



Registration of a Charge

Company name: **BPCR GP LTD**

Company number: **12511991**



X96G7ERE

Received for Electronic Filing: **03/06/2020**

Details of Charge

Date of creation: **22/05/2020**

Charge code: **1251 1991 0005**

Persons entitled: **JPMORGAN CHASE BANK, N.A., LONDON BRANCH (AND ITS SUCCESSORS IN TITLE AND PERMITTED TRANSFEREES)**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

LINKLATERS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 12511991

Charge code: 1251 1991 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd May 2020 and created by BPCR GP LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd June 2020 .

Given at Companies House, Cardiff on 4th June 2020

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

SECURITY AGREEMENT

dated 22 May 2020

created by

BPCR LIMITED PARTNERSHIP
(ACTING BY ITS GENERAL PARTNER, BPCR GP LTD)

and

BPCR GP LTD
acting as Chargors

in favour of

JPMORGAN CHASE BANK, N.A., LONDON BRANCH
acting as Lender

Ref: L-297034

Linklaters LLP

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THIS DEED is dated 22 May 2020 and made between:

- (1) **BPCR LIMITED PARTNERSHIP**, a limited partnership established under the laws of England and Wales with registration number LP020944 and whose registered office and principal place of business is at 51 New North Road, Exeter, EX4 4EP acting by its general partner BPCR GP LTD, a private limited company under the laws of England and Wales with registration number 12511991 and whose registered office and principal place of business is at 51 New North Road, Exeter, EX4 4EP, as assignor and chargor (the "**Borrower**");
- (2) **BPCR GP LTD**, a private limited company under the laws of England and Wales with registration number 12511991 and whose registered office and principal place of business is at 51 New North Road, Exeter, EX4 4EP, as chargor (the "**General Partner**" and, together with the Borrower, the "**Chargors**"); and
- (3) **JPMORGAN CHASE BANK, N.A., LONDON BRANCH** as lender (the "**Lender**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"**Acceleration Notice**" means a notice delivered by the Lender to the Borrower in accordance with clause 24.15 (*Acceleration*) of the Facilities Agreement.

"**Administrator**" means an administrator appointed under Schedule B1 to the Insolvency Act.

"**Collections Account**" means all of the Borrower's right, title and interest from time to time in and to the bank account held with the Account Bank with account number [REDACTED] (as that account may be renumbered or re-designated from time to time), all balances from time to time standing to the credit of or accrued or accruing on that account and all Related Rights.

"**Delegate**" means a delegate or sub-delegate appointed by the Lender or a Receiver in accordance with this Deed.

"**Facilities Agreement**" means the facilities agreement dated on or around the date of this Deed between the Borrower as borrower, the Lender and JPMorgan Chase Bank, N.A., London Branch as calculation agent.

"**Finance Document**" means the Facilities Agreement, the Guarantee, each Security Document and any other document referred to as such in the Facilities Agreement and any other document designated as such by the Lender and the Borrower.

"**Insolvency Act**" means the Insolvency Act 1986.

"**Law of Property Act**" means the Law of Property Act 1925.

"**Material Adverse Effect**" means any event or circumstance which (taking into account such resources as are available to the General Partner (including sources of funds, insurances, and other claims or indemnities to its benefit) without breaching the terms of the Finance Documents, and which in each case have been demonstrated by the General Partner to the Lender (to its reasonable satisfaction)) has a material adverse effect on:

- (a) the financial condition of the General Partner;
- (b) the ability of the General Partner to perform its payment obligations under the Finance Documents;
- (c) subject to the Legal Reservations and the Perfection Requirements, the validity, legality or enforceability of the rights of any Finance Party under any Finance Document; or
- (d) subject to the Legal Reservations and the Perfection Requirements, the validity, legality or enforceability of any Security granted or purported to be granted pursuant to any Security Document.

provided that no fact, event or circumstance existing as at the date of this Deed, or arising from a fact, event or circumstance existing as at the date of this Deed, in each case if known by the Lender, shall have or be deemed to have a Material Adverse Effect.

"Party" means a party to this Deed.

"Pledged Notes" means each promissory note or other instrument evidencing Financial Indebtedness owed to the Borrower under any Security Asset which is a Reference Asset Document other than a Reference Asset Document (NY Security).

"Quasi-Security" means a transaction under which any Chargor will:

- (a) sell, transfer or otherwise dispose of any Security Asset on terms whereby it is or may be leased to or re-acquired by any Chargor;
- (b) sell, transfer or otherwise dispose of any Security Asset on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account which is a Security Asset may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement in relation to any Security Asset having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of a Security Asset.

"Receiver" means a receiver and manager or other receiver appointed in respect of all or any part of the Security Assets and shall, if allowed by law, include an administrative receiver.

"Related Rights" means, in relation to a Security Asset:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of that Security Asset;
- (b) any moneys or proceeds paid or payable deriving from that Security Asset;
- (c) any rights, claims, guarantees, indemnities, Security or covenants for title in relation to that Security Asset;
- (d) any awards or judgments in favour of a Chargor in relation to that Security Asset; and
- (e) any other assets deriving from, or relating to, that Security Asset.

"Relevant Jurisdiction" means:

- (a) the jurisdiction of incorporation of the General Partner;
- (b) any jurisdiction where any asset which is expressly provided to be subject to or is expressly intended to be subject to the Security to be created by the General Partner is situated (other than any assets which are the subject of any floating charge);
- (c) any jurisdiction where the General Partner conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by the General Partner.

"Repeating Representations" means each of the representations set out in Clauses 8.1 (*Status*) to 8.6 (*Governing law and enforcement*) (inclusive), Clause 8.9 (*No default*), Clauses 8.10 (*No misleading information*), Clause 8.12 (*No proceedings*), Clause 8.13 (*Title*) and Clause 8.14 (*Sanctions*).

"Secured Liabilities" means all present and future liabilities and obligations at any time due, owing or incurred by the Borrower or any Security Provider to any Secured Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety 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 claim for damages or restitution; and
- (d) any claim as a result of any recovery by the Borrower or any Security Provider of a payment, prepayment, repayment, redemption, defeasance or discharge of those liabilities or obligations 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.

"Secured Party" means a Finance Party, a Receiver or any Delegate.

"Security Assets" means the assets which from time to time are, or expressed to be, the subject of the Security Interests or any part of those assets.

"Security Interests" means all or any of the Security created or expressed to be created in favour of the Lender by or pursuant to this Deed.

1.2 **Incorporation of defined terms**

Unless a contrary indication appears, terms defined in the Facilities Agreement have the same meaning in this Deed.

1.3 **Construction**

- (a) Any reference in this Deed to a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under that Finance Document or other agreement or instrument.
- (b) The provisions in clause 1.2 (*Construction*) of the Facilities Agreement apply to this Deed, except that references to the Facilities Agreement shall be construed as references to this Deed.

1.4 **Third party rights**

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2. **CREATION OF SECURITY INTERESTS**

2.1 **Creation of Security Interests**

- (a) The Borrower, with full title guarantee and as security for the payment of all Secured Liabilities, assigns to the Lender by way of security the Collections Account and all Related Rights.
- (b) The Borrower, with full title guarantee and as security for the payment of all Secured Liabilities, charges in favour of the Lender by way of first fixed charge, the Collections Account and all Related Rights, to the extent not validly and effectively assigned under paragraph (a) above.
- (c) Each Chargor, with full title guarantee and as security for the payment of all Secured Liabilities, charges in favour of the Lender by way of first floating charge, all its undertaking and all its assets, both present and future (including assets expressed to be assigned under this Clause 2.1).

2.2 **Ranking**

The floating charge created by each Chargor under Clause 2.1 (*Creation of Security Interests*) ranks:

- (a) behind all the assignments and fixed charges created by that Chargor; but
- (b) in priority to any other Security over the Security Assets of that Chargor except for Security ranking in priority in accordance with paragraph (g) of Schedule 1 (*Rights of Receivers*).

2.3 **Conversion by notice**

The Lender may convert the floating charge over all or any of the Security Assets into a fixed charge by notice to the relevant Chargor specifying such relevant Security Assets:

- (a) if it considers it necessary to do so in order to protect or preserve the Security Interests over those Security Assets and/or the priority of those Security Interests; and/or
- (b) following the delivery of an Acceleration Notice.

2.4 Automatic conversion

If:

- (a) any Chargor takes any step to create any Security or Quasi-Security in breach of Clause 3.1 (*Negative pledge*) over any Security Asset subject to a floating charge; or
- (b) any person takes any step to effect any expropriation, attachment, sequestration, distress or execution against any such Security Asset,

the floating charge over the relevant Security Assets shall automatically and immediately be converted into a fixed charge.

2.5 Company voluntary arrangement moratorium

Obtaining a moratorium or doing anything with a view to obtaining a moratorium pursuant to Schedule A1 of the Insolvency Act (including any preliminary decision or investigation) shall not cause the floating charge over all or any of the Security Assets to crystallise until the date upon which it is permitted to crystallise in accordance with paragraph 13 of Schedule A1 of the Insolvency Act.

2.6 Consents and other documents

- (a) The Borrower shall cause all Pledged Notes to be delivered to the Lender, duly indorsed in blank:
 - (i) as soon as practicable after the date of this Deed in respect of:
 - (A) the Pledged Note with the face amount of \$60,000,000 made in relation to the loan agreement dated 23 May 2019 with BioDelivery Sciences International, Inc. as borrower; and
 - (B) the Pledged Note with the face amount of \$165,000,000 made in relation to the loan agreement dated 6 February 2020 with Collegium Pharmaceutical, Inc. as borrower; and
 - (ii) in respect of any promissory note or other instrument that becomes a Pledged Note after the date of this Deed, as soon as practicable after such promissory note or other instrument becomes a Pledged Note.
- (b) Upon becoming aware that the consent of any party to a document (other than any document in respect of the Collections Account) is required to create fixed security over, or an assignment of, the rights of a Chargor under that document:
 - (i) that Chargor shall promptly notify the Lender;
 - (ii) until the consent of the relevant party has been obtained, this Deed shall secure all amounts which that Chargor may receive, or has received, under that document but exclude any fixed security over, or any assignment of, those rights;
 - (iii) unless the Lender requires otherwise, that Chargor shall use reasonable endeavours to obtain the consent of the relevant party to the creation of fixed security over or, as the case may be, an assignment of, those rights under this Deed as soon as reasonably practicable; and

- (iv) on the date on which the consent of the relevant party is obtained, the fixed security over or, in respect of an asset expressed to be subject to an assignment, the assignment of, those rights under this Deed shall attach to those rights,

provided that the provisions of this paragraph (b) shall not apply in respect of any Secured Receivables.

3. RESTRICTIONS ON DEALING WITH SECURITY ASSETS

3.1 Negative pledge

- (a) The General Partner shall not create or permit to subsist any Security or Quasi-Security over any of the Security Assets in respect of the Security granted by the General Partner, except as permitted by the Facilities Agreement.
- (b) Paragraph (a) above does not apply to:
 - (i) any Security or Quasi-Security entered into pursuant to or contemplated by any Finance Document;
 - (ii) any Security or Quasi-Security which is entered into with the prior written consent of the Lender; or
 - (iii) any lien arising by operation of law in respect of any Security Asset (other than any Secured Receivable) which, pursuant to paragraph (c) of Clause 2.1 (*Creation of Security Interests*), is only subject to a floating charge.

3.2 Disposals

- (a) The General Partner shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of any Security Asset.
- (b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal made:
 - (i) in respect of any Security Asset not subject to a fixed charge or assignment pursuant to this Deed;
 - (ii) by way of contribution to the Borrower;
 - (iii) pursuant to or in accordance with any Finance Document; or
 - (iv) with the consent of the Lender.

4. COLLECTIONS ACCOUNT

4.1 Documents

The Borrower shall promptly deliver to the Lender, and the Lender shall be entitled to hold, such documents relating to the Collections Account as the Lender reasonably requires.

4.2 Collections Account Bank Agreement

The Borrower shall on the date of this Deed enter into the Collections Account Bank Agreement.

5. INTEREST

5.1 Default interest

If the General Partner fails to pay any amount payable by it under any Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is the sum of 1 per cent and the rate which would have been payable under the Facilities Agreement if the overdue amount had, during the period of non-payment, constituted a Loan in the currency of the overdue amount for successive Interest Periods, each of a duration selected by the Lender (acting reasonably). Any interest accruing under this Clause 5.1 shall be immediately payable by the General Partner on demand by the Lender.

5.2 Compounding

Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

6. TAX GROSS UP AND INDEMNITIES

6.1 Definitions

(a) In this Deed:

"General Partner DTTP Filing" means an H.M. Revenue & Customs' Form DTTP2 duly completed and filed by the General Partner, which contains the scheme reference number and jurisdiction of tax residence stated in respect of the Lender in the documentation which it executes on becoming a Party as the Lender, and which is filed with H.M. Revenue & Customs within 30 days of the date on which that Lender becomes a Party as the Lender.

"Qualifying Lender" means:

- (a) a Lender which is beneficially entitled to interest payable to it in respect of an advance under a Finance Document and is:
 - (i) a Lender:
 - (A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under a Finance Document and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or
 - (B) in respect of an advance made under a Finance Document by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that that advance was made and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or
 - (ii) a Lender which is:

- (A) a company resident in the United Kingdom for United Kingdom tax purposes;
- (B) a partnership each member of which:
 - (a) is a company so resident in the United Kingdom; or
 - (b) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of Section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA;
- (C) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of Section 19 of the CTA) of that company; or
- (iii) a Treaty Lender; or
- (b) a Lender which is a building society (as defined for the purpose of section 880 of the ITA) making an advance under a Finance Document.

"Tax Confirmation" means a confirmation by the Lender that the person beneficially entitled to interest payable to the Lender in respect of an advance under a Finance Document is either:

- (a) a company resident in the United Kingdom for United Kingdom tax purposes;
- (b) a partnership each member of which:
 - (i) is a company so resident in the United Kingdom; or
 - (ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of Section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or
- (c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of Section 19 of the CTA) of that company.

"Tax Credit" means a credit against any Tax or any relief or remission for Tax (or its repayment).

"Tax Deduction" means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

"Tax Payment" means either the increase in a payment made by the General Partner to the Lender under Clause 6.2 (*Tax gross-up*) or a payment under Clause 6.3 (*Tax indemnity*).

"Treaty Lender" means a Lender which:

- (a) is treated as a resident of a Treaty State for the purposes of the Treaty;
- (b) does not carry on a business in the United Kingdom through a permanent establishment with which a Loan is effectively connected; and
- (c) fulfils any conditions which must be fulfilled under the double taxation agreement for residents of that Treaty State to obtain full exemption from United Kingdom taxation on interest payable to that Lender in respect of an advance under a Finance Document.

"Treaty State" means a jurisdiction having a double taxation agreement (a **"Treaty"**) with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest.

"UK Non-Bank Lender" means a person which gives a Tax Confirmation on becoming Party as the Lender.

- (b) Unless a contrary indication appears, in this Clause 6 a reference to "determines" or "determined" means a determination made in the absolute discretion of the person making the determination.

6.2 Tax gross-up

- (a) The General Partner shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The General Partner shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Lender accordingly. Similarly, the Lender shall promptly notify the General Partner on becoming so aware in respect of a payment payable to the Lender. In addition, the Lender shall promptly notify the General Partner if it ceases to be a Qualifying Lender.
- (c) If a Tax Deduction is required by law to be made by the General Partner, the amount of the payment due from the General Partner shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) A payment shall not be increased under paragraph (c) above by reason of a Tax Deduction on account of Tax imposed by the United Kingdom, if on the date on which the payment falls due:
 - (i) the payment could have been made to the Lender without a Tax Deduction on account of Tax imposed by the United Kingdom if the Lender had been a Qualifying Lender, but on that date the Lender is not or has ceased to be a Qualifying Lender other than as a result of any change after the date it became a Party in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant taxing authority; or
 - (ii) the Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of Qualifying Lender and:
 - (A) an officer of H.M. Revenue & Customs has given (and not revoked) a direction (a **"Direction"**) under section 931 of the ITA which relates to the payment and the

- Lender received from the General Partner making the payment or from the Borrower a certified copy of that Direction; and
- (B) the payment could have been made to the Lender without any Tax Deduction if that Direction had not been made; or
- (iii) the Lender is a Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of Qualifying Lender and:
- (A) the Lender has not given a Tax Confirmation to the General Partner; and
 - (B) the payment could have been made to the Lender without any Tax Deduction if the Lender had given a Tax Confirmation to the General Partner, on the basis that the Tax Confirmation would have enabled the General Partner to have formed a reasonable belief that the payment was an "excepted payment" for the purpose of section 930 of the ITA; or
- (iv) the Lender is a Treaty Lender and the General Partner making the payment is able to demonstrate that the payment could have been made to the Lender without the Tax Deduction had the Lender complied with its obligations under paragraph (g) or (h) (as applicable) below.
- (e) If the General Partner is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (f) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the General Partner shall deliver to the Lender evidence reasonably satisfactory to the Lender that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.
- (g)
- (i) Subject to paragraph (ii) below, a Treaty Lender and the General Partner which makes a payment to which that Treaty Lender is entitled shall co-operate in promptly completing any procedural formalities necessary for the General Partner to obtain authorisation to make that payment without a Tax Deduction.
 - (ii) A Treaty Lender which is not the Lender on the day on which this Deed is entered into that holds a passport under the HMRC DT Treaty Passport scheme, and which wishes that scheme to apply to any Finance Document to which the General Partner is a party, shall confirm its scheme reference number and its jurisdiction of tax residence in the Transfer Agreement which it executes, and, having done so, that Lender shall be under no obligation pursuant to paragraph (i) above.
 - (iii) Each Lender that includes the confirmation described in paragraph (ii) above in the relevant Transfer Agreement thereby notifies the General Partner that, to the extent that that Lender is a Lender under a Facility made available to the Borrower and the HMRC DT Treaty Passport scheme is to apply in respect of that Lender's Commitment or any Loan to the Borrower, the General Partner must file a General Partner DTTP Filing.

- (h) If a Lender has confirmed its scheme reference number and its jurisdiction of tax residence in accordance with paragraph (g)(ii) above and:
 - (i) the General Partner has not made a General Partner DTTP Filing in respect of that Lender; or
 - (ii) the General Partner has made a General Partner DTTP Filing in respect of that Lender but:
 - (A) that General Partner DTTP Filing has been rejected by H.M. Revenue & Customs;
 - (B) H.M. Revenue & Customs has not given the General Partner authority to make payments to that Lender without a Tax Deduction within 60 days of the date of the General Partner DTTP Filing; or
 - (C) H.M. Revenue & Customs has given the General Partner authority to make payments to the Lender without a Tax Deduction but such authority has subsequently been revoked or expired or is due to otherwise terminate or expire within the next three months,

and in each case, the General Partner has notified that Lender in writing, that Lender and the General Partner shall co-operate in completing any additional procedural formalities necessary for the General Partner to obtain authorisation to make a payment to that Lender without a Tax Deduction.

- (i) If a Lender has not confirmed its scheme reference number and jurisdiction of tax residence in accordance with paragraph (g)(ii) above, the General Partner shall not make a General Partner DTTP Filing or file any other form relating to the HMRC DT Treaty Passport scheme in respect of that Lender's Commitment or any Loan unless the Lender otherwise agrees.
- (j) The General Partner shall, promptly on making a General Partner DTTP Filing, deliver a copy of that General Partner DTTP Filing to the Lender.
- (k) A UK Non-Bank Lender shall promptly notify the General Partner if there is any change in the position from that set out in the Tax Confirmation.

6.3 Tax indemnity

- (a) If the Lender is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document, then, to the extent not paid by the Borrower, the General Partner shall (within three Business Days of demand by the Lender) pay to the Lender an amount equal to the loss, liability or cost which the Lender determines will be or has been (directly or indirectly) suffered for or on account of Tax by it in respect of a Finance Document.
- (b) Paragraph (a) above shall not apply:
 - (i) with respect to any Tax assessed on the Lender:
 - (A) under the law of the jurisdiction in which the Lender is incorporated or established or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes;

- (B) under the law of the jurisdiction in which the Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction; or
- (C) under the law of any jurisdiction in which the Lender has a permanent establishment, branch or agency through which it carries out activities under or in connection with this Deed,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by the Lender;

- (ii) to the extent a loss, liability or cost:
 - (A) is compensated for by an increased payment under Clause 6.2 (*Tax gross-up*) or a payment under Clause 6.6 (*Stamp taxes*);
 - (B) relates to a FATCA Deduction required to be made by a Party; or
 - (C) is attributable to VAT (which shall instead be dealt with pursuant to Clause 6.7 (*VAT*)).
- (c) If a Finance Party makes, or intends to make, a claim under paragraph (a) above, it shall promptly notify the General Partner of the event which will give, or has given, rise to the claim.

6.4 **Tax Credit**

If the General Partner makes a Tax Payment and the Lender determines that:

- (a) a Tax Credit is attributable either to an increased payment of which that Tax Payment forms part, or to that Tax Payment; and
- (b) the Lender has obtained, used and retained that Tax Credit,

the Lender shall pay an amount to the General Partner which the Lender determines will leave it (after that payment) in the same after-Tax position as it would have been if the Tax Payment had not been required to be made by the General Partner.

6.5 **Lender status confirmation**

A Lender which becomes a Party to this Deed after the date of this Deed shall indicate, without liability to the General Partner, which of the following categories it falls in:

- (a) not a Qualifying Lender;
- (b) a Qualifying Lender (other than a Treaty Lender); or
- (c) a Treaty Lender.

If such a Lender fails to indicate its status in accordance with this Clause 6.5 then that Lender shall be treated for the purposes of any Finance Document to which the General Partner is party (including by the Borrower and each other Security Provider) as if it is not a Qualifying Lender until such time as it notifies the General Partner or the Borrower which category applies. For the avoidance of doubt, the documentation which a Lender executes on becoming a Party as the Lender shall not be invalidated by any failure of a Lender to comply with this Clause 6.5.

6.6 Stamp taxes

The General Partner shall pay and, within three Business Days of demand, indemnify the Lender against any cost, loss or liability the Lender incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document to which the General Partner is party.

6.7 VAT

- (a) All amounts set out or expressed in a Finance Document to be payable by the General Partner to the Lender which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT which is chargeable on such supply or supplies, and accordingly, if VAT is or becomes chargeable on any supply made by the Lender to the General Partner under a Finance Document, the General Partner shall pay to the Lender (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of such VAT (and the Lender shall promptly provide an appropriate VAT invoice to the General Partner).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Subject Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse the Recipient in respect of that consideration), such Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT. The Recipient will promptly pay to the Subject Party an amount equal to any credit or repayment obtained by the Recipient from the relevant tax authority which the Recipient reasonably determines is in respect of such VAT.
- (c) Where a Finance Document requires the General Partner to reimburse or indemnify the Lender for any cost or expense, the General Partner shall reimburse or indemnify (as the case may be) the Lender for the full amount of such cost or expense, including such part thereof as represents VAT save to the extent that the Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 6.7 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).
- (e) In relation to any supply made by the Lender to the General Partner under a Finance Document, if reasonably requested by the Lender, the General Partner must promptly provide the Lender with

details of the General Partner's VAT registration and such other information as is reasonably requested in connection with the Lender's VAT reporting requirements in relation to such supply.

6.8 FATCA information

- (a) Subject to paragraph (c) below, each Party shall, within 10 Business Days of a reasonable request by another Party:
 - (i) confirm to that other Party whether it is:
 - (A) a FATCA Exempt Party; or
 - (B) not a FATCA Exempt Party;
 - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
 - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be, a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
 - (i) any law or regulation;
 - (ii) any fiduciary duty; or
 - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraphs (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

6.9 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify each other Party.

7. OTHER INDEMNITIES

7.1 Currency indemnity

- (a) If any sum due from the General Partner under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the General Partner;
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the General Partner shall as an independent obligation, within five Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) The General Partner waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

8. REPRESENTATIONS

The General Partner makes the representations and warranties set out in this Clause 8 to the Lender on the date of this Deed by reference to the facts and circumstances existing on the date of this Deed.

8.1 Status

- (a) It is a private limited company, duly incorporated and validly existing under the laws of England and Wales.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

8.2 Binding obligations

Subject to the Legal Reservations and (in the case of any Security Document) on completion of the Perfection Requirements:

- (a) the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable; and
- (b) without limiting the generality of paragraph (a) above, each Security Document to which it is a party creates the security interests which that Security Document purports to create and those security interests are valid and effective.

8.3 Non-conflict with other obligations

- (a) The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party do not and will not conflict with:
- (i) 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.
- (b) Without prejudice to paragraph (a) above, securing the Loans in full does not cause any security or similar limit binding on it to be exceeded.

8.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

8.5 Validity and admissibility in evidence

Subject to the Legal Reservations and Perfection Requirements, all Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party; and
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect (or will be when required in respect of any Finance Document entered into after the date of this Deed).

8.6 Governing law and enforcement

Subject to the Legal Reservations:

- (a) the applicable choice of law as the governing law of the Finance Documents to which it is a party will be recognised and enforced in its Relevant Jurisdictions; and
- (b) any judgment obtained in relation to a Finance Document in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its Relevant Jurisdictions.

8.7 Insolvency

No:

- (a) corporate action, legal proceeding or other procedure or step described in clause 24.7 (*Insolvency proceedings*) of the Facilities Agreement; or
- (b) creditors' process described in clause 24.8 (*Creditors' process*) of the Facilities Agreement,

has been taken or, to the knowledge of the General Partner, threatened in relation to the General Partner; and none of the circumstances described in clause 24.6 (*Insolvency*) of the Facilities Agreement applies to the General Partner.

8.8 No filing or stamp taxes

Subject to the Legal Reservations and the Perfection Requirements, under the law of its jurisdiction of incorporation it is not necessary that the Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents to which it is a party or the transactions contemplated by the Finance Documents to which it is a party (other than in

relation to any transfer of mortgages securing the obligations in respect of the Collateral Security Assets over which it has granted Security).

8.9 No default

To the best of its knowledge having made all reasonable enquiries in the circumstances, no event or circumstance is continuing (howsoever construed) which constitutes a default under any agreement or instrument which is binding on it or to which its assets are subject which has a Material Adverse Effect.

8.10 No misleading information

- (a) To the best of its knowledge having made all reasonable enquiries in the circumstances, any factual information provided by or on its behalf in relation to any Finance Document was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) To the best of its knowledge having made all reasonable enquiries in the circumstances, nothing has occurred or been omitted and no information has been given or withheld (in each case within the control of the General Partner) that results in the information referred to in paragraph (a) above being untrue or misleading in any material respect.

8.11 Security and *pari passu* ranking

- (a) Subject to the Legal Reservations and Perfection Requirements:
 - (i) each Security Document to which it is a party creates (or, once entered into, will create) in favour of the Lender the Security which it is expressed to create; and
 - (ii) without limiting paragraph (i) above, its payment obligations under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.
- (b) No Security exists on or over the Collateral Security Assets (other than pursuant to the Security Documents or the Collections Account Bank Agreement).

8.12 No proceedings

- (a) No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, would reasonably be expected to have a Material Adverse Effect has or have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.
- (b) No judgment or order of a court, arbitral body or agency which would reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief) been made against it or any of its Subsidiaries.

8.13 Title

It has:

- (a) good, valid and marketable title to the Security Assets; and
- (b) not sold, transferred, lent, assigned, parted with its interest in or disposed of, granted any option in respect of or otherwise dealt with any of its rights, title and interest in and to the

Security Assets (other than those Security Assets which are not subject to a fixed charge or assignment pursuant to this Deed), or agreed to do any of the foregoing (other than pursuant to the Finance Documents to which it is a party).

8.14 Sanctions

- (a) It has implemented and maintains in effect policies and procedures designed to ensure compliance by it, its Affiliates and their respective directors and officers and, to the extent it or its Affiliates has employees or agents, their employees and agents with Anti-Corruption Laws and applicable Sanctions, and it, its Affiliates and their respective officers and directors, and, to its knowledge and to the extent it or its Affiliates has employees or agents, their employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in it being designated as a Sanctioned Person.
- (b) None of (i) it, any of its Affiliates, any of their respective directors, officers or, to the extent it or its Affiliates has employees, their employees or (ii) to its knowledge any of its agents or any of its Affiliates that will act in any capacity in connection with or benefit from the Facilities, is a Sanctioned Person.
- (c) The transactions contemplated by this Deed will not violate any Anti-Corruption Law or applicable Sanctions.

8.15 Non-reliance

- (a) It is acting at arm's length and for its own account (as principal and not as agent or in any other capacity) in entering into the Finance Documents to which it is a party and none of the Lender, the Calculation Agent or their respective Affiliates are acting as adviser to or as an agent or fiduciary for the General Partner.
- (b) It has made its own independent decision:
 - (i) to enter into the Finance Documents to which it is a party; and
 - (ii) as to whether the terms of the Finance Documents to which it is a party are appropriate or proper for it,in each case based upon its own judgement and independent professional advice.
- (c) It is not relying on any communication (written or oral) of the Lender or the Calculation Agent:
 - (i) as investment or legal advice;
 - (ii) as a recommendation to enter into the Finance Documents to which it is a party; or
 - (iii) in respect of the accounting, regulatory or Tax treatment to be applied to the Finance Documents to which it is a party and the transactions contemplated by the Finance Documents to which it is a party.
- (d) It is capable of assessing the merits of and understanding (on its own behalf or as a result of having received independent professional advice), and understands and accepts, the terms, conditions and risks of the Finance Documents to which it is a party and the transactions contemplated by the Finance Documents to which it is a party.

8.16 **No immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

8.17 **Pledged Notes**

Paragraph (a)(i) of Clause 2.6 (*Consents and other documents*) sets forth all of the Pledged Notes.

8.18 **Repetition**

Each of the Repeating Representations are deemed to be made by the General Partner by reference to the facts and circumstances then existing on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period.

9. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 9 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

9.1 **Information: miscellaneous**

The General Partner shall supply to the Lender:

- (a) (save where such information is publicly available) all documents dispatched by the General Partner to its shareholders or its creditors generally at the same time as they are dispatched;
- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the General Partner, and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;
- (c) promptly upon becoming aware of them, the details of any judgment or order of a court, arbitral body or agency which is made against the General Partner, and which would reasonably be expected to have a Material Adverse Effect; and
- (d) promptly, such further information regarding the financial condition, business and operations of the General Partner as the Lender may reasonably request.

9.2 **"Know your customer" checks in relation to the General Partner**

If:

- (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Deed;
- (b) any change in the status of the General Partner (or of a Holding Company of the General Partner) after the date of this Deed; or
- (c) a proposed assignment or transfer by the Lender of any of its rights and obligations under this Deed,

obliges the Lender (or, in the case of paragraph (c) above, any prospective new lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the General Partner shall promptly upon the

request of the Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Lender (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new lender) concerning the General Partner in order for the Lender or, in the case of the event described in paragraph (c) above, any prospective new lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all Applicable Laws pursuant to the transactions contemplated in the Finance Documents.

10. GENERAL UNDERTAKINGS

The undertakings in this Clause 10 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

10.1 Authorisations

The General Partner shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Lender of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents to which it is a party and to ensure (subject to the Legal Reservations and the Perfection Requirements) the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

10.2 Compliance with laws

The General Partner shall comply in all respects with all Applicable Laws, and all other laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents.

10.3 No business and no change of business

Notwithstanding any other provision of this Deed, the General Partner shall not trade, carry on any business, own any assets or incur any liabilities except for:

- (a) holding cash in bank accounts;
- (b) acting as general partner of the Borrower;
- (c) contributing capital (in cash or in kind) to the Borrower;
- (d) any liabilities under the Finance Documents or the Investment Management Agreement;
- (e) any professional fees and administration costs incurred in the ordinary course of business of an investment or holding company; and
- (f) with the prior written consent of the Lender.

10.4 Financial Indebtedness

- (a) Except as permitted under paragraph (b) below, the General Partner shall not incur or allow to remain outstanding any Financial Indebtedness.

- (b) Paragraph (a) above does not apply to Financial Indebtedness which is incurred or arising, under the Finance Documents.

10.5 **Security and pari passu ranking**

- (a) The General Partner shall ensure that each Security Document to which it is a party creates (or, once entered into, will create) in favour of the Lender the Security which it is expressed to create.
- (b) Without limiting paragraph (a) above, the General Partner shall ensure that its payment obligations under the Finance Documents to which it is a party at all times rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except those creditors whose claims are mandatorily preferred by laws of general application to companies.
- (c) The General Partner shall not do or consent to the doing of anything which would be likely to prejudice the validity, enforceability or priority of any of the Security expressed to be created pursuant to the Security Documents.

10.6 **Change of business**

The General Partner shall procure that no substantial change is made to the general nature of the business of the General Partner from that carried on at the date of this Deed.

10.7 **Sanctions**

- (a) The General Partner will maintain in effect and enforce policies and procedures designed to ensure compliance by it, its Affiliates and their respective directors and officers, and to the extent it or its Affiliates has employees or agents, their employees and agents with Anti-Corruption Laws and applicable Sanctions.
- (b) The General Partner shall not use, and shall procure that its Affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Utilisation (i) in furtherance of an offer, payment, promise to pay, or authorisation of the payment or giving of money, or anything else of value, to any person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a person required to comply with Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.
- (c) Any provision of this Clause 10.7 or Clause 8.14 (*Sanctions*) shall not apply to or in favour of any person if and to the extent that it is or would be unenforceable by or in respect of that person by reason of breach of any applicable Blocking Law.
- (d) For the purposes of this Clause 10.7, "**Blocking Law**" means:
 - (i) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom);
 - (ii) section 7 of the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*); or
 - (iii) any similar blocking or anti-boycott law applicable in the United Kingdom.

10.8 Taxation

The General Partner shall pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties (except to the extent that (i) such payment is being contested in good faith and (ii) such payment can be lawfully withheld or the amounts involved are not material and failure to pay those Taxes does not have or would not have a Material Adverse Effect).

10.9 Further assurance

The General Partner shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify having regard to the rights and restrictions in the Finance Documents to which it is a party (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):

- (a) to create, perfect, protect or maintain the Security created or expressed to be created by this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to the Finance Documents to which it is a party or by law; or
- (b) to facilitate the realisation of the Security Assets which are, or are intended to be, the subject of the Security Interests,

including, without limitation:

- (i) the execution and doing of all such deeds, instruments, renunciations, proxies, notices, documents, filings, acts and things in such form as the Lender may from time to time reasonably require; and
- (ii) the execution of any transfer, conveyance, assignment or assurance of any asset and the giving of any notice, order or direction and the making of any registration which the Lender may reasonably require.

11. ENFORCEMENT OF SECURITY INTERESTS

11.1 When enforceable

The Security Interests shall be immediately enforceable on and at any time after the delivery of an Acceleration Notice.

11.2 Enforcement action

At any time after the Security Interests have become enforceable, the Lender may in its absolute discretion enforce all or any part of the Security Interests in any manner it sees fit.

11.3 Law of Property Act powers

At any time after the Security Interests have become enforceable, the powers, authorities and discretions conferred by the Law of Property Act on mortgagees, including the power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act, as varied and extended by this Deed, shall be immediately exercisable.

12. LAW OF PROPERTY ACT

12.1 Section 101

The power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act on mortgagees, as varied and extended by this Deed, shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on the date of this Deed and shall be exercisable in accordance with Clause 11.3 (*Law of Property Act powers*).

12.2 Section 103

Section 103 (*Regulation of exercise of power of sale*) of the Law of Property Act shall not apply to this Deed.

12.3 Section 93

Section 93 (*Restriction on consolidation of mortgages*) of the Law of Property Act shall not apply to this Deed.

13. APPOINTMENT OF RECEIVERS AND ADMINISTRATORS

13.1 Appointment of Receivers

If:

- (a) requested by any Chargor; or
- (b) the Security Interests have become enforceable,

without any notice or further notice, the Lender may, by deed or otherwise in writing signed by the Lender or any person authorised for this purpose by the Lender, appoint one or more persons to be a Receiver of all or any part of the Security Assets. The Lender may similarly remove any Receiver and appoint any person instead of any Receiver. If the Lender appoints more than one person as Receiver, the Lender may give those persons power to act either jointly or severally.

13.2 Appointment of Administrators

Paragraph 14 of Schedule B1 to the Insolvency Act applies to this Deed and the Lender may appoint an Administrator of any Chargor pursuant to that paragraph.

13.3 Agent of Chargor

Any Receiver shall be the agent of the relevant Chargor for all purposes. That Chargor alone shall be responsible for the Receiver's contracts, engagements, acts, omissions and defaults.

13.4 Remuneration of Receivers

The Lender may determine the remuneration of any Receiver and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act shall not apply. The Lender may direct payment of that remuneration out of moneys it receives as Receiver. The relevant Chargor alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

14. RIGHTS AND LIABILITIES OF LENDER AND RECEIVERS

14.1 Rights of Receivers

Any Receiver appointed pursuant to Clause 13 (*Appointment of Receivers and Administrators*) shall have:

- (a) the rights set out in Schedule 1 (*Rights of Receivers*); and
- (b) the rights, powers, privileges and immunities conferred by law, including:
 - (i) in the case of an administrative receiver, the rights, powers, privileges and immunities conferred by the Insolvency Act on administrative receivers duly appointed under the Insolvency Act; and
 - (ii) the rights, powers, privileges and immunities conferred by the Law of Property Act and the Insolvency Act on receivers or receivers and managers.

14.2 Rights of Lender

At any time after the Security Interests have become enforceable, to the fullest extent permitted by law, any rights conferred by any Finance Document or by law upon a Receiver may be exercised by the Lender, whether or not the Lender shall have appointed a Receiver of all or any part of the Security Assets.

14.3 Delegation

The Lender may delegate in any manner to any person any rights exercisable by the Lender under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Lender thinks fit and the Lender may pass confidential information to any such delegate.

14.4 Financial collateral arrangement

- (a) To the extent that this Deed constitutes a "financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**Financial Collateral Regulations**")) the Lender shall have the right at any time after the Security Interests have become enforceable, to appropriate any Security Asset which constitutes "financial collateral" (as defined in the Financial Collateral Regulations ("**Financial Collateral**")) in such manner as it sees fit in or towards satisfaction of the Secured Liabilities in accordance with the Financial Collateral Regulations.
- (b) If the Lender is required to value any Financial Collateral for the purpose of paragraph (a) above, the value shall be:
 - (i) in the case of cash, its face value at the time of appropriation; and
 - (ii) in the case of financial instruments or other Financial Collateral, the amount as determined by the Lender (whether before or after appropriation) which is the Lender's estimate (acting in a commercially reasonable manner) of the net proceeds that would be realised on a sale of such financial instruments or other Financial Collateral by reference to a public index or other applicable generally recognised source or such other process as the Lender may select, including a valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Lender,

as converted, where necessary, into the currency in which the Secured Liabilities are denominated at a market rate of exchange prevailing at the time of appropriation selected by the Lender. The Parties agree that the methods of valuation set out in this paragraph (b) are commercially reasonable for the purpose of the Financial Collateral Regulations.

14.5 Possession

If the Lender, any Receiver or any Delegate takes possession of the Security Assets, it may at any time relinquish possession.

14.6 Lender's liability

Neither the Lender, any Receiver nor any Delegate shall, either by reason of taking possession of the Security Assets or for any other reason and whether as mortgagee in possession or otherwise, be liable for:

- (a) any costs, losses, liabilities or expenses relating to the realisation of any Security Assets; or
- (b) any act or omission of the Lender, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Security Assets or in connection with the Finance Documents, unless directly caused by its gross negligence or wilful misconduct.

15. ORDER OF APPLICATION

All amounts from time to time received or recovered by the Lender or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of the Security Interests shall be applied, to the extent permitted by applicable law, in the following order of priority:

- (a) in discharging any sums owing to the Lender, any Receiver or any Delegate;
- (b) in discharging all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of the Security Interests or any action taken at the request of the Lender under Clause 10.9 (*Further assurance*);
- (c) in or towards the discharge of the Secured Liabilities in accordance with the terms of the Facilities Agreement; and
- (d) the balance, if any, in payment or distribution to the relevant Chargor.

16. POWER OF ATTORNEY

16.1 Appointment

Each Chargor by way of security irrevocably appoints the Lender, each Receiver and each Delegate severally to be its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

- (a) to do anything which that Chargor is obliged to do under any Finance Document to which it is party but has failed to do (including to do all such acts or execute all such documents, assignments, transfers, mortgages, charges, notices, instructions, filings and registrations as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s))); and

- (b) to exercise any of the rights conferred on the Lender, any Receiver or any Delegate in relation to the Security Assets or under any Finance Document or under any law.

16.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 16.1 (*Appointment*).

17. PROTECTION OF THIRD PARTIES

No purchaser or other person dealing with the Lender, any Receiver or its agents shall be concerned to enquire:

- (a) whether the powers conferred on the Lender, any Receiver or its agents have arisen;
- (b) whether the powers conferred on the Lender, any Receiver or its agents have become exercisable;
- (c) whether any consents, regulations, restrictions or directions relating to such powers have been obtained or complied with;
- (d) whether the Lender, any Receiver or its agents is acting within such powers;
- (e) whether any money remains due under the Finance Documents and the receipt in writing of the Lender, any Receiver or its agents shall be sufficient discharge to that purchaser or other person;
- (f) as to the propriety or validity of acts purporting or intended to be in exercise of any such powers; or
- (g) as to the application of any money paid to the Lender, any Receiver or its agents.

18. SAVING PROVISIONS

18.1 Continuing Security

Subject to Clause 19 (*Discharge of Security*), the Security Interests are continuing Security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

18.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation or otherwise, without limitation, then the liability of each Chargor and the Security Interests will continue or be reinstated as if the discharge, release or arrangement had not occurred.

18.3 Waiver of defences

Neither the obligations of each Chargor under this Deed nor the Security Interests will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Finance Document or any of the Security Interests (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor or other person;
- (b) the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any Chargor;
- (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 Chargor or any other person or 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;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

18.4 Chargor intent

Without prejudice to the generality of Clause 18.3 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security Interests shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

18.5 Immediate recourse

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

18.6 Appropriations

Until all amounts which may be or become payable by the Chargors under or in connection with the Finance Documents have been irrevocably paid in full and all facilities which might give rise to Secured Liabilities have expired or been terminated, each Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Chargor or on account of any Chargor's liability under this Deed.

18.7 Deferral of Chargors' rights

Until all amounts which may be or become payable by the Chargors under or in connection with the Finance Documents have been irrevocably paid in full and all facilities which might give rise to Secured Liabilities have expired or been terminated and unless the Lender otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under the Finance Documents:

- (a) to be indemnified by any Chargor or any other provider of Security;
- (b) to claim any contribution from any other provider of Security for or guarantor of any Chargor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Chargor or any other provider of Security to make any payment, or perform any obligation, in respect of which that Chargor or other provider of Security had given a guarantee, undertaking or indemnity;
- (e) to exercise any right of set-off against any other provider of Security; and/or
- (f) to claim or prove as a creditor of any other provider of Security in competition with any Secured Party

If a Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Chargors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with Clause 15 (*Order of application*).

18.8 Additional security

The Security Interests are in addition to and are not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

18.9 Tacking

Each Secured Party shall comply with its obligations under the Finance Documents (including any obligation to make further advances).

19. DISCHARGE OF SECURITY

19.1 Final redemption

Subject to Clause 19.3 (*Retention of security*), if the Lender is satisfied that all amounts which may be or become payable by the Borrower or any Security Provider under or in connection with the Finance Documents have been irrevocably paid in full and that all facilities which might give rise to Secured Liabilities have expired or been terminated, the Lender shall at the request and cost of the Chargors release, reassign or discharge (as appropriate) the Security Assets from the Security Interests, without recourse to, or any representation or warranty by, the Lender or any of its nominees and, upon such discharge, the Lender shall return (or procure the return of) all documentation provided by the Borrower pursuant to paragraph (a) of Clause 2.6 (*Consents and other documents*) and Clause 4.1 (*Documents*).

19.2 Release of Security on a disposal

If all or any part of a Security Asset is being disposed of in accordance with the terms of the Facilities Agreement, the Lender shall at the request and cost of the Chargors release, reassign or discharge (as appropriate) that Security Asset from the Security Interests, without recourse to, or any representation or warranty by, the Lender or any of its nominees and, upon such discharge, the Lender shall (a) return (or procure the return of) all documentation provided by the Borrower pursuant to paragraph (a) of Clause 2.6 (*Consents and other documents*) and Clause 4.1 (*Documents*) and (b) execute and deliver to the relevant Chargor, all confirmations, deeds of release and/or reassignment, regulatory filings, and similar documents that the relevant Chargor may reasonably request to effect and/or evidence such release, reassignment or discharge, provided that all such documents referred to in this paragraph (b) shall be executed and delivered by the Lender without recourse to, or any representation or warranty by, the Lender or any of its nominees.

19.3 Retention of security

If the Lender considers, acting reasonably, that any amount paid or credited to any Secured Party under any Finance Document is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Liabilities have been irrevocably paid.

20. INDEMNITY

Each Chargor shall, within five Business Days of demand, indemnify the Lender and any Receiver against any cost, loss, liability or expense incurred by it or them as a result of:

- (a) any breach by any Chargor of this Deed; or
- (b) the exercise or purported exercise of any of the rights, powers, discretions, authorities and remedies conferred on it or them by this Deed or otherwise relating to the Security Assets.

21. PAYMENTS

21.1 Undertaking to pay

Each Chargor shall pay each of the Secured Liabilities when due in accordance with its terms.

21.2 Demands

Any demand for payment made by any Secured Party shall be valid and effective even if it contains no statement of the relevant Secured Liabilities or an inaccurate or incomplete statement of them.

21.3 Payments

All payments by any Chargor under this Deed shall be made to such account, with such financial institution and in such other manner as the Lender may direct.

21.4 Continuation of accounts

- (a) At any time after a Secured Party has received or is deemed to have received notice of any subsequent Security affecting all or any part of the Security Assets of any Chargor, that Secured Party may open a new account in the name of that Chargor (whether or not it permits any existing account to continue).
- (b) If that Secured Party does not open such a new account, it shall be treated as if it had done so when the relevant notice was received or deemed to have been received and as from that time all payments made by or on behalf of that Chargor to that Secured Party shall be credited or be treated as having been credited to the relevant new account and not as having been applied in reduction of the Secured Liabilities as at the time the relevant notice was received or deemed to have been received.

21.5 Contingencies

If all or any part of the Security Interests are enforced at a time when no amount is due under the Finance Documents but any such amount may or will become due, the Lender or the Receiver may pay the proceeds of any recoveries effected by it into a suspense account.

22. SEPARATE AND INDEPENDENT OBLIGATIONS

- (a) Subject to paragraph (b) below, the Security created by each Chargor by or in connection with any Finance Document is separate from and independent of the Security created or intended to be created by any other provider of Security by or in connection with any Finance Document.
- (b) Any reference in this Deed to a "Chargor" in relation to any Security Asset is, if that Chargor holds any right, title or interest in that Security Asset jointly with any other Chargor, a reference to those Chargors jointly.

23. NOTICES

23.1 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 letter or email.

23.2 Addresses

The address and email address (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 the Borrower and General Partner, that identified with its name below;
- (b) in the case of the Lender, that identified with its name below,

or any substitute address, email address or department or officer as the Party may notify to the other Parties by not less than five Business Days' notice.

23.3 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 email, when sent; or
 - (ii) 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 23.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).
- (c) Where multiple emails or postal addresses are specified in relation to a Party, another Party giving notice by email or letter to that Party shall send a copy of the communication or document to each such email or (if the notice is being delivered or posted by letter) postal address, but provided that the communication or document made or delivered is effective (in accordance with this Clause 23.3) in relation to at least one such email or (as the case may be) postal address it shall be regarded as effective notice to that Party for the purposes of the Finance Documents.

23.4 English language

- (a) Any notice 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 Lender, 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.

24. INCORPORATION OF TERMS

The provisions of clause 28 (*Conduct of business by the Finance Parties*), clause 29 (*Payment mechanics*), clause 30 (*Set-off*) and clause 32 (*Calculations and certificates*) to clause 40 (*Contractual recognition of bail-in*) (excluding clause 37 (*Confidentiality of Funding Rates*)) of the Facilities Agreement shall be incorporated into this Deed as if set out in full in this Deed and as if references in those clauses to "this Agreement" and "the Borrower" were references to this Deed and the Borrower and/or the General Partner (as applicable).

25. GOVERNING LAW

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

26. **ENFORCEMENT**

- (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 with this Deed) (a **"Dispute"**).
- (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) Notwithstanding paragraph (a) above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1
RIGHTS OF RECEIVERS

Any Receiver appointed pursuant to Clause 13 (*Appointment of Receivers and Administrators*) shall have the right, either in its own name or in the name of the relevant Chargor or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

(a) **Enter into possession**

to take possession of, get in and collect all or any part of the Security Assets, and to require payment to it or any Secured Party of any receivables;

(b) **Accounts**

to apply, transfer or set-off any or all of the credit balances from time to time on any account in or towards payment or other satisfaction of all or part of the Secured Liabilities;

(c) **Carry on business**

to manage and carry on any business of that Chargor;

(d) **Contracts**

to enter into any contract or arrangement and to perform, repudiate, rescind or vary any contract or arrangement to which that Chargor is a party;

(e) **Deal with Security Assets**

to sell, transfer, assign, exchange, hire out, lend, licence or otherwise dispose of or realise all or any part of the Security Assets to any person by public offer or auction, tender or private contract or placing and for a consideration of any kind (which may be payable or delivered in one amount or by instalments or deferred);

(f) **Hive down**

to form a new company and to subscribe for or acquire (for cash or otherwise) any investment in or of the new company and to sell, transfer, assign, exchange and otherwise dispose of or realise any such investments or any rights attaching thereto;

(g) **Borrow money**

to borrow or raise money either unsecured or on the security of all or any part of the Security Assets (either in priority to the Security Interests or otherwise);

(h) **Lend money**

to lend money or advance credit to any person;

(i) **Covenants and guarantees**

to enter into bonds, covenants, guarantees, indemnities and other commitments;

(j) **Rights of ownership**

to manage and use all or any part of the Security Assets and to exercise and do all such rights and things as the Receiver would be capable of exercising or doing if it were the absolute beneficial owner of all or any part of the Security Assets;

(k) **Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings relating to all or any part of the Security Assets or any business of that Chargor;

(l) **Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or relating to all or any part of the Security Assets or any business of that Chargor;

(m) **Redemption of Security**

to redeem any Security (whether or not having priority to the Security Interests) over all or any part of the Security Assets and to settle the accounts of any person with an interest in all or any part of the Security Assets;

(n) **Employees**

to appoint, hire and employ officers, employees, contractors, agents, advisors and others and to discharge any such persons and any such persons appointed, hired or employed by that Chargor;

(o) **Delegation**

to delegate in any manner to any person any rights exercisable by the Receiver under any Finance Document, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) as it thinks fit, and to pass confidential information to any such delegate;

(p) **Insolvency Act**

to exercise all powers set out in Schedule 1 and Schedule B1 to the Insolvency Act as now in force (whether or not in force at the date of exercise) and any powers added to Schedule 1 after the date of this Deed;

(q) **Receipts**

to give a valid receipt for any moneys and do anything which may be necessary or desirable for realising all or any part of Security Assets; and

(r) **Other powers**

to do anything else it may think fit for the realisation of all or any part of the Security Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of any Finance Document to which the relevant Chargor is party, the Law of Property Act or the Insolvency Act.

SIGNATURES

The Borrower

Address: 51 New North Road, Exeter, United Kingdom, EX4 4EP

Email: biopharmacreditplc@linkgroup.co.uk

Attention: Company Secretary

Copy to: Pedro Gonzalez de Cosio at Pharmakon@pharmakonadvisors.com

EXECUTED as a DEED by BPCR GP LTD

acting in its capacity as general partner of

BPCR LIMITED PARTNERSHIP acting by

a Director

in the presence of

Name: SARAH MAXWELL

Address: _____

Occupation: _____

The General Partner

Address: 51 New North Road, Exeter, United Kingdom, EX4 4EP

Email: biopharmacreditplc@linkgroup.co.uk

Attention: Company Secretary

Copy to: Pedro Gonzalez de Cosio at Pharmakon@pharmakonadvisors.com

EXECUTED as a DEED by BPCR GP LTD acting by

[REDACTED]

a Director

in the presence of

[REDACTED]

Name: SARAH MAXWELL

Address:

[REDACTED]

Occupation:

[REDACTED]

The Lender

Address: 25 Bank Street
Canary Wharf
London

E14 5JP

United Kingdom

Email: emea.loan.corporate.action@jpmorgan.com
EMEA_SLT_TAs@jpmorgan.com

Attention: EMEA SLT Desk

EXECUTED for and on behalf of **JPMORGAN CHASE BANK, N.A., LONDON BRANCH**

By:



Ash Tehrani
Executive Director