

WHITE & CASE

Dated 14 December 2018

Intercreditor Deed

between

ALVOTECH HOLDINGS S.A.
as the Company

CLSA Limited
acting as Original Bondholder

MADISON PACIFIC TRUST LIMITED
acting as Security Trustee

and others

White & Case
9th Floor Central Tower
28 Queen's Road Central
Hong Kong

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This Deed is made on the date first appearing on the cover page of this Deed.

Between:

- (1) **ALVOTECH HOLDINGS S.A.**, a public limited liability company (*société anonyme*) incorporated and existing under the laws of the Grand Duchy of Luxembourg, having its registered office at 5, rue Heienhaff, L-1736 Senningerberg, Grand Duchy of Luxembourg, and with the Luxembourg Trade and Companies' Register under number 229.193 (the "**Company**" or the "**Issuer**");
- (2) **ALVOTECH HF.**, registration number 710113-0410, with registered offices at Sæmundargata 15-19, Reykjavik Iceland;
- (3) **GLYCOTHERA GmbH**, a German limited liability company with registration number HRB 203999, with registered offices at Feodor-Lynen-Straße 35, 30625 Hannover, Germany;
- (4) **ALVOTECH GERMANY GmbH** (formerly known as Baliopharm GmbH), a German limited liability company with registration number HRB 3958, with registered offices at Karl-Heinz-Beckurts-Straße 13, 52428 Jülich, Germany;
- (5) **ALVOTECH SWISS AG**, registration number CHE-172.836.506, with registered offices at Thurgauerstrasse 54, 8050 Zurich, Switzerland (together with Alvotech hf., Glycothera GmbH and Alvotech Germany GmbH, the "**Guarantors**", and together with the Company, the "**Original Debtors**");
- (6) **CLSA Limited** as the Original Bondholder; and
- (7) **MADISON PACIFIC TRUST LIMITED** as Security Trustee for the Secured Parties (the "**Security Trustee**").

It is agreed:

1. Definitions and Interpretation

1.1 Definitions

In this Deed:

"Acceleration Event" means:

- (a) the Bondholders exercising any rights to accelerate amounts outstanding under the Bonds pursuant to any applicable Bond Instrument; or
- (b) any Liabilities becoming due and payable by operation of any automatic acceleration provisions in any Bond Instrument.

"Accession Undertaking" means:

- (a) (in the case where paragraphs (b) does not apply) an undertaking substantially in the form set out in Schedule 2 (*Form of Accession Undertaking*); or
- (b) (in the case of any person that is to become party to this Deed as a Debtor and that is expressed to become party to this Deed pursuant to a Debtor Accession Deed as an Intra-Group Lender in that Debtor Accession Deed) that Debtor Accession Deed,

as the context may require.

"Acquired Indebtedness" has the meaning given to that term in the Bond Instruments.

"Affiliate" has the meaning given to that term in the Bond Instruments.

“**Alvogen Guarantee Agreement**” has the meaning given to that term in the Tranche A Bond Instrument.

“**Appropriation**” means the appropriation (or similar process) of the shares in the capital of a Group Member by the Security Trustee (or any Receiver or Delegate) which is effected (to the extent not prohibited by the relevant Security Document and applicable law) by enforcement of the Transaction Security.

“**Bond Document**” means each Tranche A Bond Document and each Tranche B Bond Document.

“**Bond Instruments**” means the Tranche A Bond Instrument and the Tranche B Bond Instrument.

“**Bondholders**” means the Tranche A Bondholders and the Tranche B Bondholders.

“**Bonds**” means the Tranche A Bonds and the Tranche B Bonds.

“**Bonds Outstanding**” means the principal amount of outstanding Bonds held by the Bondholders at such time of determination.

“**Borrowing Liabilities**” means, in relation to a Group Member, the liabilities (not being Guarantee Liabilities) it may have as a principal debtor to a Creditor or Debtor (including, as the context so determines, any party that is to accede to this Deed as a Creditor or Debtor pursuant to Clause 16 (*Changes to the Parties*)) in respect of Indebtedness arising under the Bond Documents and any facility (or commitment in relation thereto) (whether incurred solely or jointly and including, without limitation, liabilities as an Issuer under the Bond Documents), Subordinated Liabilities and Intra-Group Liabilities.

“**Business Day**” has the meaning given to that term in the Bond Instruments.

“**Cash Proceeds**” means:

- (a) proceeds of the Charged Property which are in the form of cash; and
- (b) any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any proceeds of the Security Property which are in the form of Non-Cash Consideration.

“**Charged Property**” means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security.

“**Common Currency**” means United States Dollars.

“**Common Currency Amount**” means, in relation to an amount, that amount converted (to the extent not already denominated in the Common Currency) into the Common Currency at the Security Trustee’s Spot Rate of Exchange on the Business Day prior to the relevant calculation.

“**Competitive Sales Process**” means a public or private auction or other competitive sale process in which more than one bidder participates or is invited to participate (including any person invited that is a Creditor at the time of such invitation), which may or may not be conducted through a court or other legal proceeding, and which is conducted with the advice of a Financial Adviser.

“**Consent**” means any consent, approval, release or waiver or agreement to any amendment.

“**Creditors**” means the Bondholders, the Security Trustee, the Subordinated Creditors and the Intra-Group Lenders, as the context so determines.

“**Debt Disposal**” means any disposal of any Liabilities or Debtor Liabilities pursuant to

paragraph (a)(iii) of Clause 11.2 (*Distressed Disposals*).

“**Debtor**” means the Original Debtors and any person which becomes a Party as a Debtor in accordance with the terms of Clause 16 (*Changes to the Parties*).

“**Debtor Accession Deed**” means a deed substantially in the form set out in Schedule 1 (*Form of Debtor Accession Deed*).

“**Debtor Liabilities**” means, in relation to a Group Member, any Liabilities owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that Group Member.

“**Debtor Resignation Request**” means a notice substantially in the form set out in Schedule 3 (*Form of Debtor Resignation Request*).

“**Default**” has the meaning given to that term in the Bond Instruments.

“**Delegate**” means any delegate, agent, attorney, co-trustee or co-security trustee appointed by the Security Trustee.

“**Discharge Date**” means the first date on which all Secured Obligations have been fully and finally discharged to the satisfaction of the Bondholders (whether by redemption at the Maturity Date, early redemption of the Bonds made pursuant to and in accordance with the Bond Instruments or otherwise).

“**Dispute**” has the meaning given to that term in Clause 26.1 (*Jurisdiction*).

“**Distress Event**” means any of:

- (a) an Acceleration Event which has occurred and is continuing; or
- (b) the enforcement of any Transaction Security.

“**Distressed Disposal**” means a disposal of an asset or shares of the Company or a Group Member which are expressed to be the subject of Transaction Security, which is:

- (a) being effected at the written request of the Instructing Group in circumstances where the Transaction Security has become enforceable;
- (b) being effected by enforcement of the Transaction Security; or
- (c) being effected after the occurrence of a Distress Event, by a Debtor to a person or persons which is not a Group Member.

“**Enforcement**” means the enforcement or disposal of any Transaction Security, the requesting of a Distressed Disposal and/or the release or disposal of claims and/or Transaction Security on a Distressed Disposal under Clause 11.2 (*Distressed Disposals*), the giving of instructions as to actions with respect to the Transaction Security and/or the Charged Property and the taking of any other actions consequential on (or necessary to effect) any of those actions (but excluding the delivery of Enforcement Instructions).

“**Enforcement Action**” means:

- (a) in relation to any Liabilities:
 - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Bondholder to perform its obligations under, or of any voluntary or Mandatory Prepayment arising under, the Bond Documents);
 - (ii) the making of any declaration that any Liabilities are payable on demand;

- (iii) the making of a demand for payment in relation to a Liability that is payable on demand;
 - (iv) the making of any demand against any Group Member in relation to any Guarantee Liabilities of that Group Member;
 - (v) the suing for, commencing or joining of any legal or arbitration proceedings against any Group Member to recover any Liabilities;
- (b) the taking of any steps to enforce or require the enforcement of any Transaction Security as a result of an Event of Default;
 - (c) the entering into of any composition, compromise, assignment or similar arrangement with any Group Member which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 16 (*Changes to the Parties*)); or
 - (d) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator or similar officer) in relation to, the winding up, dissolution, administration or reorganisation of any Group Member which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such Group Member's assets or any suspension of payments or moratorium of any indebtedness of any such Group Member, or any analogous procedure or step in any jurisdiction,

except that the following shall not constitute Enforcement Action:

- (i) the taking of any action falling within paragraph (a)(v) or (d) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods;
- (ii) bringing legal proceedings against any person in connection with any securities violation, securities or listing regulations or common law fraud or to restrain any actual or putative breach of the Bond Documents or for specific performance with no claims for damages;
- (iii) a Secured Party bringing legal proceedings against any person solely for the purpose of:
 - (A) obtaining injunctive relief to restrain any actual or putative breach of any Bond Document to which it is a party;
 - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
 - (C) requesting judicial interpretation of any provision of any Bond Document to which it is a party with no claim for damages; and
- (iv) a demand made by a Subordinated Creditor or an Intra-Group Lender in relation to Subordinated Liabilities or the Intra-Group Liabilities to the extent:
 - (A) any resulting Payment would constitute a Permitted Payment; or
 - (B) any Subordinated Liability or Intra-Group Liability of a Group Member is being released or discharged in consideration for the issue of shares in that Group Member, the Issuer or any parent thereof;

provided that (in any such case) in the event that the shares of such Group Member are subject to Transaction Security prior to such issue, then the percentage of shares in such Subsidiary subject to Transaction Security is not diluted.

“Enforcement Instructions” means instructions as to Enforcement (including the manner and timing of Enforcement) given by the Instructing Group in writing to the Security Trustee; *provided* that instructions not to undertake Enforcement or an absence of instructions as to Enforcement shall not constitute “Enforcement Instructions”.

“Event of Default” means any event or circumstance specified as such in the relevant Bond Instrument.

“Existing Shareholder Loans” has the meaning given to that term in the Bond Instruments.

“Expected Amount” has the meaning given to that term in Clause 13.2 (*Prospective Liabilities*).

“Fairness Opinion” means, in respect of any Enforcement, an opinion from a Financial Adviser that the proceeds received or recovered in connection with that Enforcement are fair from a financial point of view taking into account all relevant circumstances.

“Fee Letter” means any letter or letters between, amongst others, the Security Trustee and the Company setting out any of the fees payable to any of the Security Trustee.

“Financial Adviser” means any:

- (a) independent, reputable, internationally recognised investment bank;
- (b) independent, internationally recognised accountancy firm; or
- (c) other independent, reputable, internationally recognised, third-party professional services firm which is regularly engaged in providing valuations of businesses or financial assets or, where applicable, advising on competitive sales processes.

“German Security” means all Security created pursuant to any security agreement, including the Security Documents, governed by German law;

“Group” means the Company and its Subsidiaries from time to time and **“Group Member”** means any member of such group.

“Guarantee” has the meaning given to that term in the Bond Instruments.

“Guarantee Liabilities” means, in relation to a Group Member, the liabilities under the Bond Documents (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Creditor or Debtor (including, as the context so determines, any party that is to accede to this Deed as a Creditor or Debtor pursuant to Clause 16 (*Changes to the Parties*)) as or as a result of it being a guarantor or surety including, without limitation, liabilities arising by way of guarantee, indemnity, surety, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of the Bond Documents (as the context requires).

“Guarantors” has the meaning given to that term in the preamble to this Deed.

“Indebtedness” has the meaning given to that term in the Bond Instruments.

“Insolvency Event” means any formal corporate action or legal proceeding taken in relation to any Group Member:

- (a) the taking of any action set out in section 21 of the German Insolvency Code (*Insolvenzordnung*) in relation to any Group Member incorporated or established in

Germany or a court instituting or rejecting (for reason of insufficiency of its funds to implement such proceedings) insolvency proceedings against any such Group Member (*Eröffnung des Insolvenzverfahrens*);

- (b) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of that Group Member, a moratorium is declared in relation to any indebtedness of that Group Member or an administrator is appointed to that Group Member;
- (c) any payments are suspended;
- (d) any composition, compromise, assignment or arrangement is made with any of its creditors;
- (e) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that Group Member; or
- (f) any analogous procedure or step is taken in any jurisdiction.

“Instructing Group” means at any time holders of at least 50.1 per cent. in aggregate principal amount of the Bonds.

“Intercreditor Amendment” means any amendment or waiver which is subject to Clause 22 (*Consents, Amendments and Override*).

“Intra-Group Lenders” means each Group Member which has made a loan available to, granted credit to or made any other financial arrangement having similar effect with another Group Member and which is required to become, or otherwise becomes, a party as an Intra-Group Lender in accordance with the terms of Clause 16 (*Changes to the Parties*).

“Intra-Group Liabilities” means the Liabilities owed by any Group Member to any of the Intra-Group Lenders.

“Liabilities” means all present and future liabilities and obligations at any time of any Group Member to any Creditor under the Bond Documents and all documents or instruments pursuant to which the Intra-Group Liabilities and the Subordinated Liabilities are constituted (including by way of the grant of Security under such documents), both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any interest, fees, expenses or charges, accruing on, or subsequent to the filing of a petition in bankruptcy, reorganisation or similar proceeding against a US Bankruptcy Debtor at the rate provided for in the documentation, with respect thereto, whether or not such interest, fees, expenses, or charges is an allowed claim under applicable state, federal or foreign law;
- (d) any claim for damages or restitution; and
- (e) any claim as a result of any recovery by any Debtor of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-

provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

“Liabilities Acquisition” means, in relation to a person and to any Liabilities, a transaction where that person:

- (a) purchases by way of assignment or transfer;
- (b) enters into any sub-participation in respect of; or
- (c) enters into any other agreement or arrangement having an economic effect substantially similar to a sub-participation in respect of,

the rights and benefits in respect of those Liabilities.

“Mandatory Prepayment” means a mandatory prepayment, repurchase or redemption (including any requirement to make an offer to repurchase) of any of the Liabilities made pursuant to the Bond Instruments.

“Material Adverse Effect” has the meaning given to that term in the Bond Instruments.

“Maturity Date” has the meaning given to that term in the Bond Instruments.

“Non-Cash Consideration” means consideration in a form other than cash.

“Non-Cash Recoveries” means:

- (c) any proceeds of a Distressed Disposal or a Debt Disposal; or
- (d) any amount distributed to the Security Trustee pursuant to Clause 8.1 (*Turnover by the Creditors*),

which are, or is, in the form of Non-Cash Consideration.

“Non-Distressed Disposal” has the meaning given to that term in Clause 11.1 (*Non-Distressed Disposals*).

“Other Liabilities” means, in relation to a Group Member, any trading and other liabilities (not being Borrowing Liabilities or Guarantee Liabilities) it may have to the Security Trustee under the Bond Documents or to an Intra-Group Lender, a Subordinated Creditor or a Debtor.

“Party” means a party to this Deed.

“Payment” means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, repurchase, defeasance or discharge of those Liabilities (or other liabilities or obligations) other than, in the case of Liabilities of a Debtor, in consideration for an issue of shares in that Debtor or any parent thereof.

“Permitted Intra-Group Payments” means the Payments permitted by Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*).

“Permitted Payment” means a Permitted Intra-Group Payment or any other Payments to any person expressly permitted to be made by this Deed, as the context requires.

“Proceedings” has the meaning given to that term in Clause 26.1 (*Jurisdiction*).

“Receiver” means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property, as the context may require.

“Recoveries” has the meaning given to that term in Clause 13.1 (*Order of Application -*

Transaction Security).

“**Recovering Bondholder**” has the meaning given to that term in Clause 9.1 (*Recovering Bondholder’s Rights*).

“**Redistributed Amount**” has the meaning given to that term in Clause 9.2 (*Reversal of Redistribution*).

“**Register of Bondholders**” has the meaning given to that term in the Bond Instruments.

“**Relevant Liabilities**” means:

- (a) in the case of a Creditor, all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Trustee; and
- (b) in the case of a Debtor, the Liabilities owed to the Creditors and all present and future liabilities and obligations, actual and contingent, of the Debtors to the Security Trustee.

“**Retiring Security Trustee**” has the meaning given to that term in paragraph (d) of Clause 15.1 (*Resignation of the Security Trustee*).

“**Sæmundur Letter**” means the deed poll dated on or about the date hereof entered into by Fasteignafélagið Sæmundur hf. in favour of the Bondholders.

“**Secured Obligations**” means all Liabilities and all other present and future obligations at any time due, owing or incurred by any Group Member or a Debtor to any Secured Party under (or in connection with) the Bond Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity, including any interest, fees, expenses or charges, accruing on, or subsequent to the filing of a petition in bankruptcy, reorganisation or similar proceeding against a US Bankruptcy Debtor at the rate provided for in the documentation, with respect thereto, whether or not such interest, fees, expenses, or charges is an allowed claim under applicable state, federal or foreign law.

“**Secured Parties**” means the Security Trustee, any Receiver or Delegate, or any Bondholder from time to time but, in the case of each Bondholder, only if it is a Party or has acceded to this Deed pursuant to Clause 16.6 (*Accession Undertaking*).

“**Security**” means a mortgage, charge, pledge, lien, security assignment, security transfer of title or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

“**Security Documents**” has the meaning given to that term in the Bond Instruments.

“**Security Property**” means:

- (a) the Transaction Security expressed to be granted in favour of the Security Trustee as trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 14.3 (*Parallel Debt*)) for the benefit of the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by a Debtor to pay amounts in respect of the Liabilities to the Security Trustee as agent or trustee for the Secured Parties (or pursuant to any joint and several creditorship or parallel debt provisions set out in Clause 14.3 (*Parallel Debt*)) and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor in favour of the Security Trustee as agent or trustee for (or otherwise for the benefit of) the Secured Parties;
- (c) the Security Trustee’s interest in any trust fund created pursuant to Clause 8 (*Turnover*

of Receipts); and

- (d) any other amounts or property, whether rights, entitlements, chooses in action or otherwise, actual or contingent, which the Security Trustee is required by the terms of the Bond Documents to hold as trustee on trust for (or otherwise for the benefit of) the Secured Parties.

“**Security Trustee’s Spot Rate of Exchange**” means the Security Trustee’s spot rate of exchange for the purchase of the relevant currency with the Common Currency in Hong Kong foreign exchange market or other relevant foreign exchange market (or, if the Security Trustee’s spot rate of exchange is not available, such other prevailing rate of exchange as may be selected by the Security Trustee in agreement with the Company) at or about 11:00 a.m. (local time) on a particular day.

“**Shared Amount**” has the meaning given to that term in Clause 9.2 (*Reversal of Redistribution*).

“**Shareholder**” has the meaning given to that term in the Bond Instruments.

“**Sharing Creditor**” has the meaning given to that term in Clause 9.1 (*Recovering Bondholder’s Rights*).

“**Subordinated Creditors**” means any creditor of Subordinated Indebtedness.

“**Subordinated Indebtedness**” has the meaning given to that term in the Bond Instruments.

“**Subordinated Liabilities**” means the Liabilities with respect to any Subordinated Indebtedness owed to the Subordinated Creditors by a Group Member.

“**Subsidiary**” has the meaning given to that term in the Bond Instruments.

“**Swiss Debtor**” has the meaning given to that term in Clause 18.1 (*Debtors’ Indemnity*).

“**Taxes**” has the meaning given to that term in the Bond Instruments.

“**Third Parties Act**” has the meaning given to that term in Clause 1.4 (*Contracts (Rights of Third Parties) Act 1999*).

“**Tranche A Bond Documents**” means each of this Deed, the Tranche A Bond Instrument, the Tranche A Subscription Agreement, the Sæmundur Letter, the Alvogen Guarantee Agreement, the Security Documents (to the extent that they secure or purport to secure Secured Obligations in respect of any other Tranche A Bond Document), any agreement evidencing the terms of the Intra-Group Liabilities and any other document designated as such by the Tranche A Bondholders and the Company, as the context so determines.

“**Tranche A Bond Instrument**” means the Tranche A Convertible Bond Instrument dated on or about the date of this Deed and made between (among others) the Company, the Guarantors, the Security Trustee and the initial bondholder named therein in respect of the Tranche A Bonds.

“**Tranche A Bondholders**” means the persons in whose names a Tranche A Bond is registered in the applicable Register of Bondholders.

“**Tranche A Bonds**” means the US\$100,000,000 in aggregate principal amount of the convertible bonds due 2023 issued by the Company (including any additional bonds in an aggregate principal amount which, together with such bonds, is equal to or less than US\$125,000,000, that are consolidated and form a single series with such bonds) with the benefit of guarantee provided by Alvogen Lux Holdings S.à r.l. pursuant to the Tranche A Bond Instrument.

“Tranche A Subscription Agreement” means the subscription agreement dated 30 November 2018 made between the Company, the Guarantors and the initial bondholder named therein in respect of the Tranche A Bonds.

“Tranche B Bond Documents” means each of this Deed, the Tranche B Bond Instrument, the Tranche B Subscription Agreement, the Sæmundur Letter, the Security Documents (to the extent that they secure or purport to secure Secured Obligations in respect of any other Tranche B Bond Document), any agreement evidencing the terms of the Intra-Group Liabilities and any other document designated as such by the Tranche B Bondholders and the Company, as the context so determines.

“Tranche B Bond Instrument” means the Tranche B Convertible Bond Instrument dated on or about the date of this Deed and made between (among others) the Company, the Guarantors, the Security Trustee and the initial bondholder named therein in respect of the Tranche B Bonds.

“Tranche B Bondholders” means the persons in whose names a Tranche B Bond is registered in the applicable Register of Bondholders.

“Tranche B Bonds” means the US\$100,000,000 in aggregate principal amount of the convertible bonds due 2023 issued by the Company (including any additional bonds in an aggregate principal amount which, together with the aggregate principal amounts of such bonds and Tranche A Bonds, is equal to or less than US\$300,000,000, that are consolidated and form a single series with such bonds) pursuant to the Tranche B Bond Instrument.

“Tranche B Subscription Agreement” means the subscription agreement dated 30 November 2018 made between the Company, the Guarantors and the initial bondholder named therein in respect of the Tranche B Bonds.

“Transaction Security” means any Security in each case which, to the extent legally possible and subject to any security principles (howsoever described and including any guarantee limitations set out in any Debtor Accession Deed or Security Document) and to the provisions of this Deed:

- (a) is created, or expressed to be created, in favour of the Security Trustee as agent or trustee for the other Secured Parties (or a class of Secured Parties) in respect of the Secured Obligations; or
- (b) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Trustee as agent or trustee for the Secured Parties (or a class of Secured Parties), is created, or expressed to be created, in favour of:
 - (i) all the Secured Parties (or a class of Secured Parties) in respect of the Secured Obligations; or
 - (ii) the Security Trustee under a parallel debt structure for the benefit of all the Secured Parties (or a class of Secured Parties).

“US Bankruptcy Debtor” means any US Debtor that is the subject of a US Bankruptcy Proceeding.

“US Bankruptcy Law” means the United States Bankruptcy Code of 1978 (Title 11 of the United States Code), any other United States federal or state bankruptcy, insolvency or similar law.

“US Bankruptcy Proceeding” means:

- (a) the filing of an involuntary proceeding in a court of competent jurisdiction in the United States seeking relief under US Bankruptcy Law in respect of any US Debtor and either

such proceeding shall continue undismissed for ninety (90) days, an order or decree approving or ordering any of the foregoing shall be entered, a custodian (as defined in the US Bankruptcy Law) is appointed for, or takes charge of, all or substantially all of the property of a US Debtor shall consent to the institution of any such involuntary proceeding; or

- (b) the filing of a voluntary petition by any US Debtor under US Bankruptcy Law.

“US Debtor” means a Debtor that is organised, incorporated or formed under the laws of the United States or any State thereof (including the District of Columbia).

1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Deed to:
- (i) the “**Company**”, any “**Creditor**”, “**Debtor**”, “**Intra-Group Lender**”, “**Subordinated Creditor**”, a “**Party**”, “**Security Trustee**”, or (in relation to paragraph (B) below) any other person, shall be construed:
 - (A) to be a reference to it in its capacity as such and not in any other capacity; and
 - (B) so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Trustee, any person for the time being appointed as the Security Trustee in accordance with this Deed;
 - (ii) **assets** includes properties, assets, businesses, undertakings, revenues and rights of every kind (including uncalled share capital), present and future, actual or contingent and any interest in any of the foregoing;
 - (iii) a **Bond Document** or any other agreement or instrument is (unless expressed to be a reference to a Bond Document or any other agreement or instrument in its original form as at a particular date) a reference to that Bond Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated (however fundamentally);
 - (iv) **enforcing** (or any derivation) the Transaction Security shall include:
 - (A) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager, judicial manager or other similar officer of a Debtor by the Security Trustee; and
 - (B) the making of a demand under Clause 14.3 (*Parallel Debt*) by the Security Trustee;
 - (v) **indebtedness** includes any obligation (whether incurred as principal, guarantor or as surety and whether present or future, actual or contingent) for the payment or repayment of money;
 - (vi) the **original form** of a Bond Document or any other agreement or instrument is a reference to that Bond Document, agreement or instrument as originally entered into and, unless specified otherwise;
 - (vii) a **person** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, fund, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (viii) a **regulation** includes any regulation, rule, official directive, request or

guideline (whether or not having the force of law, but if not having the force of law, which are binding or customarily complied with) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

- (ix) **shares** or **share capital** includes equivalent ownership interests (and shareholder and similar expressions shall be construed accordingly);
- (x) a **provision of law** is a reference to that provision as amended or re-enacted; and
- (xi) any corporation into which the Security Trustee may be merged or converted, or any corporation with which the Security Trustee may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Security Trustee shall be a party, or any corporation, including affiliated corporations, to which the Security Trustee shall sell or otherwise transfer:

- (A) all or substantially all of its assets; or

- (B) all or substantially all of its corporate trust business,

shall, on the date when the merger, conversion, consolidation or transfer becomes effective and to the extent permitted by any applicable laws become the successor Security Trustee under this Deed without the execution or filing of any paper or any further act on the part of the parties to this Deed, unless otherwise required by the Company or the Instructing Group and after the said effective date all references in this Deed to the Security Trustee shall be deemed to be references to such successor corporation. Written notice of any such merger, conversion, consolidation or transfer shall immediately be given to the Company and the Bondholders by the Security Trustee.

- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) A Default (including an Event of Default) is **continuing** if it has not been remedied or waived and any **Event of Default** or similar event is **continuing** if it has not been remedied or waived in accordance with the terms of the relevant Bond Document. In addition, if a Default (including an Event of Default) occurs for a failure to deliver a required certificate, notice or other document in connection with another default (an **Initial Default**) then at the time such Initial Default is remedied or waived, such Default (including an Event of Default) for a failure to report or deliver a required certificate, notice or other document in connection with the Initial Default will also be cured without any further action, save in circumstances where the matters contemplated by the foregoing have given rise to an Acceleration Event.
- (d) An Acceleration Event is **continuing** if it has not been revoked or otherwise ceases to be continuing in accordance with the terms of the relevant Bond Document.
- (e) A **Disposal** means any sale, transfer, grant, lease, licence or other disposal, whether voluntary or involuntary (and **dispose** will be construed accordingly).
- (f) Secured Parties may only benefit from Recoveries to the extent that the Liabilities of such Secured Parties have the benefit of the guarantees or security under which such Recoveries are received; provided that, in all cases, the rights of such Secured Parties shall in any event be subject to the priorities set out in Clause 13 (*Application of Proceeds*).
- (g) In determining whether or not any Liabilities have been fully and finally discharged,

contingent liabilities (such as the risk of clawback flowing from a preference) shall be disregarded by the Security Trustee or otherwise except to the extent that it believes (after taking such legal advice as it considers appropriate and acting at the direction of the relevant Creditors) that there is a reasonable likelihood that those contingent liabilities will become actual liabilities or (with respect to the risk of clawback) if customary comfort documents are delivered to it in form and substance satisfactory to it (acting at the direction of the relevant Creditors).

- (h) Any reference in this Deed to a Debtor or Group Member being able to make any Payment or take any other action not prohibited by the Bond Documents shall include a reference to that Debtor or Group Member being expressly permitted to make any arrangement in respect of that Payment or action or take any step or enter into any transaction to facilitate the making of that Payment or the taking of that action.
- (i) Notwithstanding anything to the contrary, where any provision of this Deed refers to or otherwise contemplates any consent, approval, release, waiver, agreement, notification or other step or action (each an **Action**) which may be required from or by any person:
 - (i) which is not a Party at such time (but solely to the extent such person is not required to be a Party pursuant to the terms of any Bond Document);
 - (ii) in respect of any agreement which is not in existence at such time;
 - (iii) in respect of any indebtedness which has not been committed or incurred (or an agreement in relation thereto) at such time; or
 - (iv) in respect of Liabilities or Creditors (or other persons) for which the Discharge Date has occurred at or prior to such time,

that consent, approval, release, waiver, agreement, notification or other step or action shall not be required (or be required from any person that is a party thereto) and no such provision shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any Group Member. Further, for the avoidance of doubt, no references to any agreement which is not in existence (or under which debt obligations have not been actually incurred by a Group Member) shall, or shall be construed so as to, in any way prohibit or restrict the rights or actions of any Group Member (and no consent, approval, release, waiver, agreement, notification or other step or action shall be required from any party thereto) for so long as such agreement is not in existence.

- (j) Where any consent is required under this Deed from a Bondholder or a group of Bondholders in respect of a Bond where such consent is required after the Discharge Date or before any person in such capacity has acceded to this Deed, such consent requirement will cease to apply in respect of that Bond.
- (k) If the terms of any Bond Document:
 - (i) require the relevant Creditors to provide approval (or deemed approval to have been provided) for a particular matter, step or action (for the avoidance of doubt, excluding any such terms which expressly entitle the relevant Creditors to withhold their approval for that matter, step or action) and such approval has been given pursuant to the terms of that Bond Document; or
 - (ii) do not seek to regulate a particular matter, step or action (which shall be the case if the relevant matter, step or action is not the subject of an express requirement or restriction in that Bond Document),

for the purposes of this Deed that matter, step or action shall be treated as “not

prohibited” by the terms of that Bond Document.

- (l) References to any matter being **permitted** under one or more of the Bond Documents shall include references to such matters not being prohibited and in each case include such matters that are consented to or otherwise approved by the requisite Creditors under those Bond Documents.
- (m) Any requirement that consent be given under this Deed shall mean such consent is to be given in writing, which, for the purposes of this Deed, will be deemed to include any instructions, waivers or consents in accordance with the terms of the relevant Bond Documents.

1.3 Currency, Symbols and Definitions

US Dollars or **US\$** denotes the lawful currency for the time being of the United States of America.

1.4 Contracts (Rights of Third Parties) Act 1999

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or enjoy the benefit of any term of this Deed, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver, Delegate or any other person described in Clause 14.12 (*No Proceedings*) may, subject to this Clause 1.4 and the Third Parties Act, rely on any Clause of this Deed which expressly confers rights on it.

1.5 Creditor Rights Prior to Relevant Debt Issuance

To the extent that this Deed grants rights for the benefit of any Secured Party, no such rights shall accrue or be enforceable against any other party prior to the incurrence of the relevant indebtedness with respect thereto in such capacity and accession to this Deed by such party in such capacity.

1.6 Group Member Debt

Notwithstanding any term of this Deed, no provision of this Deed shall: (a) prohibit a Group Member from incurring any indebtedness, granting any Security over its assets or providing any guarantees to the extent that the incurrence of such indebtedness or granting of guarantee and security is permitted under the Bond Documents, or require a Group Member to become a party to (or be bound by) the provisions of this Deed; or (b) require any creditor in respect of such indebtedness to become a party to (or be bound by) the provisions of this Deed unless such indebtedness is Secured Obligations, Subordinated Liabilities or Intra-Group Liabilities.

1.7 Personal Liability

Where any natural person gives a certificate, notice or signs any other document or otherwise gives a representation or statement on behalf of any of the parties to the Bond Documents pursuant to any provision thereof and such certificate, notice, document, representation or statement proves to be incorrect, the individual shall incur no personal liability in consequence of such certificate, notice, document, representation or statement being incorrect, save where such individual acted fraudulently in giving such certificate, notice, document, representation or statement (in which case any liability of such individual shall be determined in accordance with applicable law). Any such natural person to whom this Clause 1.7 is expressed to apply

may rely on this Clause 1.7, subject to Clause 1.4 (*Contracts (Rights of Third Parties) Act 1999*).

1.8 Luxembourg Terms

In each Bond Document, where it relates to the Company or Alvogen Lux Holdings S.à r.l. (if applicable):

- (a) winding-up, administration or dissolution includes, without limitation, bankruptcy (*faillite*), insolvency, voluntary or judicial liquidation (*liquidation volontaire ou judiciaire*), composition with creditors (*concordat préventif de la faillite*), moratorium or reprieve from payment (*sursis de paiement*), controlled management (*gestion contrôlée*), general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally;
- (b) a compulsory manager, receiver, administrative receiver, administrator or manager includes any *commissaire, juge-commissaire, curateur, liquidateur* or similar officer;
- (c) a person being unable to pay its debts includes that person being in a state of cessation of payments (*cessation de paiements*);
- (d) a security interest includes any *hypothèque, nantissement, gage, privilège, sûreté réelle, droit de rétention* and any type of real security (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security;
- (e) by-laws or constitutional documents includes its up-to-date articles of association (*statuts*); and
- (f) a director, officer or manager includes a *gérant / administrateur*.

2. Ranking and Priority

2.1 Creditor Liabilities

Each of the Parties agrees that, subject to the order of application set out in Clause 13 (*Application of Proceeds*), the Liabilities owed by the Debtors to the Bondholders shall rank in right and priority of payment *pari passu* and without any preference between them.

2.2 Transaction Security

Each of the Parties agrees that, subject to the order of application set out in Clause 13 (*Application of Proceeds*), the Transaction Security shall rank and secure the Secured Obligations (subject to the terms of this Deed) *pari passu* and without any preference between them (but only to the extent that such Transaction Security is expressed to secure those Secured Obligations).

2.3 Intra-Group and Subordinated Liabilities

- (a) Each of the Parties agrees that the Intra-Group Liabilities and the Subordinated Liabilities are postponed and subordinated to the Secured Obligations owed by the Debtors to the Bondholders.
- (b) This Deed does not purport to rank any of the Intra-Group Liabilities and the Subordinated Liabilities as between themselves.

3. Anti-Layering

Notwithstanding anything in the Bond Documents to the contrary, the Company undertakes and warrants, *inter alia*, that so long as there are any Bonds outstanding, save with the written approval of the Instructing Group, it will not, and will not permit any Guarantor to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) that is subordinate in right of payment to any senior Indebtedness of the Issuer or such Guarantor, as the case may be, unless such Indebtedness is either:

- (a) equal in right of payment with the Bonds or such Guarantor's Guarantee of the Bonds, as the case may be; or
- (b) expressly subordinated in right of payment to the Bonds or such Guarantor's Guarantee, as the case may be;

provided that:

- (i) unsecured Indebtedness will not be treated as subordinated or junior to senior Indebtedness merely because it is unsecured; and
- (ii) senior Indebtedness will not be treated as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral;

provided, further, that notwithstanding anything in this Clause 3 (*Anti-Layering*), condition 11.3 (*Anti-Layering*) (and any approval requirement set forth therein) of the Tranche A Bond Instrument or the Tranche B Bond Instrument, as the case may be, shall continue to apply with respect to the relevant series of Bonds.

4. Bondholder and Secured Obligations

4.1 Payments of Secured Obligations

The Debtors may make Payments in respect of the Secured Obligations at any time; *provided* that, following the occurrence of an Acceleration Event, no Debtor may make (and no Bondholder may receive) Payments of the Secured Obligations (other than any Payments made pursuant to the Alvogen Guarantee Agreement, and any distribution or dividend out of any Debtor's unsecured assets (pro rata to each unsecured creditor's claim) made by a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer appointed in respect of any Debtor or any of its assets) except from Recoveries distributed in accordance with Clause 13 (*Application of Proceeds*).

4.2 Amendments and Waivers

The Bondholders and the Debtors may amend or waive the terms of the Bond Documents in accordance with their terms (and subject only to any consent required under them) at any time.

4.3 Security and Guarantees: Bondholders

Other than as set out in this Clause 4.3 (*Security and Guarantees: Bondholders*), the Bondholders may take, accept or receive the benefit of:

- (a) any Security from any Group Member in respect of the Secured Obligations in addition to the Transaction Security if and to the extent legally possible and subject to any customary security principles or similar considerations or any customary guarantee limitations set out in the Debtor Accession Deeds or Security Documents, at the same time it is also offered either:
 - (i) to the Security Trustee as agent or security trustee for the other Bondholders in respect of their Liabilities; or

- (ii) in the case of any jurisdiction in which effective Security cannot be granted in favour of the Security Trustee as agent or security trustee for the Bondholders:
 - (A) to the other Bondholders in respect of their Liabilities; or
 - (B) to the Security Trustee under a parallel debt structure, joint and several creditor structure or agency structure for the benefit of the other Bondholders,

and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*); *provided* that all amounts received or recovered by any Bondholder with respect to such Security are immediately paid to the Security Trustee and held and applied in accordance with Clause 13 (*Application of Proceeds*); and

- (b) any guarantee, indemnity or other assurance against loss from any Group Member in respect of the Secured Obligations, in addition to those in:
 - (i) the original form of the Tranche A Bond Instrument or the Tranche B Bond Instrument or any equivalent provision in any other Bond Document;
 - (ii) this Deed; or
 - (iii) any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible and subject to any customary security principles or similar considerations or any guarantee limitations set out in the Debtor Accession Deeds or Security Documents, given to all the Bondholders in respect of their Liabilities,

if the other Bondholders already benefit from such a guarantee, indemnity or other assurance against loss or at the same time it is also offered to the other Bondholders in respect of their Liabilities and ranks in the same order of priority as that contemplated in Clause 2 (*Ranking and Priority*) and all amounts received or recovered by a Bondholder with respect to such guarantee, indemnity or other assurance against loss are immediately paid to the Security Trustee and held and applied in accordance with Clause 13 (*Application of Proceeds*).

5. Intra-Group Lenders and Intra-Group Liabilities

5.1 Restriction on Payment: Intra-Group Liabilities

Prior to the Discharge Date, the Debtors shall not, and shall procure that no other Group Member will, make any Payments of the Intra-Group Liabilities at any time unless:

- (a) that Payment is permitted under Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*); or
- (b) the taking or receipt of that Payment is permitted under paragraph (c) of Clause 5.7 (*Permitted Enforcement: Intra-Group Lenders*).

5.2 Permitted Payments: Intra-Group Liabilities

- (a) Subject to paragraph (b) below, any Group Member may make any Payments (including by way of set-off or conversion to equity; *provided* that in the event that the equity of such Debtor is subject to Transaction Security prior to such issue, then the percentage of equity in such Debtor subject to Transaction Security is not diluted) in respect of Intra-Group Liabilities (whether of principal interest or otherwise) if such payment is permitted by the Bond Documents or, to the extent prohibited, if consent

has been obtained in writing from holders of the requisite percentage of the Tranche A Bonds or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument.

- (b) Payments in respect of the Intra-Group Liabilities may not be made pursuant to paragraph (a) above if, at the time of the Payment, an Acceleration Event has occurred, unless:
 - (i) the Instructing Group consents in writing to that Payment being made; or
 - (ii) that Payment is made to facilitate Payment of any Secured Obligations.

5.3 Payment Obligations Continue

No Debtor shall be released from the liability to make any Payment (including of default interest, if any, which shall continue to accrue) under any Bond Document by the operation of Clause 5.1 (*Restriction on Payment: Intra-Group Liabilities*) and Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of either of those Clauses.

5.4 Acquisition of Intra-Group Liabilities

Each Debtor may, and may permit any other Group Member to:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any Intra-Group Liabilities at any time unless an Acceleration Event has occurred at the time of the relevant Liabilities Acquisition or that action is prohibited by the Bond Documents (unless to the extent prohibited, consent is obtained in writing from holders of the requisite percentage of the Tranche A Bonds or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument).

5.5 Security: Intra-Group Lenders

Prior to the Discharge Date, the Intra-Group Lenders may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss in respect of the Intra-Group Liabilities from any Group Member unless, to the extent prohibited, consent has been obtained in writing from holders of the requisite percentage of the Tranche A Bonds or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument .

5.6 Restriction on Enforcement: Intra-Group Lenders

Subject to Clause 5.7 (*Permitted Enforcement: Intra-Group Lenders*) (other than the demand for any payment, set-off, account combination or payment netting in relation to any payment permitted by Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*)), none of the Intra-Group Lenders shall be entitled to take any Enforcement Action in respect of any of the Intra-Group Liabilities at any time prior to the Discharge Date unless otherwise consented in writing by the Instructing Group or where consent to such Enforcement Action has been obtained in writing from the Instructing Group unless the Security Trustee has taken, or has given notice that it intends to take, that action on behalf of such Intra-Group Lenders in accordance with Clause 7.4 (*Filing of Claims*).

5.7 Permitted Enforcement: Intra-Group Lenders

After the occurrence of an Insolvency Event in relation to any Group Member, each Intra-Group Lender may (unless otherwise directed by the Security Trustee or the Bondholders), to the extent permitted under applicable law, exercise any right it may otherwise have against that Group Member to:

- (a) accelerate any of that Group Member's Intra-Group Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that Group Member in respect of any Intra-Group Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Intra-Group Liabilities of that Group Member; or
- (d) claim and prove in the liquidation, administration or other insolvency proceedings of that Group Member for the Intra-Group Liabilities owing to it.

5.8 Representations: Intra-Group Lenders

Each Intra-Group Lender which is not a Debtor represents and warrants to the Secured Parties on the date of this Deed (or, if it becomes a Party after such date, the date of the Accession Undertaking when it becomes an Intra-Group Lender) that:

- (a) it is a limited liability corporation or company duly incorporated (or, as the case may be, organised) and validly established and existing under the laws of its jurisdiction of incorporation (or, as the case may be, organisation);
- (b) subject to any general principles of law limiting its obligations which are applicable to creditors generally, the obligations expressed to be assumed by it in this Deed are valid, legally binding and enforceable obligations; and
- (c) the entry into and performance by it of, and the transactions contemplated by, this Deed do not conflict with:
 - (i) subject to any general principles of law limiting its obligations which are applicable to creditors generally, any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets

in each case, to an extent it has, or would reasonably be expected to have, a Material Adverse Effect.

6. Subordinated Liabilities

6.1 Restriction on Payment: Subordinated Liabilities

Prior to the Discharge Date, the Debtors shall not, and shall procure that no other Group Member will, make any Payment of the Subordinated Liabilities at any time unless that Payment is permitted under Clause 6.2 (*Permitted Payments: Subordinated Liabilities*).

6.2 Permitted Payments: Subordinated Liabilities

Any Group Member may make Payments to the Subordinated Creditors in respect of the Subordinated Liabilities then due if (a) the Payment is not prohibited by the Bond Documents; or (b) consent to that Payment being made has been obtained in writing from holders of the

requisite percentage of the Tranche A Bonds or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument.

6.3 Payment Obligations Continue

Neither the Company nor any other Debtor shall be released from the liability to make any Payment (including of default interest, if any, which shall continue to accrue) under any Bond Document by the operation of Clauses 6.1 (*Restriction on Payment: Subordinated Liabilities*) and 6.2 (*Permitted Payments: Subordinated Liabilities*) even if its obligation to make that Payment is restricted at any time by the terms of any of those Clauses.

6.4 No Acquisition of Subordinated Liabilities

Prior to the Discharge Date, the Debtors shall not, and shall procure that no other Group Member will:

- (a) enter into any Liabilities Acquisition; or
- (b) beneficially own all or any part of the share capital of a company that is party to a Liabilities Acquisition,

in respect of any of the Subordinated Liabilities at any time unless (x) it is a Payment in respect of the Subordinated Liabilities permitted under Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*), (y) that action is not prohibited by the Bond Documents, or (z) the prior consent of the Instructing Group has been obtained in writing.

6.5 Amendments and Waivers: Subordinated Creditors

- (a) Prior to the Discharge Date, the Subordinated Creditors may not amend, waive or agree to the terms of any of the documents or instruments pursuant to which the Subordinated Liabilities are constituted.
- (b) Paragraph (a) above does not apply to any amendment, waiver or consent:
 - (i) which is not prohibited by the Bond Documents or, to the extent prohibited, unless consent has been obtained in writing from holders of the requisite percentage of the Tranche A Bonds or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument;
 - (ii) which is minor, technical or administrative or corrects a manifest error; or
 - (iii) which is not prejudicial in any respect to the Bondholders.

6.6 Security: Subordinated Creditors

Without the prior written consent of the Instructing Group, the Subordinated Creditors may not take, accept or receive the benefit of any Security, guarantee, indemnity or other assurance against loss from any Group Member in respect of any of the Subordinated Liabilities prior to the Discharge Date (unless otherwise permitted under condition 8.3 or condition 8.4 of the Bond Instruments).

6.7 Restriction on Enforcement: Subordinated Creditors

Subject to Clause 6.8 (*Permitted Enforcement: Subordinated Creditors*), no Subordinated Creditor shall be entitled to take any Enforcement Action in respect of any of the Subordinated Liabilities at any time prior to the Discharge Date, unless:

- (a) such Enforcement Action is solely for a demand for payment, set-off, account combination or payment netting which is permitted by Clause 5.2 (*Permitted Payments: Intra-Group Liabilities*); or

- (b) otherwise consented to by the Instructing Group in writing.

6.8 Permitted Enforcement: Subordinated Creditors

To the extent permitted under applicable law, after the occurrence of an Insolvency Event in relation to any Group Member, each Subordinated Creditor may (unless otherwise directed by the Security Trustee or unless the Security Trustee has taken, or has given notice that it intends to take, action on behalf of such Subordinated Creditor in accordance with Clause 7.4 (*Filing of Claims*)) exercise any right it may have otherwise have in respect of that Group Member to:

- (a) accelerate any of that Group Member's Subordinated Liabilities or declare them prematurely due and payable or payable on demand;
- (b) make a demand under any guarantee, indemnity or other assurance against loss given by that Group Member in respect of any Subordinated Liabilities;
- (c) exercise any right of set-off or take or receive any Payment in respect of any Subordinated Liabilities of that Group Member; or
- (d) claim and prove in any insolvency process of that Group Member for the Subordinated Liabilities owing to it.

7. Effect of Insolvency Event

7.1 Payment of Distributions

- (a) After the occurrence of an Insolvency Event in relation to a Group Member, any Party entitled to receive a distribution out of the assets of that Group Member in respect of Liabilities owed to that Party shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Group Member to pay that distribution to the Security Trustee until the Liabilities owing to the Secured Parties have been paid in full.
- (b) The Security Trustee shall apply distributions paid to it under paragraph (a) above in accordance with Clause 13 (*Application of Proceeds*).

7.2 Set-off

To the extent that any Group Member's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Group Member, any Creditor which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Trustee for application in accordance with Clause 13 (*Application of Proceeds*).

7.3 Non-Cash Distributions

If the Security Trustee or any other Secured Party receives a distribution in a form other than in cash in respect of any of the Liabilities (other than any distribution of Non-Cash Recoveries), the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

7.4 Filing of Claims

After the occurrence of an Insolvency Event of a Group Member, each Creditor irrevocably authorises the Security Trustee (acting in accordance with Clause 7.6 (*Security Trustee Instructions*)) on its behalf, to:

- (a) take any Enforcement Action (in accordance with the terms of this Deed) against that Group Member;
- (b) demand, sue, prove and give receipt for any or all of that Group Member's Liabilities;
- (c) collect and receive all distributions on, or on account of, any or all of that Group Member's Liabilities; and
- (d) file claims, take proceedings and do all other things the Security Trustee considers reasonably necessary to recover that Group Member's Liabilities.

7.5 Creditor' Actions

Each Creditor will:

- (a) do all things that the Security Trustee (acting in accordance with Clause 7.6 (*Security Trustee Instructions*)) reasonably requests in order to give effect to this Clause 7; and
- (b) if the Security Trustee is not entitled to take any of the actions contemplated by this Clause 7 or if the Security Trustee (acting in accordance with Clause 7.6 (*Security Trustee Instructions*)) requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Trustee (acting in accordance with Clause 7.6 (*Security Trustee Instructions*)) or grant a power of attorney to the Security Trustee (on such terms as the Security Trustee (acting in accordance with Clause 7.6 (*Security Trustee Instructions*)) may reasonably require) to enable the Security Trustee to take such action.

7.6 Security Trustee Instructions

For the purposes of Clause 7.5 (*Creditor' Actions*) and Clause 7.6 (*Security Trustee Instructions*), the Security Trustee shall act:

- (a) on the written instructions of the Instructing Group in accordance with Clause 10.1 (*Enforcement Instructions*) or Clause 10.2 (*Manner of Enforcement*); or
- (b) in the absence of any such instructions, as the Security Trustee sees fit taking into account all relevant facts and circumstances of which the Security Trustee is aware, including the interests of all the Bondholders.

7.7 Limitation by Applicable Laws

Each of the provisions of this Clause 7 shall apply only to the extent permitted by applicable laws.

8. Turnover of Receipts

8.1 Turnover by the Creditors

Subject to Clause 8.2 (*Exclusions*) and Clause 8.3 (*Permitted Assurance and Receipts*):

- (a) if at any time prior to the Discharge Date, any Creditor receives or recovers from any Debtor:
 - (i) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

- (A) a Permitted Payment; or
- (B) made in accordance with Clause 13 (*Application of Proceeds*);
- (b) other than where Clause 7.2 (*Set-off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;
- (c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 7.2 (*Set-off*) applies, any amount:
 - (i) on account of, or in relation to, any of the Liabilities:
 - (A) after the occurrence of a Distress Event; or
 - (B) as a result of any other litigation or proceedings against a Group Member (other than after the occurrence of an Insolvency Event); or
 - (ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Distress Event,

other than, in each case, any amount received or recovered in accordance with Clause 13 (*Application of Proceeds*);
- (d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 13 (*Application of Proceeds*); or
- (e) other than where Clause 7.2 (*Set-off*) applies, any distribution in cash or in kind Payment of, or on account of or in relation to, any of the Liabilities owed by any Group Member which is not in accordance with Clause 13 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event in respect of that Group Member; or

that Creditor will:

- (i) in relation to receipts and recoveries not received or recovered by way of set-off:
 - (A) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Security Trustee and promptly pay or distribute that amount to the Security Trustee for application in accordance with the terms of this Deed; and
 - (B) promptly pay or distribute an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Trustee for application in accordance with the terms of this Deed; and
- (ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Trustee for application in accordance with the terms of this Deed.

8.2 Exclusions

Clause 8.1 (*Turnover by the Creditors*) shall not apply to any receipt or recovery:

- (a) in respect of funds received by the Security Trustee for its own account; or
- (b) for the avoidance of doubt, under or in respect of the Alvogen Guarantee Agreement.

8.3 Permitted Assurance and Receipts

Nothing in this Deed shall restrict the ability of any Creditor or other Party that is not a Group Member to:

- (a) arrange with any person which is not a Group Member any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit-based derivative or sub-participation) or restrict the terms or application of proceeds or recoveries of such assurance; or
- (b) make any assignment or transfer permitted by Clause 16 (*Changes to the Parties*), which:
 - (i) is not prohibited by the Bond Documents under which the relevant Liabilities were incurred; and
 - (ii) is not in breach of Clause 6.4 (*No Acquisition of Subordinated Liabilities*) or any provision of (if prior to the Discharge Date) the Bond Instrument(s) pursuant to which any Bonds remain outstanding,

and that Creditor shall not be obliged to account to any other Party for any sum received by it as a result of that action.

8.4 Sums Received by Debtors

If any of the Debtors receives or recovers any sum which, under the terms of any of the Bond Documents, should have been paid to the Security Trustee, that Debtor will:

- (a) hold an amount of that receipt or recovery equal to the Relevant Liabilities (or, if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Security Trustee and promptly pay that amount to the Security Trustee for application in accordance with the terms of this Deed; and
- (b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Trustee for application in accordance with the terms of this Deed.

8.5 Turnover of Non-Cash Consideration

For the purposes of this Clause 8, if any Creditor receives or recovers any amount or distribution in the form of Non-Cash Consideration which is subject to Clause 8.1 (*Turnover by the Creditors*), the cash value of that Non-Cash Consideration shall be determined in accordance with Clause 12 (*Non-Cash Recoveries*).

8.6 Saving Provision

If, for any reason, any of the trusts expressed to be created in this Clause 8 should fail or be unenforceable, the affected Creditor or Debtor will promptly pay an amount equal to that receipt or recovery to the Security Trustee to be held on trust by the Security Trustee for application in accordance with the terms of this Deed.

9. Redistribution

9.1 Recovering Bondholder's Rights

- (a) Any amount paid by a Bondholder (a "**Recovering Bondholder**") to the Security Trustee under Clause 7 (*Effect of Insolvency Event*) or Clause 8 (*Turnover of Receipts*) shall be treated as having been paid by the relevant Debtor and distributed to the Security Trustee and the Bondholders (each, a "**Sharing Creditor**") in accordance with the terms of this Deed.
- (b) On a distribution by the Security Trustee under paragraph (a) above of a Payment received by a Recovering Bondholder from a Debtor, as between the relevant Debtor and the Recovering Bondholder, an amount equal to the amount received or recovered by the Recovering Bondholder and paid to the Security Trustee (as the case may be) (the "**Shared Amount**") will be treated as not having been paid or distributed by that Debtor to the Recovering Bondholder.

9.2 Reversal of Redistribution

- (a) If any part of the Shared Amount received or recovered by a Recovering Bondholder becomes repayable to a Debtor and is repaid by that Recovering Bondholder to that Debtor, then:
 - (i) each Sharing Creditor shall, upon request of the Security Trustee, pay or distribute to the Security Trustee for the account of that Recovering Bondholder an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Bondholder for its proportion of any interest on the Shared Amount which that Recovering Bondholder is required to pay) (the "**Redistributed Amount**"); and
 - (ii) as between the relevant Debtor and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor.
- (b) The Security Trustee shall not be obliged to pay any Redistributed Amount to a Recovering Bondholder under paragraph (a) above until it has been able to establish to its satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

9.3 Deferral of Subrogation

No Creditor or Debtor will exercise any rights which it may have by reason of the performance by it of its obligations under the Bond Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Bond Documents of any Creditor which ranks ahead of it in accordance with the priorities set out in Clause 2 (*Ranking and Priority*) until such time as all of the Liabilities owing to each prior ranking Creditor (or, in the case of any Debtor, owing to each Creditor) have been irrevocably paid in full.

No Intra-Group Lender or Subordinated Creditor will exercise any rights which it may have to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights under the Bond Documents of any other Creditor until such time as all of the Liabilities owing to the Bondholders have been irrevocably discharged in full.

10. Enforcement of Transaction Security

10.1 Enforcement Instructions

- (a) The Security Trustee may refrain from enforcing the Transaction Security or taking any other action as to Enforcement unless instructed otherwise by the Instructing Group in writing.
- (b) Subject to the Transaction Security having become enforceable in accordance with its terms, the Instructing Group may give or refrain from giving Enforcement Instructions in writing to the Security Trustee to enforce or refrain from enforcing the Transaction Security as they see fit.
- (c) The Security Trustee is entitled to rely on and comply with instructions given to in accordance with this Clause 10.1.
- (d) If the Instructing Group wishes to issue Enforcement Instructions in respect of any Transaction Security, the Instructing Group shall deliver a copy of those proposed Enforcement Instructions in respect of the Transaction Security in writing to the Security Trustee and the Security Trustee shall promptly forward such Enforcement Instructions to each Bondholder which did not deliver such Enforcement Instructions.

10.2 Manner of Enforcement

If the Transaction Security is being enforced or other action as to Enforcement is being taken pursuant to Clause 10.1 (*Enforcement Instructions*), the Security Trustee shall enforce the Transaction Security or take other action as to Enforcement in such manner (including, without limitation, the selection of any administrator, liquidator, receiver, administrative receiver, administrator, compulsory manager, judicial manager or other similar officer of any Debtor to be appointed by the Security Trustee) as the Instructing Group shall instruct in writing, or in the absence of any such instructions, as the Security Trustee considers in its discretion to be appropriate.

10.3 Exercise of Voting Rights

- (a) Subject to paragraph (c) below, each Creditor agrees (to the extent permitted by law at the relevant time) that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Group Member as instructed by the Security Trustee.
- (b) Subject to paragraph (c) below, the Security Trustee shall give instructions for the purposes of paragraph (a) above in accordance with any written instructions given to it by the Instructing Group; *provided* that any such instructions have been given in accordance with Clause 10.1 (*Enforcement Instructions*).
- (c) Nothing in this Clause 10.3 entitles any Party to exercise or require any other Creditor to exercise such power of voting or representation to waive, reduce, discharge, extend the due date for (or change the basis for accrual of any) payment of or reschedule any of the Liabilities owed to that Creditor.

10.4 Waiver of Rights

To the extent permitted under applicable law and subject to Clause 10.1 (*Enforcement Instructions*), Clause 10.2 (*Manner of Enforcement*), paragraphs (a) and (b) of Clause 11.2 (*Distressed Disposals*) and Clause 13 (*Application of Proceeds*), each of the Secured Parties and the Debtors waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

10.5 Security held by other Creditors

If any Transaction Security is held by a Creditor other than the Security Trustee, then that Creditor may only enforce the Transaction Security in accordance with instructions given by the Instructing Group in writing pursuant to this Clause 10 (and for this purpose references to the Security Trustee shall be construed as references to that Creditor).

10.6 Duties Owed

Each of the Secured Parties and the Debtors acknowledges that, in the event that the Security Trustee enforces or is instructed to enforce the Transaction Security, the duties of the Security Trustee and of any Receiver or Delegate owed to them in respect of the method, type and timing of that enforcement or of the exploitation, management or realisation of any of that Transaction Security shall, subject to paragraph (b) of Clause 11.2 (*Distressed Disposals*), be no different to or greater than the duty that is owed by the Security Trustee, Receiver or Delegate to the Debtors under general law.

10.7 Enforcement through Security Trustee Only

Subject to Clause 10.5 (*Security held by other Creditors*), the Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any right, power, authority or discretion arising under the Security Documents except through the Security Trustee.

11. Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds

11.1 Non-Distressed Disposals

(a) Definitions

In this Clause 11:

- (i) **“Disposal Proceeds”** means the proceeds of a Non Distressed Disposal.
- (ii) **“Non Distressed Disposal”** means a disposal of:
 - (A) an asset of a Group Member; or
 - (B) an asset which is subject to the Transaction Security,
to a person or persons outside the Group where:
 - (1) either (x) an Officer of the Company certifies for the benefit of the Security Trustee that that disposal (and if the disposal of Charged Property, the release of Transaction Security) is permitted or not prohibited (as applicable) under the Bond Documents, or (y) holders of the requisite percentage of the Tranche A Bonds and/or the Tranche B Bonds, as the case may be, in each case in accordance with the applicable Bond Instrument notifies the Security Trustee in writing that that Disposal (and if the disposal of Charged Property, the release of Transaction Security) is permitted or not prohibited (as applicable) under the Bond Documents, or authorises that Disposal (and if the disposal of Charged Property, releases of Transaction Security); and
 - (2) that disposal is not a Distressed Disposal.
- (iii) **“Officer”** means any member of the board of directors, the Chief Executive

Officer, the Chief Financial Officer, the President, any Executive Vice President, any Senior Vice President, any Vice President, the Treasurer or the Secretary of the Company or any person acting in that capacity, in each case acting with due authority.

(b) Facilitation of Non Distressed Disposals

(i) If a disposal of an asset is a Non Distressed Disposal, the Security Trustee is irrevocably authorised (at the cost of the Company (*provided* that the Security Trustee acts reasonably) and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor) but subject to paragraph (ii) below:

(A) to release the Transaction Security or any other claim (relating to a Bond Document) over that asset;

(B) where that asset consists of all of the shares in the capital of a Group Member, to release the Transaction Security or any other claim (relating to a Bond Document) over that Group Member's property; and

(C) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (A) and (B) above and issue any certificates of non crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Trustee, be considered necessary or desirable to facilitate the resignation or disposal.

(ii) Each release of Transaction Security or any claim described in paragraph (i) above shall not become effective unless and until the relevant Non Distressed Disposal is made and (unless and until such time) the Transaction Security or claim subject to that release shall continue in such force and effect as if that release had not been effected.

(c) Facilitation of other releases

(i) If a release of Transaction Security is (i) required to effect amendments to the Bond Documents that have been duly consented to and approved under the terms of the relevant Bond Document, or (ii) conditional upon repayment or prepayment in full of the Secured Obligations and the payment of all other amounts then due and payable under the Bond Documents so as to achieve the Discharge Date, the Security Trustee is irrevocably authorised (at the cost of the Company (*provided* that the Security Trustee acts reasonably) and without any consent, sanction, authority or further confirmation from any Creditor, other Secured Party or Debtor):

(A) to release the Transaction Security or any other claim (relating to a Bond Document) over that asset;

(B) where that asset consists of all of the shares in the capital of a Group Member, to release the Transaction Security or any other claim (relating to a Bond Document) over that Group Member's Security Property; and

(C) to execute and deliver or enter into any release of the Transaction Security or any claim described in paragraphs (i) and (ii) above and issue any certificates of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security

Trustee, be considered necessary or desirable.

- (ii) Each release of Transaction Security or any claim described in paragraph (i) above shall become effective only on the making of the relevant transaction (and, if applicable, entry into any replacement Transaction Security that may be required pursuant to the terms of the Bond Documents).
- (iii) In connection with the entry into this Deed, the Secured Parties (other than the Security Trustee) irrevocably authorise and instruct the Security Trustee to execute and deliver or enter into each release of the Transaction Security pursuant to this Clause 11.1. Each other Creditor confirms that its consent is not required for such releases.
- (d) If any Disposal Proceeds are required to be applied (or offered to be applied) in Mandatory Prepayment or redemption of the Secured Obligations then those Disposal Proceeds shall be applied (or, if relevant, offered and then applied, if required) in accordance with the Bond Documents and the consent of any other Party shall not be required for that application or offer.

11.2 Distressed Disposals and Appropriation

- (a) If a Distressed Disposal or an Appropriation of any asset is being effected, the Security Trustee is irrevocably authorised (at the cost of the relevant Debtor without any consent, sanction, authority or further confirmation from any Creditor or Debtor):
 - (i) **release of Security/non-crystallisation certificates:** to release the Transaction Security or any other claim subject to the Distressed Disposal or an Appropriation over that asset and execute and deliver or enter into any release of that Transaction Security or claim and issue any letters of non-crystallisation of any floating charge or any consent to dealing that may, in the discretion of the Security Trustee, be considered necessary or desirable;
 - (ii) **release of liabilities/Appropriation and Security on a share sale (Debtor):** if the asset which is disposed of or Appropriated consists of shares in the capital of a Debtor, acting on the written instructions of the Instructing Group, to release:
 - (A) that Debtor and any Subsidiary of that Debtor from all or any part of:
 - (1) its Borrowing Liabilities;
 - (2) its Guarantee Liabilities; and
 - (3) its Other Liabilities;
 - (B) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets; and
 - (C) any other claim of an Intra-Group Lender, Subordinated Creditor, the Company or another Debtor over that Debtor's assets or over the assets of any Subsidiary of that Debtor,on behalf of the relevant Creditors and Debtors;
 - (iii) **disposal of liabilities on a share sale/Appropriation:** if the asset subject to the Distressed Disposal or an Appropriation consists of shares in the capital of a Debtor and the Security Trustee, acting on the written instructions of the Instructing Group, decides to dispose of all or any part of:

- (A) the Liabilities; or
- (B) the Debtor Liabilities,

owed by that Debtor or any Subsidiary of that Debtor:

- (1) (if the Security Trustee does not intend that any transferee of those Liabilities or Debtor Liabilities (the “**Transferee**”) will be treated as a Creditor or a Secured Party for the purposes of this Deed), to execute and deliver or enter into any agreement to dispose of all or part of those Liabilities or Debtor Liabilities; *provided* that notwithstanding any other provision of any Bond Document the Transferee shall not be treated as a Creditor or a Secured Party for the purposes of this Deed; and
- (2) (if the Security Trustee does intend that any Transferee will be treated as a Creditor or a Secured Party for the purposes of this Deed), to execute and deliver or enter into any agreement to dispose of:
 - (I) all (and not part only) of the Liabilities owed to the Creditors; and
 - (II) all or part of any other Liabilities and the Debtor Liabilities,

on behalf of, in each case, the relevant Creditors and Debtors;

- (iv) **transfer of obligations in respect of liabilities on a share sale/Appropriation:** if the asset subject to the Distressed Disposal or an Appropriation consists of shares in the capital of a Debtor (the “**Disposed Entity**”) and the Security Trustee, acting on the written instructions of the Instructing Group, decides to transfer to another Debtor (the “**Receiving Entity**”) all or any part of the Disposed Entity’s obligations or any obligations of any Subsidiary of that Disposed Entity in respect of:

- (A) the Intra-Group Liabilities; or
- (B) the Debtor Liabilities,

to execute and deliver or enter into any agreement to:

- (1) agree to the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the relevant Intra-Group Lenders and Debtors to which those obligations are owed and on behalf of the Debtors which owe those obligations; and
- (2) accept the transfer of all or part of the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities on behalf of the Receiving Entity or Receiving Entities to which the obligations in respect of those Intra-Group Liabilities or Debtor Liabilities are to be transferred.

- (b) The net proceeds of each Distressed Disposal (and the net proceeds of any disposal of Liabilities or Debtor Liabilities pursuant to paragraphs (a)(iii) and (a)(iv) above), whether those proceeds are in cash or are Non-Cash Consideration, shall be paid to the Security Trustee (as the case may be) for application in accordance with Clause 13

(*Application of Proceeds*) as if those proceeds were the proceeds of an enforcement of the Transaction Security and, (to the extent that any disposal of Liabilities or Debtor Liabilities has occurred pursuant to paragraphs (a)(iii) and (a)(iv) above or any Appropriation has occurred), as if that disposal of Liabilities or Debtor Liabilities had not occurred.

11.3 Fair Value

- (a) In the case of:
- (i) a Distressed Disposal; or
 - (ii) a Debt Disposal,
- effected by, or at the request of, the Security Trustee, the Security Trustee shall act in accordance with this Deed; *provided* that the Security Trustee shall take reasonable care to obtain a fair market price in the prevailing market conditions (though shall not have any obligation to postpone (or request the postponement of) any Distressed Disposal or Debt Disposal in order to achieve a higher price).
- (b) The requirement in paragraph (a) above shall be satisfied (and as between the Creditors and the Debtors shall be conclusively presumed to be satisfied) and the Security Trustee will be taken to have discharged all its obligations in this respect under this Deed, the other Bond Documents and generally at law if:
- (i) that Distressed Disposal or Debt Disposal is made pursuant to any process or proceedings approved or supervised by or on behalf of any court of law;
 - (ii) that Distressed Disposal or Debt Disposal is made by, at the direction of or under the control of, a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer (or any analogous officer in any jurisdiction) appointed in respect of a Group Member or the assets of a Group Member;
 - (iii) that Distressed Disposal or Debt Disposal is made pursuant to a Competitive Sales Process; or
 - (iv) if a Financial Adviser appointed by the Security Trustee has delivered a Fairness Opinion to the Security Trustee in respect of that Distressed Disposal or Debt Disposal.

11.4 Restriction on Enforcement

If a Distressed Disposal or a Debt Disposal is being effected:

- (a) the Security Trustee is not authorised to release any Debtor or Subsidiary from any Borrowing Liabilities or Guarantee Liabilities owed to any Creditor except in accordance with Clause 11.2 (*Distressed Disposals*); and
- (b) no Distressed Disposal or Debt Disposal may be made for consideration in a form other than:
- (i) cash unless consent has been obtained in writing from the Instructing Group; or
 - (ii) the Bondholders (or any of them acting alone or together) bidding by any appropriate mechanic all or part of their Liabilities (such that the Liabilities would, on completion, be discharged to the extent of an amount equal to the amount of the offer made by the relevant Bondholder).

11.5 Creditors' and Debtors' Actions

- (a) Each Creditor, and in relation to Clause 11.2 (*Distressed Disposals*), each Debtor will:
- (i) do all things that the Security Trustee reasonably requests in order to give effect to this Clause 11 (which shall include, without limitation, the execution of any assignments, transfers, releases, delegation of faculties, powers of attorney or other documents that the Security Trustee may reasonably consider to be necessary to give effect to the releases or disposals contemplated by this Clause 11); and
 - (ii) if the Security Trustee is not entitled to take any of the actions contemplated by this Clause 11 or if the Security Trustee requests that any Creditor or Debtor take any such action, take that action itself in accordance with the reasonable instructions of the Security Trustee;

provided that the proceeds of those disposals are applied in accordance with Clause 11.1 (*Non-Distressed Disposals*) or Clause 11.2 (*Distressed Disposals*) (as the case may be).

- (b) Each Secured Party irrevocably authorises and instructs the Security Trustee (at the cost of the relevant Secured Party and without any further consent, agreement, sanction, authority, instruction, direction, confirmation, payment, certification or other document, request or information from any Secured Party) to be its agent to do anything which that Secured Party has authorised the Security Trustee or any other Party to do under this Deed or is itself required to do under this Deed, but has failed to do (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Trustee may consider to be necessary) to give effect to the release and disposals contemplated by this Clause 11.

12. Non-Cash Recoveries

12.1 Security Trustee and Non-Cash Recoveries

To the extent the Security Trustee receives or recovers any Non-Cash Recoveries, it may (acting on the written instructions of the Instructing Group) but without prejudice to its ability to exercise discretion under Clause 13.2 (*Prospective Liabilities*):

- (a) distribute those Non-Cash Recoveries pursuant to Clause 13 (*Application of Proceeds*) as if they were Cash Proceeds;
- (b) hold, manage, exploit, collect, realise and dispose of those Non-Cash Recoveries; and
- (c) hold, manage, exploit, collect, realise and distribute any resulting Cash Proceeds.

12.2 Cash value of Non-Cash Recoveries

- (a) The cash value of any Non-Cash Recoveries shall be determined by reference to a valuation obtained by the Security Trustee from a Financial Adviser appointed by the Security Trustee for the account of the Company taking into account any notional conversion made pursuant to Clause 13.4 (*Currency Conversion*).
- (b) If any Non-Cash Recoveries are distributed pursuant to Clause 13 (*Application of Proceeds*), the extent to which such distribution is treated as discharging the Liabilities shall be determined by reference to the cash value of those Non-Cash Recoveries determined pursuant to paragraph (a) above.

12.3 Appointment of Financial Adviser

- (a) The Security Trustee may, engage or approve the engagement of, (in each case on such terms as it may consider reasonably appropriate, pay for and rely on the services of a Financial Adviser to provide advice, a valuation or an opinion in connection with:
 - (i) a Distressed Disposal;
 - (ii) the application or distribution of any proceeds of a Distressed Disposal; or
 - (iii) any amount of Non-Cash Consideration which is subject to Clause 8.1 (*Turnover by the Creditors*).
- (b) For the purposes of paragraph (a) above, the Security Trustee shall act on the written instructions of the Instructing Group.

For the avoidance of doubt, the ability of the Security Trustee to appoint a Financial Adviser pursuant to this Clause 12.3 does not in any way alter, or permit the Security Trustee (or any Party instructing the Security Trustee) to derogate from, the rights and obligations of the Security Trustee under this Deed (including without limitation, the conditions applying to the release or disposal of any Transaction Security under Clause 11.2(a) (*Distressed Disposal*)).

12.4 Security Trustee Protections

- (a) No Distressed Disposal or Debt Disposal may be made in whole or part for Non-Cash Consideration if the Security Trustee has reasonable grounds for believing that its receiving, distributing, holding, managing, exploiting, collecting, realising or disposing of that Non-Cash Consideration would have an adverse effect on it.
- (b) If Non-Cash Consideration is distributed to the Security Trustee pursuant to Clause 8.1 (*Turnover by the Creditors*) the Security Trustee may, at any time after notifying the Creditors entitled to that Non-Cash Consideration and notwithstanding any instruction from a Creditor or group of Creditors pursuant to the terms of any Bond Document, immediately realise and dispose of that Non-Cash Consideration for cash consideration (and distribute any Cash Proceeds of that Non-Cash Consideration to the relevant Creditors in accordance with Clause 13 (*Application of Proceeds*)) if the Security Trustee has reasonable grounds for believing that holding, managing, exploiting or collecting that Non-Cash Consideration would have an adverse effect on it.

13. Application of Proceeds

13.1 Order of Application - Transaction Security

Subject to Clause 13.2 (*Prospective Liabilities*), all amounts from time to time received or recovered by the Security Trustee pursuant to the terms of any Bond Document or in connection with the realisation or Enforcement of the Transaction Security (the “**Recoveries**”) shall be held by the Security Trustee on trust, to the extent legally permitted, to apply them and be applied at any time as the Security Trustee (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 12), in the following order of priority:

- (a) in discharging any sums owing to the Security Trustee (other than pursuant to Clause 14.3 (*Parallel Debt*)), any Receiver or any Delegate on a *pari passu* basis;
- (b) in payment of all costs and expenses incurred by any Creditor in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Deed or any action taken at the request of the Security Trustee;

- (c) in payment or distribution to Bondholders for application towards the discharge of the Secured Obligations in accordance with the terms of the Bond Instruments, on a *pro rata* basis;
- (d) if none of the Debtors are under any further actual or contingent liability under any Bond Document, in payment or distribution to any other person to whom the Security Trustee is obliged by law to pay or distribute in priority to any Debtor; and
- (e) the balance, if any, in payment or distribution to the relevant Debtor.

13.2 Prospective Liabilities

Following a Distress Event, the Security Trustee may, in its discretion, hold any amount of the Recoveries not in excess of the Expected Amount (as defined below) in an account(s) in the name of the Security Trustee with such financial institution (including itself) and for so long as that Security Trustee shall think fit until otherwise directed by the Instructing Group in writing (the interest being credited to the relevant account) for later application under Clause 13.1 (*Order of Application - Transaction Security*) in respect of:

- (a) any sum due to the Security Trustee, any Receiver or any Delegate; and
- (b) any part of the Liabilities,

that the Security Trustee reasonably considers, in each case, might become due or owing at any time in the future (the “**Expected Amount**”).

13.3 Investment of Proceeds

Prior to the application of the proceeds of the Security Property, in accordance with Clause 13.1 (*Order of Application - Transaction Security*), the Security Trustee may, in its discretion, hold all or part of those proceeds in an account(s) in the name of that Security Trustee with such financial institution (including itself) and for so long as that Security Trustee shall think fit until otherwise directed by the Instructing Group in writing (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Trustee’s discretion in accordance with the provisions of this Clause 12.

13.4 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Obligations, the Security Trustee may convert any moneys received or recovered by it from one currency to another, at the Security Trustee’s Spot Rate of Exchange.
- (b) The obligations of any Debtor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

13.5 Permitted Deductions

The Security Trustee shall be entitled, in its discretion, (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed, and to pay all Taxes, fees and expenses which may be assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties or exercising its rights, powers, authorities and discretions, or by virtue of its capacity as the Security Trustee under any of the Bond Documents or otherwise (other than in connection with its remuneration for performing its duties under this Deed).

13.6 Good discharge

- (a) Any payment to be made in respect of the Secured Obligations by the Security Trustee may be made to the Creditors and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Trustee.
- (b) The Security Trustee is not under any obligation to make the payments to the Creditors under paragraph (a) above in the same currency as that in which the Liabilities owing to the relevant Creditor are denominated.

13.7 Calculation of Amounts

For the purpose of calculating any person's share of any sum payable to or by it, the Security Trustee shall be entitled to:

- (a) notionally convert the Liabilities owed to any person into a common base currency (decided in its discretion by the Security Trustee), that notional conversion to be made at the spot rate at which the Security Trustee is able to purchase the notional base currency with the actual currency of the Liabilities owed to that person at the time at which that calculation is to be made; and
- (b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the relevant Bond Documents under which those Liabilities have arisen.

13.8 Consideration

In consideration of the covenants given to the Security Trustee by the Debtors in Clause 14.3 (*Parallel Debt*), the Security Trustee agrees with the Debtors to apply all moneys from time to time paid by the Debtors to the Security Trustee in accordance with the provisions of this Clause 12.

14. The Security Trustee

14.1 Appointment by Secured Parties

- (a) Subject to paragraph (b) of Clause 14.3 (*Parallel Debt*), each Secured Party irrevocably appoints the Security Trustee in accordance with the following provisions of this Clause 14 to act as its agent, trustee, joint and several creditor or beneficiary of a parallel debt (as the case may be) under this Deed and with respect to the Security Documents, and irrevocably authorises the Security Trustee (whether acting as security trustee or Security Trustee) on its behalf and grants power of attorney to the Security Trustee (with express faculty of self-contracting, sub-empowering or multiple representation) to:
 - (i) negotiate and approve the terms and conditions of and execute each Security Document expressed to be executed by the Security Trustee on its behalf and execute any releases and any other documents, instruments or notices to be executed by the Security Trustee as contemplated by the terms of this Deed or any Security Document, receive any notices in respect of this Deed or any Security Document, specify to third parties the names of the Secured Parties at any given date and take any other action in relation to the creation, perfection, confirmation, amendment, extension, maintenance, enforcement and/or release of any security created under any Security Document in the name and on behalf of the Secured Parties;
 - (ii) execute and accept as its representative (*Stellvertreter*) any pledge or other accessory security right granted in favor of such Secured Party in connection

with the Bond Documents under German law and to agree to and execute on its behalf as representative (*Stellvertreter*) any amendments and/or alterations to any Security Document governed by German law which creates a pledge or any other accessory security right (*akzessorische Sicherheit*) and any other Security Document creating or evidencing any Secured Parties' Transaction Security, including, without limitation, the release or confirmation of release of such Security;

- (iii) perform such duties and exercise such rights and powers under this Deed and the Security Documents as are specifically delegated to the Security Trustee by the terms of this Deed and the other Bond Documents, together with such rights, powers and discretions as are reasonably incidental thereto;
 - (iv) confirms that in the event that any security created under the Security Documents remains registered in the name of a Secured Party after such person has ceased to be a Secured Party then the Security Trustee shall remain empowered to execute a release of such Security in its name and on its behalf; and
 - (v) undertakes to ratify and approve any such action taken in the name and on behalf of the Secured Parties by the Security Trustee acting in its appointed capacity.
- (b) Each Secured Party confirms that:
- (i) the Security Trustee has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Bond Documents or the transactions contemplated by the Bond Documents, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions; and
 - (ii) it accepts the terms and qualifications set out in that reliance letter or engagement letter.
- (c) The Security Trustee's duties under this Deed and/or the Security Documents to which the Security Trustee is a party are solely of a mechanical and administrative nature.
- (d) The Security Trustee shall be entitled to grant sub-power of attorney, including the release of any sub-attorney from the restrictions referred to in paragraph (c) above.
- (e) To the fullest extent legally possible, each of the Secured Parties hereby releases the Security Trustee from any restrictions on representing several persons and self-dealing under any applicable law, and in particular from the restrictions of section 181 German Civil Code (*Bürgerliches Gesetzbuch*), to make use of any authorisation granted under this Deed and to perform its duties and obligations as Security Trustee hereunder and under the Security Documents.
- (f) Each Secured Party hereby ratifies and approves all acts and declarations previously done or made by the Security Trustee on such Secured Party's behalf (including for the avoidance of doubt the declarations made by the Security Trustee as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any Secured Party as future pledgee or otherwise).
- (g) At the request of the Security Trustee, each other Secured Party shall provide the Security Trustee with a separate written power of attorney (*Spezialvollmacht*) for the

purposes of executing any relevant agreements and documents on their behalf. Each other Secured Party hereto ratifies and approves all acts and declarations previously done or made by the Security Trustee on such Secured Party's behalf.

- (h) For the avoidance of doubt, nothing in this Deed constitutes the Security Trustee as a trustee of any Subordinated Creditor (other than in respect of any Recoveries or in connection with Clause 13 (*Application of Proceeds*)).

14.2 Trust

- (a) Subject to paragraphs (b) and (c) below, the Security Trustee declares that it shall (to the extent possible under applicable law) hold the Transaction Security on trust for the relevant Secured Parties on the terms contained in this Deed.
- (b) In respect of any German Security, the Security Trustee shall:
 - (i) hold and administer such German Security which is security assigned (*Sicherungseigentum/Sicherungsabtretung*) or otherwise transferred under a non-accessory security right (*nicht-akzessorische Sicherheit*) to it as trustee (*treuhänderisch*) within the meaning of German law for the benefit of the Secured Parties; and
 - (ii) administer such German Security which is pledged (*Verpfändung*) or otherwise transferred to the Security Trustee under an accessory security right (*akzessorische Sicherheit*) in its own name on the basis of the Parallel Debt.
- (c) Each Secured Party authorises the Security Trustee (whether or not by or through employees or agents):
 - (i) to perform the duties, obligations and responsibilities and to exercise such rights, remedies, powers and discretions as are specifically delegated to or conferred upon the Security Trustee under this Deed and/or the Security Documents together with such powers and discretions as are reasonably incidental to the exercise of such rights, remedies and powers; and
 - (ii) to take such action on its behalf as may from time to time be authorised under or in accordance with the Security Documents.
- (d) Each of the parties to this Deed agrees that the Security Trustee (whether acting as security trustee or Security Trustee) shall have only those duties, obligations and responsibilities expressly specified in this Deed or in the Security Documents to which the Security Trustee is expressed to be a party (and no others shall be implied).

14.3 Parallel Debt

- (a) Notwithstanding any other provision of this Deed, each Debtor hereby irrevocably and unconditionally undertakes to pay to the Security Trustee amounts equal to any amounts owing from time to time by such Debtor to any Secured Party under or in connection with the Bond Documents, including claims based on unjust enrichment or tort, as when those amounts are due (“**Parallel Debt**”). Each Debtor acknowledges that the Parallel Debt is several and separate and independent from the corresponding obligations of the Debtors to any Secured Party under or in connection with the Bond Documents (“**Corresponding Debt**”), nor shall the amounts for which any Debtor is liable according to the Parallel Debt be limited or affected in any way by its Corresponding Debt; *provided that*:
 - (i) the Parallel Debt of any Debtor shall be decreased to the extent that its Corresponding Debt has been irrevocably paid or discharged;

- (ii) the Corresponding Debt of each Debtor shall be decreased to the extent that its Parallel Debt has been irrevocably paid or discharged; and
 - (iii) the amount of the Parallel Debt of each Debtor shall at all times be equal to the amount of its Corresponding Debt.
- (b) For the purpose of this Clause 14.3, the Security Trustee acts in its own name and not as a trustee, and its claims in respect of the Parallel Debt shall not be held in trust. The Security granted under the Security Documents to the Security Trustee to secure the Parallel Debt is granted to the Security Trustee in its capacity as creditor of the Parallel Debt and shall not be held on trust.
 - (c) All monies received or recovered by the Security Trustee pursuant to this Clause 14.3 and all monies received or recovered from or by the enforcement of any Security granted to secure the Parallel Debt, shall be applied in accordance with these Clause 13 (*Application of Proceeds*).

14.4 Representation of the Secured Parties in relation to Swiss security

Any Security that is governed by Swiss law (a “**Swiss Security**”) shall be subject to the following:

- (a) with respect to any Swiss Security constituted by non-accessory (*nicht akzessorische*) security interests, the Security Trustee shall hold, administer and, as the case may be, enforce or release such Swiss Security in its own name for the account of itself and the Secured Parties as their indirect representative (*indirekter Stellvertreter*);
- (b) with respect to any Swiss Security constituted by accessory (*akzessorische*) security interests, the Security Trustee shall administer and, as the case may be, enforce or release such Swiss Security in its own name and its own account as well as for the account and in the name of the Security Trustee and the Secured Parties as their direct representative (*direkter Stellvertreter*);
- (c) each Secured Party hereby instructs and authorises the Security Trustee (with the right of sub-delegation) to act as its agent (*Stellvertreter*) and in particular (without limitation) to enter into and amend any documents evidencing a Swiss Security and to make and accept all declarations and take all actions it considers necessary or useful in connection with any Swiss Security on behalf of such Secured Party (including, without limitation, the entering into, acceptance of declarations or taking of actions as representative of several parties (*Doppel-/Mehrfachvertretung*));
- (d) the Security Trustee shall be entitled to enforce or release any Swiss Security, to perform any rights and obligations under any documents evidencing a Swiss Security and to execute new and different documents evidencing or relating to a Swiss Security;
- (e) each Secured Party hereby authorises the Security Trustee to execute any agreements and documents or otherwise act on its behalf in connection with any Swiss Security;
- (f) each Secured Party hereby ratifies and approves all acts previously done by the Security Trustee on behalf of such Secured Party in connection with any Swiss Security;
- (g) the Security Trustee accepts its appointment as agent and administrator of the Swiss Security on the terms and subject to the conditions set forth in this Deed; and
- (h) the Security Trustee agrees, and each Secured Party agrees, that, in relation to any Swiss Security, no Secured Party shall exercise any independent power to enforce any Swiss Security or take any other action in relation to the enforcement of any Swiss Security or make or receive any declarations in relation thereto.

14.5 No Independent Power

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Security Documents (for the avoidance of doubt, other than any Bond Documents which are not Security Documents) except through the Security Trustee.

14.6 Instructions to Security Trustee and Exercise of Discretion

- (a) Subject to paragraphs (e) and (f) below, the Security Trustee shall act in accordance with any written instructions given to it by the Instructing Group or, if so instructed by the Instructing Group in writing, refrain from exercising any right, power, authority or discretion vested in it as Security Trustee and shall be entitled to assume that: any instructions received by it from the Creditors or a group of Creditors are duly given in accordance with the terms of the Bond Documents and unless it has received actual notice of revocation, those instructions or directions have not been revoked.
- (b) Subject to paragraphs (e) and (f) below, the Security Trustee shall be entitled to request instructions, or clarification of any direction, from the Instructing Group as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Trustee may refrain from acting unless and until those instructions or clarification are received by it.
- (c) Any instructions given to the Security Trustee by the Instructing Group shall override any conflicting instructions given by any other Parties.
- (d) The Security Trustee shall not be liable for any act (or omission) if it acts or refrains from acting in accordance with paragraphs (a), (b) and (c) above and (f) and (g) below.
- (e) Paragraphs (a), (b) and (c) above and (f) and (g) below shall not apply:
 - (i) where a contrary indication appears in this Deed (including under Clause 22 (*Consents, Amendments and Override*));
 - (ii) where this Deed or applicable law or regulation requires a Security Trustee to act in a specified manner or to take a specified action;
 - (iii) in respect of any provision which protects the Security Trustee's own position in its personal capacity as opposed to its role of Security Trustee for the Secured Parties including, without limitation, the provisions set out in Clause 14.8 (*Security Trustee's Discretions*) to Clause 14.26 (*Disapplication*); and
 - (iv) in respect of the exercise of the Security Trustee's discretion to exercise a right, power or authority under any of:
 - (A) Clause 11.1 (*Non-Distressed Disposals*);
 - (B) Clause 13.1 (*Order of Application - Transaction Security*);
 - (C) Clause 13.2 (*Prospective Liabilities*); and
 - (D) Clause 13.5 (*Permitted Deductions*),which instruction and authority shall have been given under the terms of such Clauses and not the instructions of the Instructing Group pursuant to paragraphs (a) and (b) above.
- (f) Unless paragraph (e) above applies, if giving effect to instructions given by the Instructing Group would (in the Security Trustee's good faith opinion) have an effect equivalent to an Intercreditor Amendment, the Security Trustee shall not act in

accordance with those instructions unless consent to it so acting is obtained in writing from each Party (other than that Security Trustee, whose consent would have been required in respect of that Intercreditor Amendment).

- (g) Unless paragraph (e) above applies, in exercising any discretion to exercise a right, power or authority under this Deed where it has not received any instructions from the Instructing Group, as to the exercise of that discretion, the Security Trustee shall do so having regard to the interests of all the Secured Parties.

14.7 Security Trustee's Actions

Without prejudice to the provisions of Clause 10 (*Enforcement of Transaction Security*), the Security Trustee may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action (or refrain from taking such action) in the exercise of any of its powers and duties under the Bond Documents as it considers in its good faith discretion to be appropriate. In determining whether to act or refrain from acting the Security Trustee shall be entitled to request instructions from the Instructing Group.

14.8 Security Trustee's Discretions

The Security Trustee may:

- (a) assume (unless it has received actual notice to the contrary from a Bondholder) that (i) no Default has occurred and no Debtor is in breach of or default under its obligations under any of the Bond Documents and (ii) any right, power, authority or discretion vested by any Bond Document in any person has not been exercised;
- (b) if it receives any instructions or directions under Clause 10 (*Enforcement of Transaction Security*) from the Instructing Group to take any action in relation to the Transaction Security, assume that all applicable conditions under the Bond Documents for taking that action have been satisfied;
- (c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, surveyors or other experts (whether obtained by the Security Trustee or by any other Secured Party) whose advice or services may (in its reasonable opinion) at any time seem necessary, expedient or desirable, and the Security Trustee shall not be liable for any damages, costs or losses to any person, any diminution value or any liability whatsoever arising as a result of such reliance;
- (d) act under the Bond Documents through its personnel and agents;
- (e) rely upon any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, any Creditor or a Debtor, upon a certificate signed by or on behalf of that person; and
- (f) refrain from acting in accordance with the instructions of any Party (including bringing any legal action or proceeding arising out of or in connection with the Bond Documents) until it has received any indemnification and/or security that it may in its discretion require from a Group Member (whether by way of payment in advance or otherwise) for all costs, losses and liabilities which it may incur in so acting to the extent not already so indemnified or secured.

14.9 Security Trustee's Obligations

The Security Trustee shall promptly:

- (a) copy to the Bondholders the contents of any notice or document received by it from any Debtor under any Bond Document;

- (b) forward to a Party the original or a copy of any document which is delivered to that Security Trustee for that Party by any other Party; *provided* that, except where a Bond Document expressly provides otherwise, that Security Trustee is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party; and
- (c) inform the Bondholders of the occurrence of any Default or any default by a Debtor in the due performance of or compliance with its obligations under any Bond Document of which that Security Trustee has received notice from any other party to this Deed.

14.10 Excluded Obligations

Notwithstanding anything to the contrary expressed or implied in the Bond Documents, the Security Trustee shall not:

- (a) be bound to enquire as to: (i) whether or not any Default has occurred or (ii) the performance, default or any breach by a Debtor of its obligations under any of the Bond Documents;
- (b) be bound to account to any other Party for any sum or the profit element of any sum received by it for its own account;
- (c) be bound to disclose to any other person (including, but not limited, to any Secured Party): (i) any confidential information; or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;
- (d) have or be deemed to have any relationship of trust or agency with any Debtor; or
- (e) have any fiduciary duties to the Debtors and nothing in this Deed constitutes the Security Trustee as an agent, trustee or fiduciary of the Debtors.

14.11 Exclusion of Liability

- (a) None of the Security Trustee, any Receiver nor any Delegate shall be responsible or be liable for:
 - (i) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee or any other person in or in connection with any Bond Document or the transactions contemplated in the Bond Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document;
 - (ii) the legality, validity, effectiveness, adequacy or enforceability of any Bond Document, the Security Property, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document or the Security Property;
 - (iii) any losses, damages or costs to any person or diminution in value or any liability arising as a result of taking or refraining from taking any action in relation to any of the Bond Documents, the Security Property, or otherwise, unless directly caused by its gross negligence, fraud or wilful misconduct;
 - (iv) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Bond Documents, the Security Property, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Bond Documents or the Security Property;

- (v) any shortfall which arises on the enforcement or realisation of the Security Property;
- (vi) any determination as to whether any information provided or to be provided to any Secured Party is non-public information, the use of which may be regulated or prohibited by applicable law or regulation relating to insider trading or otherwise;
- (vii) without prejudice to the generality of paragraphs (ii) and (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
 - (A) any act, event or circumstance not reasonably within its control; or
 - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) Nothing in this Deed shall oblige the Security Trustee to carry out:
 - (i) any “know your customer” or other checks in relation to any person; or
 - (ii) any check on the extent to which any transaction contemplated by this Deed might be unlawful for any Bondholder,

on behalf of any Bondholder and each Bondholder confirms to the Security Trustee, that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Security Trustee.

- (c) Without prejudice to any provision of any Bond Document excluding or limiting the liability of the Security Trustee, any Receiver or Delegate, any liability of the Security Trustee, any Receiver or Delegate arising under or in connection with any Bond Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Security Trustee, Receiver or Delegate (as the case may be) or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Security Trustee, Receiver or Delegate (as the case may be) at any time which increase the amount of that loss. In no event shall the Security Trustee, any Receiver or Delegate be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Security Trustee, Receiver or Delegate (as the case may be) has been advised of the possibility of such loss or damages.

14.12 No Proceedings

No Party (other than the Security Trustee, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of that Security Trustee, a Receiver or a Delegate in respect of any claim it might have against that Security Trustee, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in

relation to any Bond Document or any Security Property and any officer, employee or agent of the Security Trustee, a Receiver or a Delegate may rely on this Clause 14.12 subject to Clause 1.4 (*Contracts (Rights of Third Parties) Act 1999*).

14.13 Rights

- (a) The Security Trustee may assume that unless it has received notice of revocation, that those instructions have not been revoked and no revocation of any such instructions shall affect any actions taken by the Security Trustee in reliance on such instructions prior to actual receipt of a written notice of revocation.
- (b) The Security Trustee may assume (unless it has received notice to the contrary in its capacity as security trustee or Security Trustee for the Secured Parties) that:
 - (i) any right, power, authority or discretion vested in any Party or any group of Creditors has not been exercised; and
 - (ii) any notice made by the Company is made on behalf of and with the consent and knowledge of all the Debtors.
- (c) Notwithstanding any provision of any Bond Document to the contrary, the Security Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it by a Group Member.

14.14 Responsibility for Documentation

None of the Security Trustee, any Receiver or any Delegate is responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Trustee, a Debtor or any other person in or in connection with any Bond Document or the transactions contemplated in the Bond Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Bond Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

14.15 No Duty to Monitor

The Security Trustee shall not be bound to enquire:

- (a) whether or not any Default has occurred;
- (b) as to the performance, default or any breach by any Party of its obligations under any Bond Document; or
- (c) whether any other event specified in any Bond Document has occurred.

14.16 Own Responsibility

Without affecting the responsibility of any Debtor for information supplied by it or on its behalf

in connection with any Bond Document, each Secured Party confirms to the Security Trustee that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Bond Document, including, but not limited to:

- (a) the financial condition, status and nature of each Debtor;
- (b) the legality, validity, effectiveness, adequacy and enforceability of any Bond Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document or the Security Property;
- (c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Bond Document, the Security Property, the transactions contemplated by the Bond Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document or the Security Property;
- (d) the adequacy, accuracy and/or completeness of any information provided by the Security Trustee or by any other person under or in connection with any Bond Document, the transactions contemplated by any Bond Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Bond Document; and
- (e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property,

and each Secured Party warrants to the Security Trustee that it has not relied on and will not at any time rely on that the Security Trustee in respect of any of these matters.

14.17 No Responsibility to Perfect Transaction Security

The Security Trustee shall have no responsibility for perfecting the Transaction Security and shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Debtor to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Bond Documents or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Bond Documents or of the Transaction Security;
- (d) take, or to require any of the Debtors to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or
- (e) require any further assurances in relation to any of the Security Documents.

14.18 Insurance by Security Trustee

- (a) The Security Trustee shall be under no obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to

arrange or maintain insurance contained in the Bond Documents. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

- (b) Where the Security Trustee is named on any insurance policy as an insured party and/or loss payee, that Security Trustee shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind.

14.19 Custodians and Nominees

The Security Trustee may (to the extent legally permitted) appoint and pay any person to act as a custodian or nominee on any terms in relation to any assets of trust held by the Security Trustee as trustee of the Secured Parties (as applicable) may determine, including for the purpose of depositing with a custodian this Deed or any document relating to the trust created under this Deed and that Security Trustee shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Deed or be bound to supervise the proceedings or acts of any person.

14.20 Acceptance of Title

The Security Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Debtors may have to any of the Charged Property and shall not be liable for or bound to require any Debtor to remedy any defect in its right or title.

14.21 Refrain from Illegality

Notwithstanding anything to the contrary expressed or implied in the Bond Documents, the Security Trustee may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction and that Security Trustee may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

14.22 Business with the Debtors

The Security Trustee may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors.

14.23 Winding Up of Trust and Release of Transaction Security

If the Security Trustee with the written approval of the Instructing Group determines that: (x) all of the Secured Obligations and all other obligations secured by the Security Documents have been fully and finally discharged; and (y) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Bond Documents:

- (a) the trusts set out in this Deed shall be wound up and the Security Trustee shall release, without recourse, representation or warranty of any kind (either express or implied), all of the Security and the rights of the Security Trustee under each of the Security Documents; and
- (b) any Retiring Security Trustee shall release, without recourse, representation or warranty of any kind (either express or implied), all of its rights under each of the Security Documents.

14.24 Powers Supplemental

The rights, powers, authorities and discretions conferred upon the Security Trustee by this Deed and the Bond Documents shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in that Security Trustee by general law or otherwise.

14.25 Trustee division separate

- (a) In acting as trustee for the Secured Parties, the Security Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.
- (b) If information is received by another division or department of the Security Trustee, it may be treated as confidential to that division or department and that Security Trustee shall not be deemed to have notice of it.

14.26 Disapplication

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Trustee in relation to the trusts constituted by this Deed. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Deed, the provisions of this Deed shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of that Act.

14.27 Intra-Group Lenders, Subordinated Creditors and the Debtors: Power of Attorney

Subject to Clause 14.1(e) (*Appointment of Secured Parties*), each of the Intra-Group Lenders, Subordinated Creditors and the Debtors by way of security for its obligations under this Deed irrevocably appoints the Security Trustee to be its attorney to do anything which that Intra-Group Lender, Subordinated Creditor or Debtor has authorised the Security Trustee or any other Party to do under this Deed or is itself required to do under this Deed (with express faculty of self-contracting, sub-empowering or multiple representation) but has failed to do (and the Security Trustee may delegate that power on such terms as it sees fit).

14.28 Security Trustee's Spot Rate of Exchange

The Security Trustee shall promptly to the extent that a Party is required to calculate a Common Currency Amount, and upon a reasonable request by that Party, notify that Party of the relevant Security Trustee's Spot Rate of Exchange.

14.29 Provisions Survive Termination

The provisions of this Clause 14 shall survive any termination or discharge of this Deed and the resignation or termination of the appointment of the Security Trustee.

14.30 No Fiduciary Duties to Debtors

Nothing in this Deed constitutes the Security Trustee as an agent, trustee or fiduciary of any Debtor.

15. Change of Security Trustee

15.1 Resignation of the Security Trustee

- (a) The Security Trustee may resign and appoint one of its affiliates (acting through an office in London or any other jurisdiction agreed to by the Company) as successor by giving notice to the Company and the Bondholders.
- (b) Alternatively, the Security Trustee may resign by giving 30 days' notice to the other

Parties in which case the Instructing Group may appoint a successor Security Trustee.

- (c) If the Instructing Group has not appointed a successor Security Trustee in accordance with paragraph (b) above or (h) below within 30 days after the notice of resignation was given, the Security Trustee (after consultation with the Company) may appoint a successor Security Trustee.
- (d) A retiring or terminated Security Trustee (the “**Retiring Security Trustee**”) shall:
 - (i) make available to the successor Security Trustee such documents and records and provide such assistance as the successor Security Trustee may reasonably request for the purposes of performing its functions as Security Trustee under the Bond Documents; and
 - (ii) enter into and deliver to the successor Security Trustee those documents and effect any registrations as may be required for the transfer or assignment of all of its rights and benefits under the Bond Documents to the successor Security Trustee.
- (e) A Debtor must, at its own reasonable cost, take any action and enter into and deliver any document which is reasonably required by the Retiring Security Trustee to ensure that a Security Document provides for effective and perfected Security in favour of any successor Security Trustee.
- (f) The Security Trustee’s resignation notice shall only take effect upon: (i) the appointment of a successor; and (ii) the transfer of all of the Security Property to that duly appointed successor.
- (g) Upon the appointment of a successor, the Retiring Security Trustee shall be discharged from any further obligation in respect of the Bond Documents (other than its obligations under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Trustee, remain entitled to the benefit of Clause 14 (*The Security Trustee*), Clause 18.1 (*Debtors’ Indemnity*) and Clause 18.3 (*Bondholders’ Indemnity*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.
- (h) The Instructing Group may, in consultation with the Company, by written notice to the Security Trustee, require it to resign in accordance with paragraph (b) above. In this event, the Security Trustee shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (e) above shall be for the account of the Company or any other Debtor.

15.2 Delegation

- (a) Subject to Clause 14.1(e) (*Appointment of Secured Parties*), each of the Security Trustee, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Bond Documents.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

15.3 Additional Security Trustees

- (a) The Security Trustee may at any time appoint (and subsequently remove), to the extent legally permitted, any person to act as a separate trustee or agent or as a co-trustee or co-agent jointly with it if (i) it in good faith considers that appointment to be in the interests of the Secured Parties or (ii) for the purposes of conforming to any legal requirements, restrictions or conditions which that Security Trustee deems to be relevant (acting reasonably) or (iii) for obtaining or enforcing any judgment in any jurisdiction, and that Security Trustee shall give prior notice to the Company and each of the Bondholders of that appointment.
- (b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Trustee by this Deed) and the duties and obligations that are conferred or imposed by the instrument of appointment.
- (c) The remuneration that the Security Trustee may pay to that person, and any costs and expenses (together with any applicable VAT) incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Deed, be treated as costs and expenses reasonably incurred by the Security Trustee.

16. Changes to the Parties

16.1 Assignments and Transfers

No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Bond Documents or the Liabilities except as permitted by this Clause 16.

16.2 Change of Bondholders

A Bondholder may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Bond Documents or the Liabilities if:

- (a) that assignment or transfer is in accordance with the terms of the Bond Instrument to which it is a party; and
- (b) any assignee or transferee has (if not already party to this Deed as a Bondholder) acceded to this Deed, as a Bondholder pursuant to Clause 16.6 (*Accession Undertaking*).

16.3 Change of Intra-Group Lender

Subject to Clause 5.4 (*Acquisition of Intra-Group Liabilities*) and to the terms of the other Bond Documents, any Intra-Group Lender may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Intra-Group Liabilities to another Group Member if that Group Member has (if not already party to this Deed as an Intra-Group Lender) acceded to this Deed as an Intra-Group Lender, pursuant to Clause 16.6 (*Accession Undertaking*) (*provided* that such Group Member will not be required to accede to this Deed as an Intra-Group Lender under this Clause 16.3 if it would otherwise not have been required to do so under the terms of Clause 16.6 (*Accession Undertaking*) if it had been the original creditor of such Intra-Group Liability).

16.4 New Intra-Group Lender

If any Intra-Group Lender or any Group Member makes any loan to or grants any credit to or makes any other financial arrangement having similar effect to any Group Member, it (and the Company shall procure that that Group Member giving that loan, granting that credit or making that other financial arrangement) shall (if not already a Party as an Intra-Group Lender) accede to this Deed as an Intra-Group Lender pursuant to Clause 16.6 (*Accession Undertaking*).

16.5 Change of Subordinated Creditor

Subject to the terms of the other Bond Documents, any Subordinated Creditor may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of the Subordinated Liabilities if any assignee or transferee has (if not already party to this Deed as a Subordinated Creditor) acceded to this Deed as a Subordinated Creditor pursuant to Clause 16.6 (*Accession Undertaking*).

16.6 Accession Undertaking

With effect from the date of acceptance by the Security Trustee of an Accession Undertaking duly executed and delivered to the Security Trustee by the relevant acceding party or, if later, the date specified in that Accession Undertaking:

- (a) any Party ceasing entirely to be a Creditor shall be discharged from further obligations towards the Security Trustee and other Parties under this Deed and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and
- (b) as from that date, the replacement or new Creditor shall assume the same obligations and become entitled to the same rights, as if it had been an original Party to this Deed in that capacity,

and each Party irrevocably authorises and instructs the Security Trustee to execute on its behalf any Accession Undertaking which has been duly completed and signed on behalf of that person.

16.7 New Debtor

- (a) If any Group Member or a Debtor:
 - (i) incurs any Liabilities; or
 - (ii) gives any security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities,

the Debtors will procure that the person incurring those Liabilities or giving that assurance accedes to this Deed as a Debtor, in accordance with paragraph (b) below, no later than contemporaneously with the incurrance of those Liabilities or the giving of that assurance.

- (b) With effect from the date of acceptance by the Security Trustee of a Debtor Accession Deed duly executed and delivered to the Security Trustee by the new Debtor or, if later, the date specified in the Debtor Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party to this Deed as a Debtor.

16.8 Additional Parties

Subject to Clause 14.1(e) (*Appointment of Secured Parties*), each of the Parties instructs and appoints the Security Trustee to receive on its behalf each Debtor Accession Deed and Accession Undertaking and Debtor Resignation Request delivered to the Security Trustee and the Security Trustee shall, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Deed or, where applicable, by the Bond Instrument.

16.9 Resignation of a Debtor

- (a) The Company may request that a Debtor ceases to be a Debtor by delivering to the Security Trustee a Debtor Resignation Request.

- (b) Subject to paragraph (a) of Clause 11.1 (*Non-Distressed Disposals*), the Security Trustee shall accept a Debtor Resignation Request and notify the Company and each other Party of its acceptance if the Company certifies for the benefit of the Security Trustee that:
- (i) no Event of Default is continuing or would result from the acceptance of the Debtor Resignation Request and such resignation is expressly permitted or not prohibited (as applicable) by the Bond Documents;
 - (ii) to the extent the Discharge Date has not occurred, that Debtor is not, or has ceased to be, or will cease to be concurrently with such resignation, a borrower or an issuer of Bonds or a Guarantor; and
 - (iii) that Debtor is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
- (c) Upon notification by the Security Trustee to the Company of its acceptance of the resignation of a Debtor, that person shall cease to be a Debtor and shall have no further rights or obligations under this Deed as a Debtor.

17. Costs and Expenses

17.1 Security Trustee Fees

The Company shall pay to the Security Trustee the fees and expenses in respect of the Security Trustee's services as set out in the Security Trustee Fee Letter.

17.2 Transaction Expenses

The Company shall (or another Debtor so elected shall), promptly within five (5) Business Days of demand, pay to the Security Trustee the amount of all reasonable costs and expenses (including legal fees, subject to agreed caps, if any together with any applicable VAT) properly incurred by the Security Trustee and any Receiver or Delegate (evidence of which shall be provided to the Company) in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Deed, the Security Documents and any other documents referred to in this Deed and the Transaction Security, in each case up to the maximum amount agreed by the Company (if any).

17.3 Amendment Costs

If the Company or any Debtor requests an amendment, waiver or consent under this Deed, the Company shall (or another Debtor so elected shall) within five (5) Business Days of demand, reimburse (or procure the reimbursement of the Security Trustee for the amount of all reasonable third party costs and expenses (including legal fees, subject to agreed caps (if any)) reasonably incurred by the Security Trustee, by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request or requirement.

17.4 Management Time and Costs

Any amount payable to the Security Trustee shall include the cost of utilising the Security Trustee or any Receiver's or Delegate's management time or other resources and will be calculated on the basis of such reasonable rates as the Security Trustee or such Receiver or Delegate may separately agree with the Company or as in accordance with the Fee Letter, and is in addition to any fee paid or payable to the Security Trustee or any Receiver or Delegate under this Clause 17.

17.5 Non-scope Costs

If an Event of Default or a Default has occurred or if the Security Trustee (after prior consultation with the Company) finds it expedient or necessary or is requested by the Company to undertake duties which are agreed by the Security Trustee and the Company to be of an exceptional nature or otherwise outside the scope of the their normal duties under the Bond Documents, the Company (failing whom, the Guarantors) will pay such additional costs as have been separately agreed in writing with the Security Trustee (as the case may be).

17.6 Stamp Taxes

The Company (or any Debtor so elected) shall pay and, within five (5) Business Days of demand, indemnify the Security Trustee against any cost, loss or liability the Security Trustee incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Bond Document.

17.7 Interest on demand

Without duplication of any default interest payable under any Bond Document, if any Creditor or Debtor fails to pay any amount payable by it under this Deed on its due date, interest shall (to the extent such accrual does not result in any double counting under the provisions of this Deed and the provisions of the relevant Bond Documents) accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is two per cent. per annum over the rate at which the Security Trustee was being offered, by leading banks in the Hong Kong interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Trustee may from time to time select.

17.8 Enforcement and preservation costs

The Company shall (or another Debtor so elected shall), within five (5) Business Days of demand, pay to the Security Trustee the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it (or by any Receiver or Delegate) in connection with the enforcement of or the preservation of any rights under any Bond Document, the Transaction Security and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Transaction Security or enforcing these rights (but excluding any costs and expenses arising as a direct result of that Security Trustee's gross negligence or wilful default).

18. Indemnities

18.1 Debtors' Indemnity

- (a) Each Debtor shall promptly indemnify the Security Trustee and every Receiver and Delegate against any cost, loss or liability (together with any applicable VAT) incurred (but excluding any costs and expenses arising as a direct result of the Security Trustee's gross negligence, wilful default or fraud) by any of them:
 - (i) in relation to or as a result of:
 - (A) any failure by the Company to comply with obligations under Clause 17 (*Costs and Expenses*); or
 - (B) the taking, holding, protection or enforcement of the Transaction Security; or
 - (C) the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee, each Receiver and each Delegate by the Bond Documents or by law (including any costs, losses and liabilities

which the Security Trustee may incur in connection with acting following the request of any Group Member as contemplated by the terms of any Bond Document); or

- (D) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Bond Documents; or
 - (E) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised; or
 - (F) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under this Deed; or
 - (G) acting as the Security Trustee, Receiver or Delegate under the Bond Documents or which otherwise relates to any of the Security Property; or
- (ii) which otherwise relates to any of the Security Property or the performance of the terms of this Deed (otherwise than as a direct result of its gross negligence or willful misconduct).
- (b) Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 18.1 will not be prejudiced by any release or disposal under Clause 11.2 (*Distressed Disposals and Appropriation*) taking into account the operation of that Clause.
- (c) Any indemnity obligations pursuant to this Clause 18.1 that are incurred by a Debtor incorporated in Switzerland (a “**Swiss Debtor**”) shall be subject to the limitations according to condition 6.14 of the Bond Instruments, provided that any references to “Swiss Guarantor” shall be deemed to be replaced by references to “Swiss Debtor”. As a result, if and to the extent such obligations would constitute a repayment of capital (*Einlagerückgewähr/Kapitalrückzahlung*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) under Swiss corporate law and practice then applicable, such obligations shall be limited to the maximum amount of the freely disposable shareholder equity at the time (the “**Maximum Amount**”); provided that such limitation is required under the applicable law at that time; provided, further, that such limitation shall not free the Swiss Debtor from its obligations in excess of the Maximum Amount, but merely postpone the performance date of those obligations until such time or times as performance is again permitted under then applicable law. This Maximum Amount of freely disposable shareholder equity shall be determined in accordance with Swiss law and applicable Swiss accounting principles, and, if and to the extent required by applicable Swiss law, shall be confirmed by the auditors of the Swiss Debtor on the basis of an interim audited balance sheet as of that time.

18.2 Priority of Indemnity

The Security Trustee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 18.1 (*Debtors’ Indemnity*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it, in each case in accordance with Clause 13.1 (*Order of Application - Transaction Security*).

18.3 Bondholders’ Indemnity

Each Bondholder shall (in the proportion that the Liabilities due to it bears to the aggregate of

the Liabilities due to all the Bondholders for the time being (or, if the Liabilities due to each of those Bondholders is zero, immediately prior to their being reduced to zero)), to the extent not indemnified pursuant to Clause 18.1 (*Debtors' Indemnity*) or Clause 18.2 (*Priority of Indemnity*) indemnify the Security Trustee and every Receiver and every Delegate, within 10 Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the Security Trustee's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Trustee, Receiver or Delegate under the Bond Documents (unless the Security Trustee, Receiver or Delegate has been reimbursed by a Debtor pursuant to a Bond Document) and the Debtors shall jointly and severally indemnify each Bondholder against any payment made by it under this Clause 18.

18.4 The Company's Indemnity to the Bondholders

The Company shall promptly and as principal obligor indemnify each Bondholder against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, reasonably incurred by it in relation to or arising out of the operation of Clause 11.2 (*Distressed Disposals and Appropriation*).

19. Information

19.1 Information and Dealing

The Creditors shall provide to the Security Trustee from time to time any information that the Security Trustee may reasonably specify as being necessary or desirable to enable that Security Trustee to perform its functions as trustee.

19.2 Disclosure

Each of the Debtors, Intra-Group Lenders and Subordinated Creditors agree, until the Discharge Date, to the disclosure by any of the Bondholders and the Security Trustee to each other (whether or not through the Security Trustee) of such information concerning the Debtors and the Intra-Group Lenders as any Bondholder or the Security Trustee shall see fit to the extent that the disclosure of such information (a) does not breach any applicable law, and (b) prior to the taking of any Enforcement Action, would not result in any person receiving any material non-public information.

19.3 Notification of Prescribed Events

- (a) If an Event of Default or an Acceleration Event occurs the Security Trustee shall notify each other Party.
- (b) If the Security Trustee enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Secured Party of that action.
- (c) If any Bondholder exercises any right it may have to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Trustee and the Security Trustee shall, upon receiving that notification, notify each other Party of that action.

20. Notices

20.1 Communications in Writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by electronic mail, fax or letter.

20.2 Security Trustee's Communications with Bondholders

The Security Trustee shall be entitled to carry out all dealings with the Bondholders and may give to the Bondholders any notice or other communication required to be given by the Security Trustee to a Bondholder.

20.3 Addresses

The address and electronic mail (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of any person which is a Party on the date of this Deed, that identified with its signature below; and
- (b) in the case of each other Party, that notified in writing to the Security Trustee on or prior to the date on which it becomes a Party,

or any substitute address, electronic mail address or department or officer which that Party may notify to the Security Trustee (or the Security Trustee may notify to the other Parties, if a change is made by the Security Trustee) by not less than five Business Days' notice.

20.4 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:
 - (i) if by way of fax, when received in legible form;
 - (ii) if by way of electronic mail, when received in legible form; or
 - (iii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 20.3 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified in Clause 20.3 (*Addresses*) (or any substitute department or officer as that Security Trustee shall specify for this purpose).
- (c) Any communication or document made or delivered to the Company in accordance with this Clause 20.4 will be deemed to have been made or delivered to each of the Debtors.

20.5 Notification of Address and Electronic Mail Address

Promptly upon receipt of notification of an address and electronic mail address or change of address or electronic mail address pursuant to Clause 20.3 (*Addresses*) or changing its own address or electronic mail address, the Security Trustee shall notify the other Parties.

20.6 Electronic Communication

- (a) Any communication to be made under or in connection with this Deed may be made by electronic mail or other electronic means, if the relevant Parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication (with such agreement to be deemed to be given by each person which is a Party unless otherwise notified to the contrary by the

Security Trustee and the Company);

- (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any electronic communication made between the Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Trustee only if it is addressed in such a manner as the Security Trustee shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Deed shall be deemed only to become effective on the following day.
- (d) Any reference in this Deed to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 20.6.

20.7 English Language

- (a) Any communication given under or in connection with this Deed must be in English.
- (b) All other documents provided under or in connection with this Deed must be:
- (i) in English; or
 - (ii) if not in English, and if so required by the Security Trustee, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

20.8 Notices to All Creditors

- (a) Where any request for a consent, amendment or waiver which requires the consent of all the Parties to this Deed or any class of Creditors (or percentage of such class) (as the case may be) is received by the Security Trustee from a Debtor, the Security Trustee, as the case may be, shall provide notice of such request to such Parties or the relevant class of Creditors at the same time.
- (b) Where an instruction is required by the Security Trustee from a class of Creditors (or a percentage of such class), notice of such instruction shall be provided to each Creditor in the relevant class at the same time.

21. Preservation

21.1 Waiver of Defences

The provisions of this Deed or any Transaction Security will not be affected by an act, omission, matter or thing which, but for this Clause 21.1, would reduce, release or prejudice the subordination and priorities expressed to be created by this Deed including (without limitation and whether or not known to any Party):

- (a) any time, waiver or consent granted to, or composition with, any Debtor or other person;

- (b) the release of any Debtor or any other person under the terms of any composition or arrangement with any creditor of any Group Member;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor or other person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor or other person;
- (f) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Bond Document or any other document or security;
- (g) any unenforceability, illegality or invalidity of any obligation of any person under any Bond Document or any other document or security;
- (h) any intermediate Payment of any of the Liabilities owing to the Bondholders in whole or in part; or
- (i) any insolvency or similar proceedings.

21.2 Partial Invalidity

If, at any time, any provision of a Bond Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

21.3 No Impairment

- (a) If, at any time after its date, any provision of a Bond Document (including this Deed) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Bond Document, neither the binding nature nor the enforceability of that provision nor any other provision of that Bond Document will be impaired as against the other party(ies) to that Bond Document.
- (b) Each Party expressly acknowledges and agrees that any right to any payment, indemnity or otherwise under any Bond Document shall not (by reason only of such right) delay, condition or restrict any obligation in this Deed to act promptly as otherwise required in relation to any step, action or document required to be taken or entered into hereunder.

21.4 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

21.5 Priorities Not Affected

Except as otherwise provided in this Deed the priorities referred to in Clause 2 (*Ranking and Priority*) will:

- (a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Bondholders or by any intermediate reduction or increase in, amendment or variation to any of the Bond Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;
- (b) apply regardless of the order in which or dates upon which this Deed and the other Bond Documents are executed or registered or notice of them is given to any person; and
- (c) secure the Liabilities owing to the Bondholders in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

22. Consents, Amendments and Override

22.1 Required Consents

- (a) Subject to paragraph (c) below and Clause 22.4 (*Exceptions*), this Deed may be amended or waived only with the written consent of the Instructing Group, the Company and the Security Trustee.
- (b) Any term of this Deed may be amended or waived by the Company (or, if applicable, the Security Trustee) without the consent of any other Party if that amendment or waiver is to cure defects or omissions; resolve ambiguities or inconsistencies; reflect changes of a minor, technical or administrative nature or manifest error; is otherwise only for the benefit of all Creditors; or (provided that such waiver or amendment does not adversely affect the interests of the other Creditors whose consent is not required for the applicable amendment) is consequential on, incidental to, or required to implement an amendment, waiver, consent or release set about above.
- (c) Subject to Clause 22.2 (*Amendments and Waivers: Security Documents*) and Clause 22.4 (*Exceptions*), where the Security Trustee consent is required for any amendment or waiver in this Clause 22, the Security Trustee shall act on the written instructions of the Instructing Group; *provided* that, to the extent that an amendment, waiver or consent only affects one series of Bondholders, and such amendment, waiver or consent could not reasonably be expected materially or adversely to affect the interests of the other series of Bondholders, only written agreement from the affected series shall be required; *provided, further*, that to the extent any amendment, waiver or consent would adversely affect holders of one series of Bonds relative to holders of any other series of Bonds, written agreement from the majority holders of the affected series shall be required (in addition to any consent or approval otherwise required).
- (d) Notwithstanding anything to the contrary in the Bond Documents, a Creditor may unilaterally waive, relinquish or otherwise irrevocably give up all or any of its rights under any Bond Document.

22.2 Amendments and Waivers: Security Documents

- (a) Subject to paragraph (b) below, and to paragraph (c) of Clause 22.4 (*Exceptions*), the Security Trustee may, if authorised by the Instructing Group in writing and if the Company consents, amend the terms of, release or waive any of the requirements of or grant consents under, any of the Security Documents, which shall be binding on each Party.
- (b) Subject to paragraph (c) of Clause 22.4 (*Exceptions*), any amendment or waiver of, or consent under, any Security Document which has the effect of changing or which

relates to:

- (i) the nature or scope of the Charged Property;
- (ii) the manner in which the proceeds of enforcement of the Transaction Security are distributed; or
- (iii) the release of any Transaction Security,

shall not be made without the prior consent of the Security Trustee (acting on the instructions of the Bondholders (together) comprising (a) if any Tranche A Bonds are outstanding, holders of at least 85 per cent. in aggregate principal amount of Tranche A Bonds and (b) if any Tranche B Bonds are outstanding, holders of at least 85 per cent. in aggregate principal amount of Tranche B Bonds), as at such time.

22.3 Effectiveness

- (a) Any amendment, waiver or consent given in accordance with this Clause 22 will be binding on all Parties and the Security Trustee may effect, on behalf of any Creditor, any amendment, waiver or consent permitted by this Clause 22.
- (b) Without prejudice to the generality of Clause 14.8 (*Security Trustee's Discretions*) the Security Trustee may engage, pay for and rely on the services of lawyers in determining the consent level required for and effecting any amendment, waiver or consent under this Deed.

22.4 Exceptions

- (a) Subject to paragraph (c) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:
 - (i) in the case of a Bondholder, in a way which affects or would affect the Bondholders of that Party's series generally; or
 - (ii) in the case of a Debtor, to the extent consented to by the Company under Clause 22.2 (*Amendments and Waivers: Security Documents*),

the consent of that Party is required.

- (b) Subject to paragraph (c) below, an amendment, waiver or consent which relates to the rights or obligations which are personal to the Security Trustee in its capacity as such (including, without limitation, any ability of the Security Trustee to act in its discretion under this Deed) may not be effected without the consent of the Security Trustee.
- (c) Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 22.2 (*Amendments and Waivers: Security Documents*) shall apply:
 - (i) to any release of Transaction Security; or
 - (ii) to any amendment, waiver or consent,

which, in each case, the Security Trustee gives in accordance with Clause 11 (*Non-Distressed Disposals, Distressed Disposals and Disposal Proceeds*).

22.5 No Liability

None of the Bondholders will be liable to any other Creditor or Debtor for any Consent given or deemed to be given under this Clause 22.

22.6 Agreement to Override

- (a) Subject to paragraph (b) below, unless expressly stated otherwise in this Deed, this Deed overrides anything in the Bond Documents (other than any Security Documents which are governed by German law) to the contrary.
- (b) Notwithstanding anything to the contrary in this Deed, paragraph (a) above will not (i) cure, postpone, waive or negate in any manner any default or event of default (however described) under any Bond Document (or any event that would, but for paragraph (a) above, constitute a default or event of default (howsoever described)) as between any Creditor and any Debtor that are Party to that Bond Document, or (ii) override any voting threshold required to amend, modify or waive any provision of any Bond Document expressly set forth therein.

23. Contractual Recognition of Bail-in

23.1 Contractual Recognition of Bail-in

Notwithstanding any other term of any Bond Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Bond Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Bond Documents to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

23.2 Definitions

For the purposes of this Clause 23:

“**Bail-In Action**” means the exercise of any Write-down and Conversion Powers;

“**Bail-In Legislation**” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and
- (b) in relation to any other state, any analogous law or regulation applicable to a Debtor from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation;

“**EEA Member Country**” means any member state of the European Union, Iceland, Liechtenstein and Norway;

“**EU Bail-In Legislation Schedule**” means the document described as such and published by the Loan Market Association (or any successor person) from time to time;

“**Resolution Authority**” means any body which has authority to exercise any Write-down and Conversion Powers; and

“**Write-down and Conversion Powers**” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
 - (i) any power under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
 - (ii) any similar or analogous powers under that Bail-In Legislation.

24. Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

25. Governing Law

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

For the avoidance of doubt, articles 470-1 to 470-19 (included) of the Luxembourg law on commercial companies dated August 10, 1915 (as amended) shall be excluded.

26. Enforcement

26.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection therewith) (a “**Dispute**”) and accordingly any legal action or proceedings in connection with such Dispute (“**Proceedings**”) may be brought in such courts. Each of the Parties hereby irrevocably submits to the jurisdiction of such courts.
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 26.1 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking Proceedings in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

26.2 Service of process

Each Debtor hereby appoints Law Debenture Corporate Services Limited, having its registered office at fifth floor, 100 Wood Street, London EC2V 7EX, United Kingdom, as its agent to receive on its behalf in England service of any Proceedings started in the courts of England under this Clause 26 and will provide evidence of the same to the Security Trustee and the Bondholders. Such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by the Company) and shall be valid until such time as the Company has received prior written notice that such agent has ceased to act as agent.

If for any reason such agent ceases to be able to act as agent or no longer has an address in England, the relevant Debtor shall forthwith appoint a substitute and deliver to the Security Trustee and the Bondholders the new agent's name and address and email within England and Wales.

Nothing in this Clause 26 shall affect the right of the other Parties to serve process in any other manner permitted by law.

THIS DEED has been entered into on the date stated at the beginning of this Deed and executed as a deed by the Debtors, and the Company and is intended to be and is delivered by them as a deed on the date specified above and shall take effect as a deed notwithstanding the fact that the other parties hereto have executed this Deed under hand.

Schedule 1

Form of Debtor Accession Deed

THIS DEED is made on [●] and made between:

- (1) [Insert full name of new Debtor] (the “**Acceding Debtor**”); and
- (2) [Insert full name of Current Security Trustee] (the “**Security Trustee**”), for itself and each of the other parties to the Intercreditor Deed referred to below.

This Deed is made on [date] by the Acceding Debtor in relation to an intercreditor deed (the “**Intercreditor Deed**”) dated [●] between, amongst others, Alvotech Holdings S.A. as Company, [●] as Security Trustee, the other Creditors and the other Debtors (each as defined in the Intercreditor Deed).

The Acceding Debtor intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]/[provide third party security in respect of Liabilities under the following documents]:

[Insert details (date, parties and description) of relevant documents including, as the case may be, any limitation language applicable to the relevant Debtor]

(the “**Relevant Documents**”).

IT IS AGREED as follows:

1. Terms defined in the Intercreditor Deed shall, unless otherwise defined in this Deed, bear the same meaning when used in this Deed.
2. The Acceding Debtor and the Security Trustee agree that the Security Trustee shall hold:
 - (a) any Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
 - (b) all proceeds of that Security; and
 - (c) all obligations expressed to be undertaken by the Acceding Debtor [to pay amounts in respect of the Liabilities to the Security Trustee as trustee or otherwise for the benefit of the Secured Parties (in the Relevant Documents or otherwise) and] secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding Debtor (in the Relevant Documents or otherwise) in favour of the Secured Parties (as represented by the Security Trustee) as trustee or otherwise for the benefit of the Secured Parties,

on trust (or otherwise) for the benefit of the Secured Parties (or any class thereof as the case may be) on the terms and conditions contained in the Intercreditor Deed.
3. The Acceding Debtor confirms that it intends to be party to the Intercreditor Deed as a Debtor, undertakes to perform all the obligations expressed to be assumed by a Debtor under the Intercreditor Deed and agrees that it shall be bound by all the provisions of the Intercreditor Deed as if it had been an original party to the Intercreditor Deed.
4. [In consideration of the Acceding Debtor being accepted as an Intra-Group Lender for the purposes of the Intercreditor Deed, the Acceding Debtor also confirms that it intends to be party to the Intercreditor Deed as an Intra-Group Lender, and undertakes to perform all the obligations expressed in the Intercreditor Deed to be assumed by an Intra-Group Lender and agrees that it shall be bound by all the provisions of the Intercreditor Deed, as if it had been an original party to the Intercreditor Deed.]
5. [Add applicable guarantee limitation language to the extent applicable].

[5]/[6] This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

This Deed has been signed on behalf of the Security Trustee and executed as a deed by the Acceding Debtor and is delivered on the date stated above.

The Acceding Debtor

[**Executed** as a Deed

By: [Full name of Acceding Debtor]

-) Director
-)
-) Director/Secretary

or

[**Executed** as a Deed

By: [Full name of Acceding Debtor]

-) Director
-)
-) Director/Secretary

Name of witness:

Address of witness:

Occupation of witness:

Address for notices:

Address:

The Security Trustee

By: [Full name of Current Security Trustee]

Date: []

Schedule 2 Form of Accession Undertaking

To: [Insert full name of current Security Trustee] for itself and each of the other parties to the Intercreditor Deed referred to below

From: [Acceding Creditor]

This Undertaking is made on [date] by [insert full name of applicable party] (the “**Acceding Party**”) in relation to the Intercreditor Deed (the “**Intercreditor Deed**”) dated [●] between, amongst others, Alvotech Holdings S.A. as Company, [●] as Security Trustee and the other Creditors and the other Debtors (each as defined in the Intercreditor Deed). Terms defined in the Intercreditor Deed shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding Party being accepted as a [*insert applicable defined terms and capacity*] for the purposes of the Intercreditor Deed, the Acceding Party confirms that, as from [date], it intends to be party to the Intercreditor Deed as a [*insert applicable defined terms and capacity*] and undertakes to perform all the obligations expressed in the Intercreditor Deed to be assumed by a [*insert applicable defined terms and capacity*] and agrees that it shall be bound by all the provisions of the Intercreditor Deed, as if it had been an original party to the Intercreditor Deed.

The Acceding Party expressly ratifies and approves any and all acts done by the Security Trustee on its behalf prior to execution by the Acceding Party of this Accession Undertaking.

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS UNDERTAKING has been entered into as delivered on the date stated above.

[insert full name of Acceding Creditor]

EXECUTED and **DELIVERED** as a **DEED**

By: _____

[By: _____]

Witness' signature: _____

Name: _____

Address: _____

Occupation: _____

Accepted by the Security Trustee)

for and on behalf of)

[Insert full name of current Security Trustee])

Signed:

By: _____

Date: _____

Schedule 3

Form of Debtor Resignation Request

To: [●] as Security Trustee

From: [*resigning Debtor*] and [*Company*]

Dated:

Dear Sirs,

Intercreditor Deed dated [●] between, amongst others, [●] as company, [●] as security trustee, [●] as bondholders, the other Creditors and the other Debtors (each as defined in the Intercreditor Deed) (the “**Intercreditor Deed**”).

1. We refer to the Intercreditor Deed. This is a Debtor Resignation Request. Terms defined in the Intercreditor Deed have the same meaning in this Debtor Resignation Request unless given a different meaning in this Debtor Resignation Request.
2. Pursuant to clause 16.9 (*Resignation of a Debtor*) of the Intercreditor Deed we request that [*resigning Debtor*] be released from its obligations as a Debtor under the Intercreditor Deed.
3. We confirm that:
 - (a) no Default is continuing or would result from the acceptance of this request; and
 - (b) [*resigning Debtor*] is under no actual or contingent obligations in respect of the Intra-Group Liabilities.
4. This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[*Company*]

[*Resigning Debtor*]

By:

By:

Signature Pages

The Company

EXECUTED and DELIVERED as a)

DEED by ALVOTECH HOLDINGS S.A.)

acting by)

Johanna Johannsson)

who is duly authorised by)

ALVOTECH HOLDINGS S.A.)

to sign on its behalf)

in the presence of:)

John Johannsson
Title: Director and authorised signatory

Witness' signature:

M. Hilmisdóttir

Name:

MARGRÉT HILMISDÓTTIR

Address:

HRÍSHOLT 11

Occupation:

ALVOTECH

Notice Details


Address: Saemundargata 15-19, IS 101 Reykjavik, Iceland


Fax no.: +354 522 2901

Attention: Chief Financial Officer

An Original Debtor

EXECUTED and DELIVERED as a)
DEED by **ALVOTECH HF.**)
acting by)
Rasmus Rognjær)
who is duly authorised by)
ALVOTECH HF.)
to sign on its behalf)
in the presence of:)


Title: CEO and authorised signatory

Witness' signature: 
Name: MARGARET HINNISDÓTTIR
Address: FRÍSHOLT 11
Occupation: ALVOTECH

Notice Details

Address: Saemundargata 15-19, IS 101 Reykjavik, Iceland
Fax no.: +354 522 2901
Attention: Chief Financial Officer

An Original Debtor

EXECUTED and DELIVERED as a)
DEED by **GLYCOTHERA GMBH**)
acting by)
Rasmus Rognjvier)
who is duly authorised by)
GLYCOTHERA GMBH)
to sign on its behalf)
in the presence of:)

Title: J. CEO Awotech

Witness' signature: M. P. P. P.
Name: MARINET HIRNISDOTTIR
Address: HRSITOLT 4
Occupation: AWOTECH


Notice Details

Address: Saemundargata 15-19, IS 101 Reykjavik, Iceland
Fax no.: +354 522 2901
Attention: Chief Financial Officer

An Original Debtor

EXECUTED and DELIVERED as a)
DEED by)
ALVOTECH GERMANY GMBH)
acting by)
Rasmus Rognjær)
who is duly authorised by)
ALVOTECH GERMANY GMBH)
to sign on its behalf)
in the presence of:)

Title:  CEO Alvotech

Witness' signature: 
Name: MARGRÉT HILMISDÓTTIR
Address: HRISVÖL 11
Occupation: ALVOTECH

Notice Details

Address: Saemundargata 15-19, IS 101 Reykjavik, Iceland
Fax no.: +354 522 2901
Attention: Chief Financial Officer

An Original Debtor

EXECUTED and DELIVERED as a)
DEED by **ALVOTECH SWISS AG**)
acting by)
Reinmar Pöggendorf)
who is duly authorised by)
ALVOTECH SWISS AG)
to sign on its behalf)
in the presence of:)

[Signature]
Title: CEO

Witness' signature: *Máruð*
Name: MARUÐ HIRNISPUKJÓR
Address: HRÍSHOLT 11
Occupation: ALVOTECH

Notice Details

Address: Saemundargata 15-19, IS 101 Reykjavik, Iceland
Fax no.: +354 522 2901
Attention: Chief Financial Officer

The Original Bondholder

EXECUTED and DELIVERED as a)
DEED by CLSA LIMITED)
acting by)
Nathan McMurtray)
who is duly authorised by)
CLSA LIMITED)
to sign on its behalf)
in the presence of: Caobin Zhou)



Nathan McMurtray

Title: Managing Director

Witness' signature: Caobin Zhou

Name: Caobin Zhou

Address: 18/F One Pacific Place, 88 Queensway, Hong Kong

Occupation: Analyst

Notice Details

Address: 18/F, One Pacific Place, 88 Queensway, Hong Kong

Email: nathan.mcmurtray@clsa.com

Attention: Nathan McMurtray, Head of Equity Linked Products

The Security Trustee

EXECUTED and **DELIVERED** as a)
DEED by)
MADISON PACIFIC TRUST LIMITED)
acting by **Jonathan Lee Hatch**)
_____)
who is duly authorised by)
MADISON PACIFIC TRUST LIMITED)
to sign on its behalf)
in the presence of:)



Title: **Managing Director**

Witness' signature: 

Name: **Holly Jocelyn Hamilton**

Address: **1720, 17/F Tower One, Admiralty Centre**
18 Harcourt Road, Admiralty, Hong Kong

Occupation: **Direct: +852 2599 9500**
Fax: +852 2599 9501

Associate Director.

Notice Details

Address: Madison Pacific Trust Limited

Email: trustee@madisonpac.com

Attention: Jonathan Hatch