



Registration of a Charge

Company name: **VIVIMED SPECIALTY CHEMICALS UK LIMITED**

Company number: **11481333**



X89VGG5N

Received for Electronic Filing: **17/07/2019**

Details of Charge

Date of creation: **11/07/2019**

Charge code: **1148 1333 0002**

Persons entitled: **DMI INCOME FUND PTE. LTD.**

Brief description:

Contains fixed charge(s).

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: **WE 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: **STEPHENSON HARWOOD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11481333

Charge code: 1148 1333 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th July 2019 and created by VIVIMED SPECIALTY CHEMICALS UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th July 2019 .

Given at Companies House, Cardiff on 18th July 2019

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

Share Charge (Vivimed Labs Europe Limited)

Dated 11 July 2019

- (1) VIVIMED SPECIALTY CHEMICALS UK LIMITED**
(the **Chargor**)
- and**
- (2) DMI INCOME FUND PTE. LTD.**
(the **Investor**)

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Share Charge

Dated 11 July 2019

Between:

- (1) **VIVIMED SPECIALTY CHEMICALS UK LIMITED**, a company incorporated and registered in the United Kingdom with company number 11481333 whose registered office is at Leeds Road c/o Syngenta Site, Huddersfield, United Kingdom, HD2 1FF (the "**Chargor**"); and
- (2) **DMI INCOME FUND PTE. LTD.** of 50 Raffles Place, #32-01, Singapore Land Tower, Singapore 048623 (Company Number: 201429617W) (which said corporation and its successors and assigns are where not inapplicable hereinafter included under the designation the "**Investor**").

Whereas:

- (A) The Investor has agreed to subscribe from the Chargor debentures in an aggregate principal amount amounting to US\$7,000,000 (the "**Debentures**") on the terms and subject to the conditions set out in a secured debenture instrument dated on or around the date hereof made by the Chargor (the "**Secured Debenture Instrument**").
- (B) The Investor has further agreed to subscribe from the Chargor and VLE certain other debentures under the facilities raised under Tranche 1A, Tranche 1B, Tranche 2 and Tranche 3.
- (C) Pursuant to, amongst others, the Secured Debenture Instrument, and as a condition precedent to the obligation of the Investor to subscribe to the Optionally Convertible Debentures from the Chargor, the Chargor has, amongst other things, agreed to execute and deliver this Deed in favour of the Investor as security for the Indebtedness under or pursuant to the Transaction Documents.

This deed witnesses:

1 Definitions and interpretation

1.1 Definitions

This Share Charge is intended to be a deed between the parties to it and is referred to here as "**this Deed**". Words and expressions defined in the Secured Debenture Instrument have the same meanings in this Deed, unless they are expressly defined in this Deed.

"**CA 2006**" means the Companies Act 2006.

"**Company**" means Vivimed Labs Europe Limited, a company incorporated in the United Kingdom with company number 00069842 and registered office address at PO Box B3 Leeds Road, Huddersfield, West Yorkshire, HD1 6BU.

"**Default Rate**" means interest at the rate calculated in accordance with paragraph 1 of Schedule 2 (*Interest and Redemption*) of the Secured Debenture Instrument.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Investor.

"**Dividend**" means all dividends, interest and other distributions paid or payable or arising from time to time in respect of any Investment.

"**Financial Collateral**" shall have the same meaning as it has in the Regulations.

"Indebtedness" means the aggregate from time to time of: the amount of the debentures outstanding under all the Transaction Documents; all accrued and unpaid interest on the debentures under all the Transaction Documents; and all other sums of any nature (together with all accrued and unpaid interest on any of those sums) payable by the Obligors to the Investor under the Transaction Documents.

"Investments" means:

- (a) the shares, securities and investments listed in Schedule 1 (*Investments*); and
- (b) all or any shares, debentures, stocks, bonds and securities of any kind negotiable instruments, warrants, other investments of whatever nature and any other financial instruments (as defined in the Regulations) in the Company.

"LPA" means the Law of Property Act 1925.

"Party" means a party to this Deed.

"Receiver" means a receiver appointed pursuant to this Deed or to any applicable law, whether alone or jointly, and includes a receiver and manager and, if the Investor is permitted by law to appoint an administrative receiver, includes an administrative receiver.

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, as amended by (i) the Financial Collateral Arrangements (No 2) Regulations 2003 (Amendment) Regulations 2009 (SI 2009/2462), and (ii) the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (SI 2010/2993), and **"Regulation"** means any of them.

"Secured Party" means the Investor, a Receiver or any Delegate.

"Security Assets" means all of the assets of whatever nature of the Chargor which are the subject of any Security created by or under this Deed.

"Security Period" means the period beginning on the date of this Deed and ending on the date when the whole of the Indebtedness has been paid in full and the Obligors have ceased to be under any further actual or contingent liability under or in connection with any of the Transaction Documents.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

1.2 Construction

1.2.1 The principles of construction set out in clause 1.2 (*Construction*) of the Secured Debenture Instrument apply to this Deed, insofar as they are relevant to it subject to only necessary changes.

1.2.2 Unless a contrary intention appears, any reference in this Deed to:

- (a) this **Deed** is a reference to this Share Charge as amended, varied, novated, supplemented and replaced from time to time;
- (b) any person includes any permitted assigns, transferees and successors in title; and

- (c) the **Investor**, any other **Secured Party** or a **Receiver** (except for the references in Clause 15 (*Power of attorney*)), includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates.
- 1.2.3 Each of the mortgages and fixed charges contained in Clause 4 (*Creation of Security*) shall be read and construed separately, as though each such category and asset were mortgaged, or charged as applicable, independently and separately of each other.
- 1.2.4 Where this Deed creates Security over any Security Asset which constitutes Financial Collateral, this Deed is intended to be a "**security financial collateral arrangement**" as defined in the Regulations.
- 1.2.5 The Chargor confirms that:
 - (a) the Chargor has received copies of the Transaction Documents which are in place as at the date of this Deed;
 - (b) the Chargor will from time to time request from the Investor copies of all the Transaction Documents which are entered into after the date of this Deed; and
 - (c) the Chargor shall execute and deliver to the Investor at any time at the request of the Investor a confirmation certificate in the form set out in Schedule 2 or in any other form agreed between the Chargor and the Investor.

1.3 Third party rights

- 1.3.1 Unless expressly provided to the contrary in a Transaction Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.
- 1.3.2 Notwithstanding any term of any Transaction Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- 1.3.3 Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph 1.3.2 above and the provisions of the Third Parties Act.

1.4 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Investor.

2 Covenant to pay

- 2.1 The Chargor shall on demand pay and discharge the Indebtedness when due in accordance with the terms of the Transaction Documents.
- 2.2 The Chargor shall pay interest at the Default Rate on the sums payable under this Deed from the due date of the liability to the date of actual payment, both before and after judgment.

3 Nature of Security created

3.1 General

All of the Security created under this Deed is created:

- 3.1.1 in favour of the Investor;
- 3.1.2 as a continuing security to secure the payment and discharge of all of the Indebtedness;
- 3.1.3 over all present and future assets of the kind described which are owned by the Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them; and
- 3.1.4 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 Creation of Security

Investments

The Chargor mortgages, or if to the extent this Deed does not take effect as a mortgage, charges by way of first fixed charge:

- 4.1 all Investments owned by it from time to time including those held for it by any nominee;
- 4.2 all allotments, accretions, offers, options, rights, moneys, property, bonuses, benefits and advantages, whether by way of conversion, exchange, bonus, redemption, preference, option rights, substitution or otherwise which at any time accrue to or are offered or arising from any Investment;
- 4.3 all Dividends; and
- 4.4 any proceeds of sale of each Investment or any right relating to it.

Nothing in this Deed shall be construed as placing on the Secured Parties any liability whatsoever in respect of any calls, contributions, instalments or other payments relating to any of the Investments or to any rights, shares or other securities accruing, offered, distributed, paid or arising as aforesaid and the Chargor shall indemnify each Secured Party in respect of all calls, contributions, instalments or other payments relating to any of the Investments now or hereafter existing and to any rights, shares and other securities accruing, offered, distributed, paid or arising as aforesaid in respect thereof which may have been made by any Secured Party on behalf of the Chargor in fulfilment of the Chargor's obligations to the Company at any time when the Chargor is the registered holders of the Investment.

5 Representations

The Chargor makes the representations and warranties set out in this Clause 5 to the Investor and the other Secured Parties on each date of this Deed by reference to the facts and circumstances then existing. In entering into the Transaction Documents to which it is a party, the Investor has relied on the representations of the Chargor set out in this Clause.

5.1 Status

- 5.1.1 It is a limited liability company, duly incorporated and validly existing under the law of England and Wales.
- 5.1.2 It has the power to own its assets and carry on its business as it is being conducted.

5.2 Binding obligations

The obligations expressed to be assumed by it in the Transaction Documents to which it is a party are legal, valid, binding and enforceable obligations.

5.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the Security do not and will not conflict with:

- 5.3.1 any law or regulation applicable to it;
- 5.3.2 its constitutional documents; or
- 5.3.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

5.4 Power and authority

- 5.4.1 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 Transaction Documents to which it is or will be a party and the transactions contemplated by them.
- 5.4.2 No limit on its powers will be exceeded as a result of the grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

5.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- 5.5.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
- 5.5.2 to make the Transaction Documents to which it is a party admissible in evidence,

have been obtained or effected and are in full force and effect.

5.6 No proceedings

- 5.6.1 No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it.
- 5.6.2 No judgment or order of a court, arbitral body or agency which is reasonably likely to have a Material Adverse Effect has (to the best of its knowledge and belief (having made all due and careful enquiry)) been made against it.

5.7 Centre of main interests and establishments

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in England and Wales and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

5.8 Ranking of Security

The Security conferred by this Deed constitutes a first priority exclusive security interest of the type described, over the Security Assets which are not subject to any prior or pari passu Security.

5.9 Ownership

- 5.9.1 The Company's entire issued share capital is legally and beneficially owned and controlled by the Chargor and none of the shares in the Company is held by a nominee.
- 5.9.2 The issued shares of the Company are fully paid and are not subject to any option to purchase or similar rights.
- 5.9.3 The constitutional documents of the Company do not and could not restrict or inhibit any transfer of the shares of the Company on creation or enforcement of the Security conferred by this Deed or any other Transaction Security Document.

5.10 Default

It is not deemed to be unable to pay its debts as they fall due nor will it become so in consequence of entering into this Deed and granting the Security it purports to create.

5.11 People with significant control regime

On the date of this Deed the Chargor has:

- 5.11.1 complied in full with any obligations it has to provide information to the Company pursuant to Part 21A of CA 2006 (whether pursuant to a request for information under sections 790D or 790E of CA 2006, or otherwise); and
- 5.11.2 has not received:
 - (a) any warning notice issued to it under paragraph 1(2) of Schedule 1B of CA 2006; or
 - (b) any restrictions notice issued to it under paragraph 1(3) of Schedule 1B of CA 2006,

which remains in effect in respect of all or any of the Investments.

6 Undertakings relating to the Security Assets

The undertakings in this Clause 6 remain in force from the date of this Deed until the expiry of the Security Period.

6.1 Disposals

The Chargor shall not enter into a single transaction or a series of transactions (whether related or not, and whether voluntary or involuntary), to dispose of any Security Asset or part of any Security Asset, or enter into an agreement to make any disposal, except as permitted under the terms of the Transaction Documents.

6.2 Negative pledge

The Chargor shall not create or permit to subsist any Security over any Security Asset except as permitted under the terms of the Transaction Documents.

6.3 Preservation of Assets

The Chargor, subject to the terms of the Transaction Documents:

- 6.3.1 shall notify the Investor of any action commenced by a third party to seize, attach, charge, take possession of or sell any Security Asset which (to the best of its knowledge and belief) has been started or threatened and at its own cost, defend such proceedings;
- 6.3.2 shall not enter into any onerous obligation or restriction affecting any Security Asset; or
- 6.3.3 shall not take any Security in connection with its liability under this Deed from any guarantor of, or provider of Security for, any of the Indebtedness.

6.4 Shareholding

The Chargor shall:

- 6.4.1 ensure that the issued shares of the Company, which form part of the Security Assets, will at all times represent not less than all of the Company's issued share capital;
- 6.4.2 not appoint a nominee to hold any of the Investments at any time, unless instructed to do so by the Investor;
- 6.4.3 not make, and has not made, any nomination under section 145 of CA 2006 in connection with any of the Investments; and
- 6.4.4 not amend or waive any provision of the constitutional documents of the Company or any shareholder agreement relating to the share capital of the Company.

6.5 No deductions

The Chargor shall make all payments to be made by it in respect of this Deed without any deduction for set-off, counterclaim or any other circumstance.

6.6 People with significant control regime

The Chargor shall:

- 6.6.1 within the relevant timeframe, comply in full with any obligations it has to provide information to the Company pursuant to Part 21A of CA 2006 (whether pursuant to a request for information under sections 790D or 790E of CA 2006, or otherwise); and
- 6.6.2 (without prejudice to its obligation set out under Clause 6.6.1) inform the Investor immediately in writing upon receipt of:
 - (a) any warning notice issued to it under paragraph 1(2) of Schedule 1B of CA 2006; or
 - (b) any restrictions notice issued to it under paragraph 1(3) of Schedule 1B of CA 2006,

in respect of all or any of the Investments.

7 Investments: Undertakings, Dividends and Voting rights etc

- 7.1.1 The Chargor shall:

- (a) promptly pay all calls, instalments and other payments which may be made or become due in respect of the Investment (or, in respect of any Investment of which the Investor is the legal owner, promptly pay to the Investor on demand such amounts as the Investor may require to make those payments, together with interest at the Default Rate from the date of payment by the Investor to the date of payment by the Chargor under this Clause, both before and after judgment);
- (b) not acquire any additional Investments after the date of this Deed unless they are fully paid and unless prior approval of the Investor is obtained;
- (c) cause the Company not to issue any stock, shares or other securities of any class, series or preference without the prior written consent of the Investor, including in substitution or replacement for the Investments, and, unless specifically permitted under the Transaction Documents, not allow the Company to issue any partly paid-up shares or any securities convertible into equity shares of the Company, without the prior written consent of the Investor; and
- (d) comply with any notice served on it, in respect of or in connection with any Investment and promptly send to the Investor a copy of that notice.

7.1.2 The Chargor shall promptly, on the request of the Investor:

- (a) send to the Investor a copy of all other notices, reports, accounts and circulars in respect of or in connection with any of the Investments; and
- (b) upon the occurrence of an Event of Default, transfer all or any of the Investments to the Investor.

7.1.3 The Chargor shall, if any Investments are in, or are converted into, uncertificated form, promptly notify the Investor and:

- (a) act on any instructions given by the Investor, and give such directions as the Investor may require to protect and preserve the Investor's Security in respect of those Investments; and
- (b) transfer those Investments which are or become uncertificated to an escrow account, in respect of which it has named as escrow agent the Investor or any nominee or agent of the Investor, notified to the Chargor or any other person approved in writing by the Investor.

7.1.4 The Chargor shall not exercise its votes as a shareholder in a manner which results or may result in the Company's failure to comply with the Transaction Documents or breaches any of its obligations under the Transaction Documents or under or pursuant to this Deed and / or the other Transaction Documents.

7.2 Before an Event of Default

Until an Event of Default occurs, the Chargor may:

- 7.2.1 exercise all voting and other rights and powers attached to the Investments; or

- 7.2.2 in respect of any Investments of which the Investor is the legal owner, direct the Investor to pay over the Dividends to it, and exercise all such voting and other rights and powers,

but, in each case, only in a manner consistent with this Deed and not to prejudice (i) the value of any Investment, (ii) the ability of the Investor to enforce the Security, or (iii) any other right created under this Deed.

7.3 After an Event of Default

Once an Event of Default has occurred or as the Investor so demands:

- 7.3.1 the Chargor shall promptly pay over to the Investor all Dividends which it may receive, and apply such moneys according to Clause 9.4 (*Application of moneys*), and exercise all voting and other rights and powers attached to the Investments in any manner which the Investor may direct; or
- 7.3.2 in respect of Investments of which the Investor is the legal owner, the Investor may receive and retain all Dividends and apply them in any manner permitted by this Deed, and may exercise all such voting and other rights and powers in such manner as it determines.

8 Rights of Appropriation

The Investor may to the extent that any Security Asset constitutes Financial Collateral:

- 8.1 appropriate it and transfer the title to it to the Investor insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18 (*Duty to value collateral and account for any difference in value on appropriation*); and
- 8.2 value any Security Asset at the time of appropriation as referred to in the Regulations, as the market price of the relevant Security Asset, as determined by the Investor by reference to such method or source, (including an independent valuation), as the Investor may determine, and which shall constitute a 'commercially reasonable manner' for the purposes of the Regulations.

9 Enforcement

9.1 When Security becomes enforceable

The Security created by this Deed shall become immediately enforceable:

- 9.1.1 on the occurrence of an Event of Default and at any time when the Event of Default is continuing; or
- 9.1.2 if the Chargor so requests.

9.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Investor may (without prejudice to any other of its rights and remedies and without notice to the Chargor) do all or any of the following:

- 9.2.1 subject to Clause 10.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets; and
- 9.2.2 exercise all the powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 (*Regulation of exercise of power of sale*) or 109(1) (*Appointment, powers, remuneration and duties of receiver*) of the LPA.

9.3 Disposal of the Security Assets

In exercising the powers referred to in Clause 9.2 (*Powers on enforcement*), the Investor or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

9.4 Application of moneys

9.4.1 The Investor or any Receiver shall apply moneys received by them under this Deed in the following order:

- (a) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Investor and any Receiver under this Deed or which are incidental to any Receiver's appointment, together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
- (b) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Investor and any Receiver;
- (c) **thirdly**, in or towards the discharge of all liabilities having priority to the Indebtedness;
- (d) **fourthly**, in or towards the discharge pro rata of the Indebtedness in accordance with the Transaction Documents; and
- (e) **fifthly**, in the payment of any surplus to the Chargor or other person entitled to it,

and section 109(8) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

9.4.2 Clause 9.4.1 will override any appropriation made by the Chargor.

10 Appointment and powers of Receivers

10.1 Method of appointment and removal

10.1.1 The Investor may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A (*Moratorium*) of the Insolvency Act 1986.

10.1.2 Every appointment or removal of a Receiver, of any delegate or of any other person by the Investor pursuant to this Deed may be made in writing under the hand of any officer or manager of the Investor (subject to any requirement for a court order in the removal of an administrative receiver).

10.2 Powers of Receiver

Every Receiver shall have all the powers:

- 10.2.1 of the Investor under this Deed;
- 10.2.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 10.2.3 which are specified in Schedule 1 (*Powers of Administrator or Administrative Receiver*) of the Insolvency Act 1986 in relation to, and to the extent applicable to, the Security Assets or any of them (whether or not the

Receiver is an administrative receiver within the meaning of the Insolvency Act 1986);

10.2.4 of the legal and beneficial owner of each Security Asset;

10.2.5 to use the name of the Chargor in relation to any of its powers or actions under this Deed; and

10.2.6 to do whatever, in the opinion of the Receiver it:

- (a) considers necessary or desirable to realise, protect, exploit, maintain or increase the value of the Security Assets or any of them, including bringing or defending proceedings in the name or on behalf of the Chargor or the Investor and entering into and executing documents and taking any action in the name of the Chargor or the Investor; and
- (b) considers incidental or conducive to any right, power, function, discretion or authority of the Receiver under this Deed or by law; and
- (c) considers necessary or desirable to undertake as agent of the Chargor.

10.3 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on a Receiver by this Deed.

10.4 Receiver as agent

Every Receiver shall be the agent of the Chargor without personal liability. The Chargor shall be solely responsible for the acts and defaults of the Receiver and for the payment of the Receiver's remuneration.

10.5 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Investor and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

11 Protection of purchasers

No purchaser or other person dealing with the Investor or any Receiver shall be bound or concerned:

- 11.1.1 to see or enquire whether the right of the Investor or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;
- 11.1.2 with the propriety of the exercise or purported exercise of those powers; or
- 11.1.3 with the application of any moneys paid to the Investor, to any Receiver or to any other person.

12 Protection of the Secured Parties

12.1 Exclusion of liability

None of the Secured Parties, or any of their respective officers, employees or agents shall have any responsibility or liability:

- 12.1.1 for any action taken, or any failure to take any action, in relation to all or any of the Security Assets;
- 12.1.2 to account as mortgagee in possession or for any loss upon realisation of any Security Asset;
- 12.1.3 for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable;
- 12.1.4 for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies as referred to in any Transaction Document; or
- 12.1.5 for the loss or destruction of, or damage to, any of the Security Assets, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargor),

except in the case of gross negligence or wilful misconduct on the part of that person.

12.2 General indemnity

The Chargor shall indemnify the Secured Parties and their respective officers, employees and agents against all actions, proceedings, demands, claims, costs, expenses, loss and other liabilities incurred by them in respect of all or any of the following:

- 12.2.1 any act or omission by any of them in relation to all or any of the Security Assets, including, but not limited to, any act or omission by any of them on the directions of the Chargor in relation to any Investment which is a Security Asset;
- 12.2.2 any payment relating to or in respect of all or any of the Security Assets which becomes payable at any time by any of them;
- 12.2.3 any stamp, registration or similar tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed or any Security created under it;
- 12.2.4 carrying out or purporting to carry out any of the rights, powers, authority and discretions conferred on them by, or permitted under, this Deed; and
- 12.2.5 any breach by the Chargor of any of his undertakings or other obligations to the Investor or any other Secured Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

12.3 Indemnity out of the Security Assets

Each Secured Party and their respective officers, employees and agents shall be entitled to be indemnified out of the Security Assets or any part of them in respect of the indemnities referred to in Clause 12.2 (*General indemnity*) and may retain and use monies received by it under this Deed towards payment of any sums under those indemnities.

13 Preservation of Security

13.1 Reinstatement

To the extent permitted by law, if any payment by the Chargor or discharge given by the Investor (whether in respect of the obligations of any Obligor or any Security for

those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- 13.1.1 the liabilities of the Chargor and the Security created by this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- 13.1.2 the Secured Parties shall be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

13.2 Waiver of defences

Neither the Security created by this Deed nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it, the Investor or any other Secured Party) including:

- 13.2.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 13.2.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 13.2.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor or 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;
- 13.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- 13.2.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security, including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or Security;
- 13.2.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Transaction Document or any other document; or
- 13.2.7 any insolvency, liquidation, administration or similar proceedings.

13.3 Chargor intent

Without prejudice to the generality of Clause 13.2 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Transaction Documents and any facility or amount made available under any of the Transaction Documents for the purposes of or in connection with any of the following:

- 13.3.1 acquisitions of any nature;
- 13.3.2 increasing working capital;
- 13.3.3 enabling distributions to be made;

- 13.3.4 carrying out restructurings;
- 13.3.5 refinancing existing facilities;
- 13.3.6 refinancing any other indebtedness;
- 13.3.7 making facilities available to new borrowers;
- 13.3.8 any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- 13.3.9 any fees, costs and/or expenses associated with any of the foregoing.

13.4 Immediate recourse

The 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 the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

13.5 Appropriations

During the Security Period each Secured Party may:

- 13.5.1 refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Indebtedness, or, subject to Clause 9.4 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Indebtedness or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- 13.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Indebtedness.

13.6 Deferral of the Chargor's rights

During the Security Period the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or the enforcement of the Security created by this Deed:

- 13.6.1 to receive or claim payment from, or be indemnified by an Obligor;
- 13.6.2 to claim any contribution from any guarantor of, or party who has granted Security in respect of, any Obligor's obligations under the Transaction Documents;
- 13.6.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under any Transaction Document or of any guarantee or Security taken pursuant to, or in connection with, the Transaction Documents by any Secured Party;
- 13.6.4 to exercise any right of set-off against any Obligor; and/or
- 13.6.5 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution on trust for the Secured Parties and shall promptly pay or transfer the same to the Investor as the Investor may direct for application in accordance with this Deed and the other Transaction Documents.

13.7 Additional Security

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to any Secured Party.

13.8 New accounts

If any subsequent Security is granted over or affects all or any of the Security Assets, the Investor or any other Secured Party may open a new account or accounts in the name of the Chargor from the date it receives notice of such Security or the date it is deemed to have received such notice. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that subsequent Security. As from that time, all payments made by or on behalf of the Chargor to that Secured Party:

13.8.1 shall be credited or be treated as having been credited to the new account of the Chargor; and

13.8.2 shall not operate to reduce the Indebtedness.

14 Further assurance

14.1 Further action

The Chargor shall, at its own expense, promptly take whatever action and sign or execute any further documents which the Investor may require to:

14.1.1 give effect to the requirements of this Deed;

14.1.2 create, protect, preserve and perfect the Security intended to be created by or under this Deed;

14.1.3 protect and preserve the ranking of the Security intended to be created by or under this Deed; and

14.1.4 facilitate the realisation of all or any of the Security Assets, or the exercise of any rights, powers and discretions by the Investor, any Receiver or any administrator or any delegate, agent or employee in connection with all or any of the Security Assets, including but not limited to executing and delivering all documentation necessary to transfer legal title to any Security Asset to the Investor, its nominee or any third party;

and any such document may disapply section 93 (*Restriction on consolidation of mortgages*) of the LPA.

14.2 Deposit of documents

The Chargor shall promptly, on the date of this Deed and at all times during the Security Period, and if the Investor so requests, deposit with the Investor:

14.2.1 all deeds, certificates and other documents of or evidencing title for the Security Assets;

14.2.2 signed undated transfers of the Investments charged under Clause 4 (*Creation of Security*), completed in blank; and

14.2.3 any other documents which the Investor may from time to time require for perfecting its title, or the title of any purchaser.

14.3 Law of Property (Miscellaneous Provisions) Act 1994

The covenant set out in section 2(1)(b) (*Right to dispose and further assurance*) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause 14.

15 Power of attorney

- 15.1 The Chargor by way of security, irrevocably and severally, appoints each of the Investor, any Receiver, and any of its delegates or sub-delegates, or other person nominated in writing by, an officer of the Investor or Receiver jointly and severally as its attorney, in the name of the Chargor, on its behalf and in such manner as the attorney may, upon the occurrence of an Event of Default, in its or his absolute discretion think fit to take any action, sign or execute any documents which the Chargor is obliged to take, sign or execute under with this Deed and which he has failed to do.
- 15.2 The Chargor ratifies and confirms, and agrees to ratify and confirm, all such actions taken and documents signed or executed or purported to be done by any attorney under its appointment under this Deed.

16 Currency

16.1 Currency indemnity

- 16.1.1 If any sum due from the Chargor under this Deed (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:

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

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due 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.

- 16.1.2 The Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable.

16.2 Currency Conversion

- 16.2.1 For the purpose of, or pending the discharge of, any of the Indebtedness, the Investor may convert any moneys received or recovered by the Investor from one currency to another, at a market rate of exchange.
- 16.2.2 The obligations of the Chargor 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.

16.3 Currency of account

- 16.3.1 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

- 16.3.2 Any amount payable under this Deed shall be paid in the currency in which it is owed.

16.4 Change of currency

- 16.4.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (a) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Investor (after consultation with the Chargor); and
- (b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Investor (acting reasonably).

- 16.4.2 If a change in any currency of a country occurs, this Deed will, to the extent the Investor (acting reasonably and after consultation with the other Secured Parties and the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the relevant market and otherwise to reflect the change in currency.

17 Costs and expenses

17.1 Transaction expenses

The Chargor shall promptly on demand pay the Investor the amount of all costs and expenses (including legal fees) reasonably incurred by it and by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Deed and any other Transaction Document related to or entered into pursuant to it.

17.2 Amendment costs and expenses

If (i) the Chargor requests an amendment, waiver or consent, or (ii) an amendment is required pursuant to Clause 16.4 (*Change of currency*), the Chargor shall, within three Business Days of demand, reimburse the Investor for the amount of all costs and expenses (including legal fees) reasonably incurred by it and by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 Enforcement costs

The Chargor shall, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under this Deed or the Security created or evidenced or expressed to be created or evidenced under this Deed and with any proceedings instituted by or against that Secured Party as a consequence of it entering into a Transaction Document, taking or holding the Security created or evidenced or expressed to be created or evidenced under this Deed, or enforcing those rights.

18 Disclosure of information

The Investor may disclose to any successor Investor any information it reasonably believes it has received under or in connection with this Deed.

19 Set off

The Investor may set off any matured obligation due from the Chargor under the Transaction Documents (to the extent beneficially owned by it) against any matured obligation owed by the Investor to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Investor may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

20 Notices

20.1 Communications in writing

Any communication to be made under or in connection with this Deed and any Transaction Documents pursuant to it shall be made in writing and, unless otherwise stated, may be made by fax or letter.

20.2 Addresses

The address and fax number (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:

20.2.1 in the case of the Chargor, that identified with its name below;

20.2.2 in the case of the Investor, that identified with its name below,

or any substitute address or fax number or department or officer as the Party may notify to the Investor (or the Investor may notify to the other Parties, if a change is made by the Investor) by not less than five Business Days' notice.

20.3 Delivery

20.3.1 Any communication or document made or delivered by one person to another under or in connection with the Transaction Documents will only be effective:

(a) if by way of fax, when received in legible form; or

(b) 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 20.2 (*Addresses*), if addressed to that department or officer.

20.3.2 Any communication or document to be made or delivered to the Investor will be effective only when actually received by the Investor and then only if it is expressly marked for the attention of the department or officer identified with the Investor's signature below (or any substitute department or officer as the Investor shall specify for this purpose).

20.3.3 Any communication or document which becomes effective, in accordance with paragraphs 20.3.1 to 20.3.2, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

20.4 Electronic communication

20.4.1 Any communication to be made between any two Parties under or in connection with the Transaction Documents may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if the Parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
 - (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- 20.4.2 Any such electronic communication as specified in Clause 20.4.1 to be made between the Chargor and the Investor may only be made in that way to the extent that the Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- 20.4.3 Any such electronic communication as specified in Clause 20.4.1 made between any of the Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Investor only if it is addressed in such a manner as the Investor shall specify for this purpose.
- 20.4.4 Any electronic communication which becomes effective, in accordance with Clause 20.4.3, 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.
- 20.4.5 Any reference in a Transaction Document to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 20.4.

20.5 English language

Any notice given under or in connection with this Deed must be in English.

21 Calculations and certificates

21.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Investor are prima facie evidence of the matters to which they relate.

21.2 Certificates and Determinations

Any certification or determination by the Investor of a rate or amount under this Deed or any other Transaction Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

21.3 Day count convention

Any interest, commission or fee accruing under this Deed or any other Transaction Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

22 Partial Invalidity

If, at any time, any provision of this Deed 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 such provision under the law of any other jurisdiction will in any way be affected or impaired.

23 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of the Investor, any right or remedy under this Deed or any Transaction Document pursuant to it, shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed or any of the Transaction Documents. No election to affirm this Deed or any such Transaction Document on the part of the Investor shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed and in each Transaction Document are cumulative and not exclusive of any rights or remedies provided by law.

24 Amendments and waivers

Any term of this Deed may be amended or waived only with the written consent of the Chargor and the Investor.

25 Discharge of Security

At the end of the Security Period, unless any third party has any subrogation or other rights in respect of the Security created by this Deed at that time, the Investor shall, or shall procure that its appointees will, at the request and cost of the Chargor:

- 25.1 release the Security Assets or any part of them from the Security created by or under this Deed; and
- 25.2 Section 93 (*Restriction on consolidation of mortgages*) of the LPA shall not apply to this Deed.

26 Assignments and Transfers

- 26.1 The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Deed.
- 26.2 The Investor may assign any of its rights or transfer any of its rights or obligations under this Deed to any person.

27 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.

28 Governing law

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

29 Arbitration

- 29.1 If any dispute, controversy or claim of whatever nature arises under, out of or in connection with this Deed, including any question regarding its existence, validity or termination or any non-contractual obligations arising out of or in connection with this Deed (a "**Dispute**"), the Investor and the Chargor shall use all reasonable endeavours to resolve the matter amicably.
- 29.2 All Disputes, which are unresolved pursuant to clause 29.1 and which a party wishes to have resolved, shall be referred upon the application of any party to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be three, one to be appointed by the Chargor and the other by the Investor and the third, subject to the provisions of the LCIA Rules, by the two so appointed. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such

appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified in the notice, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if the sole arbitrator had been appointed by agreement. Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English.

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule 1
Investments

Investments	
(a)	the 100000 shares in the Company owned by the Chargor;
(b)	any further shares in the Company at any time and from time to time issued to the Chargor, whether in addition to or in exchange or substitution for or replacement of any of the 100000 shares in the Company owned by the Chargor;
(c)	all dividends, interest or other distributions paid or payable or made on or in respect of the foregoing shares at any time and from time to time;
(d)	all stocks, shares, rights, money or property accruing or offered by way of redemption, bonus, preference, option or otherwise to or in respect of the foregoing shares at any time and from time to time; and
(e)	all allotments, accretions, offers, rights, benefits and other advantages and all other consensual rights accruing, offered or arising in respect of the foregoing shares at any time and from time to time.

Schedule 2

Confirmation Certificate

DMI Income Fund Pte. Ltd.

Re: Share Charge dated *[date]* (the "Share Charge")

- 1 We hereby expressly confirm that we have received a copy of the *[insert Tranche]* secured debenture instrument dated *[insert date]* (the "**Debenture**") and consent to its provisions.
- 2 We further confirm that:
 - 2.1 without prejudice to the rights of the Investor which have arisen on or before the date of this Certificate, the Share Charge shall remain in full force and effect and the Indebtedness shall extend to and include the Debenture;
 - 2.2 the representations and warranties in clause 5 of the Share Charge remain true and correct; and
 - 2.3 all our other rights and obligations under the Share Charge shall continue and remain unaffected.
- 3 All words and expressions defined or explained in the Share Charge shall have the same meanings when used in this Certificate.

For and on behalf of

Vivimed Specialty Chemicals UK Limited

By:

Name:

Designation: Director


Execution page to Share Charge

The Chargor

EXECUTED and **DELIVERED** as a deed

For and on behalf of

Vivimed Specialty Chemicals UK Limited

By:  Signature redacted

Name: *Sanketh Vandalwar*

Designation: Director

In the presence of:



Signature redacted

Name: *E. YOGANANDHAR*

Designation: Director/Secretary/Witness

Contact details:

Address:

Fax Number:

E-mail Address:

Attention:

The Investor

SIGNED, SEALED and DELIVERED

as a Deed

by

as attorney

for and on behalf of

DMI Income Fund Pte. Ltd.

in the presence of:

Name of Witness:

Address:

Fax No.:

E-mail Address:

Attention: