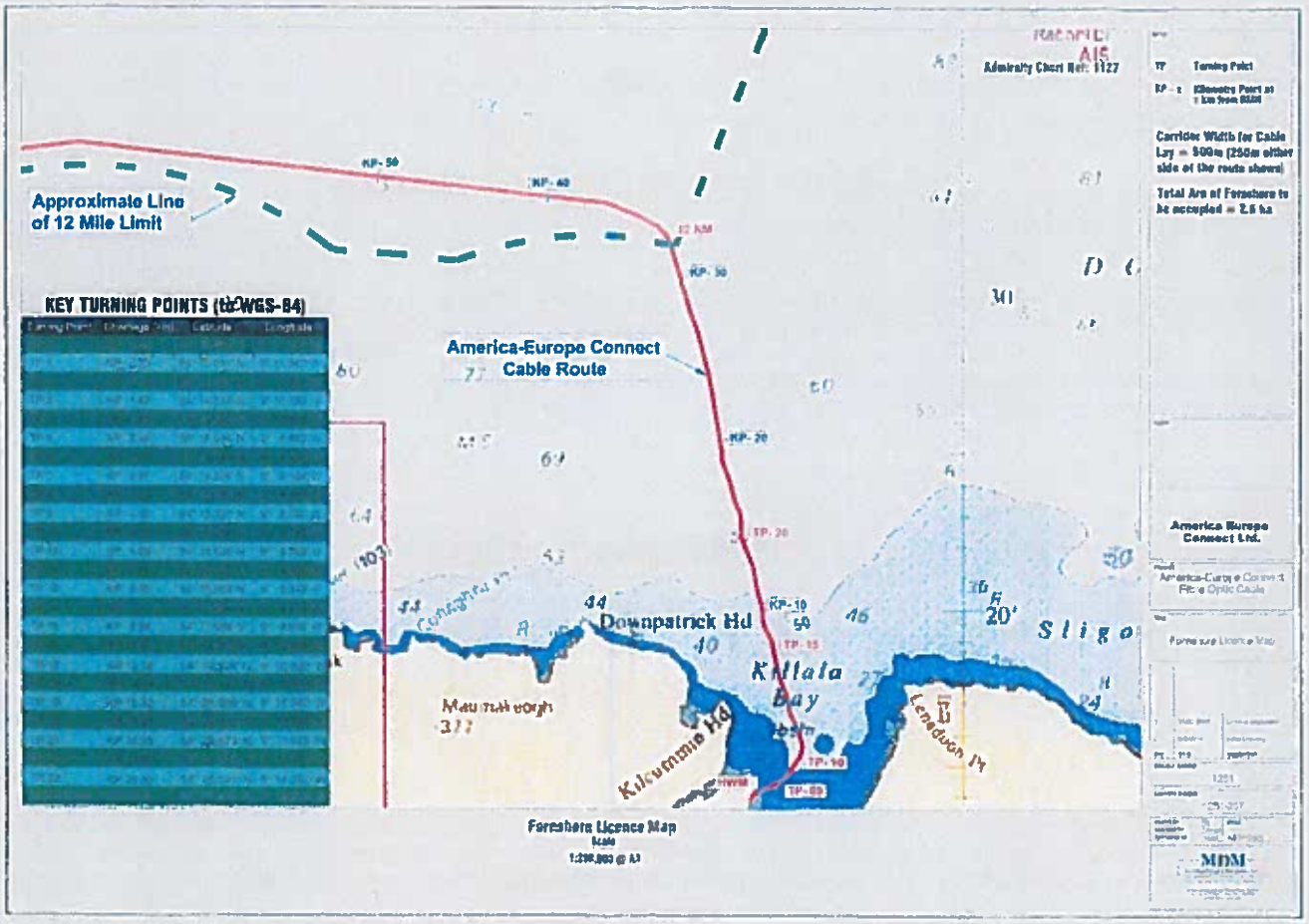
1:2,500 @ A1

1:5,000 @ A3

America Europe Connect Ltd.

America-Europe Connect Fibre Optic Cable

MDM


Approximate Line of 12 Mile Limit
KEY TURNING POINTS (to WGS-84)
America-Europe Connect Cable Route
Admiralty Chart No: 1127
Carrier Width for Cable Lay = 500m (250m either side of the route shown)
Total Area of Foreshore to be occupied = 2.5 ha
America Europe Connect Ltd.
Downpatrick Hd
Killala Bay
Sligo
Foreshore Licence Map

Dated day of 2015

MINISTER FOR THE ENVIRONMENT, COMMUNITY AND LOCAL GOVERNMENT

"the Licensor"

One part

-AND-

AMERICA EUROPE CONNECT LIMITED

"the Licensee"

Other Part

FORESHORE LICENCE

Eileen Creedon
Chief State Solicitor
Osmond House
Little Ship Street
Dublin 8
Ref: MB/2015/03432