

**AUGUST 2022**

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**MASTER ENGLISH LAW SECURITY TRUST TERMS**

**for**

**ELEMENTUM METALS SECURITIES PLC**

**Elementum Physical Metal ETC Securities Programme**

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## Introduction

- (A) These Master English Law Security Trust Terms have been prepared by Elementum Metals Securities plc (the “**Issuer**”), to be used for a Series issued by the Issuer under its Elementum Physical Metal ETC Securities Programme (the “**Programme**”).
- (B) Each Series will be constituted by a separate Trust Deed (as defined below) pursuant to an Issue Deed (as defined below) and secured by separate Security Documents (as defined in the Trust Deed). Under the Trust Deed, the Trustee shall be appointed the trustee of that Series.
- (C) In order to secure the Secured Issuer Obligations relating to a Series, the Issuer will grant security over the Secured Property on the terms of, and as set out in, the English Law Security Trust Deed (as defined below) and/or any other Security Document entered into in respect of such Series. Upon the execution of the Issue Deed relating to a Series by or on behalf of the persons party thereto in the capacities of (i) Issuer, (ii) Security Trustee, and (iii) Trustee, such persons shall be deemed to have entered into an English law security trust deed as a deed, which shall incorporate and amend and/or supplement, as applicable, these Master English Law Security Trust Terms (as the same may be modified or supplemented by the provisions of such Issue Deed) (an “**English Law Security Trust Deed**”) in respect of that Series. References to “**this English Law Security Trust Deed**” shall mean the English Law Security Trust Deed entered into by such parties by the execution of the relevant Issue Deed in the form of these Master English Law Security Trust Terms (as amended and/or supplemented by the Issue Deed) and as such English Law Security Trust Deed may be amended, supplemented, novated and/or replaced from time to time.

## 1 Interpretation

### 1.1 Definitions

Capitalised terms used in this English Law Security Trust Deed but not otherwise defined shall have the meanings given to them in the Conditions relating to the relevant Series or the Issue Deed (in the event of any inconsistency between the Conditions relating to the relevant Series and the Issue Deed relating to the relevant Series, the Issue Deed shall prevail) and the following terms shall have the following meanings:

“**Clearing System**” means (i) Euroclear, (ii) Clearstream, Frankfurt, (iii) Clearstream, Luxembourg or (iv) any other recognised clearing system in which the ETC Securities or a Series of ETC Securities may be cleared.

“**Conditions**” means the terms and conditions of the relevant Series comprising the master terms and conditions specified in the Issue Deed relating to the relevant Series as supplemented and/or varied or completed, as applicable, by the relevant final terms relating to such ETC Securities.

“**Contractual Currency**” means, in relation to any payment obligation arising under any ETC Security, the currency in which that payment obligation is expressed.

“**Enforcement Date**” shall have the meaning given to it in Clause 3.5 (*Enforcement of Security*).

**“English Law Security Trust Deed”** means, in respect of a Series, the English law governed security trust deed entered into in the form of the Master English Law Security Trust Terms dated on or about the Series Issue Date created by entry into of the Issue Deed for the first Tranche of such Series by the Issuer and the Security Trustee and any other parties specified in such Issue Deed as being a party to such English Law Security Trust Deed, as amended and/or supplemented by such Issue Deed and as such English Law Security Trust Deed is amended, supplemented, novated or replaced from time to time.

**“ETC Securities”** means securities issued by the Issuer pursuant to the Programme.

**“Extraordinary Resolution”** has the meaning given to it in the Trust Deed relating to the relevant Series.

**“Issue Date”** means, in respect of a Tranche of ETC Securities, the date on which the ETC Securities of such Tranche are due to be issued to the relevant Authorised Participant(s) which has subscribed for such Tranche of ETC Securities as specified in the Final Terms relating to such Tranche.

**“Issue Deed”** means, in respect of a Series, the issue deed made between, amongst others, the Issuer, the Trustee, the Security Trustee and any other parties specified therein and which constitutes such Series (as amended, supplemented, novated or replaced from time to time) and which will be entered into at the time of the first Tranche of ETC Securities for that Series and which will apply, without further action and without the need for re-execution or execution of a new Issue Deed, to any further Tranches of that Series.

**“Master English Law Security Trust Terms”** means, in respect of a Series, the master English law security trust terms relating to the Programme specified in the Issue Deed in relation to such Series, as amended, supplemented, novated or replaced from time to time in respect of that Series, whether in the Issue Deed or otherwise in accordance with the Conditions.

**“Master Trust Terms”** means, in respect of a Series, the master trust terms relating to the Programme specified in the Issue Deed in relation to such Series, as amended, supplemented, novated or replaced from time to time in respect of that Series, whether in the Issue Deed or otherwise in accordance with the Conditions.

**“Receiver”** means a receiver or receiver and manager of the whole or any part of the Secured Property.

**“Redemption Amount”** means, in relation to a Series of ETC Securities, the Final Redemption Amount or Early Redemption Amount of such Series of ETC Securities, as applicable.

**“relevant Series”** means the Series secured by this English Law Security Trust Deed. For the avoidance of doubt, references to a **“Series”** shall include each Tranche of ETC Securities which are to be consolidated to form a single series with the ETC Securities of such Series with effect from the Issue Date of such Tranche.

**“Trust Deed”** means, in respect of a Series, the trust deed entered into as a deed in the form of the Master Trust Terms dated on or about the Series Issue Date created by entry into of the Issue Deed for the first Tranche of such Series by the Issuer, the Trustee, the Administrator and any other parties specified in such Issue Deed as being a party to such Trust Deed, as

amended and/or supplemented by such Issue Deed—and as such Trust Deed is amended, supplemented, novated or replaced from time to time.

## 1.2 Construction of certain references

References to:

- 1.2.1 costs, charges, remuneration or expenses include any value added, turnover or similar tax charged in respect thereof;
- 1.2.2 an action, remedy or method of judicial proceedings for the enforcement of creditors' rights include references to the action, remedy or method of judicial proceedings in jurisdictions other than England as shall most nearly approximate thereto;
- 1.2.3 any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof, or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment;
- 1.2.4 Clauses and Schedules shall be construed as references to, respectively, the Clauses and Schedules to this English Law Security Trust Deed;
- 1.2.5 the Issuer, any Transaction Party and any other person include its successors in title, permitted assigns and permitted transferees;
- 1.2.6 any references herein to the "*Security Trustee*" or a "*Receiver*" shall include any delegate or sub-delegate of such persons, as applicable; and
- 1.2.7 "**ETC Securities**" are, unless the context otherwise requires, to the ETC Securities of the relevant Series for the time being outstanding and include any replacement ETC Securities issued pursuant to the Conditions only and not to all ETC Securities that may be issued under the Programme.

## 1.3 Headings

Headings shall be ignored in construing this English Law Security Trust Deed.

## 1.4 Contracts

References in the Issue Deed and this English Law Security Trust Deed to this English Law Security Trust Deed or any other document are to this English Law Security Trust Deed or such other document as amended, supplemented or replaced from time to time in relation to the Programme and includes any document that amends, supplements or replaces them.

## 1.5 Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this English Law Security Trust Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this English Law Security Trust Deed except and to the extent (if any) that this English Law Security Trust Deed expressly provides for such Act to apply to any of the terms of this English Law Security Trust Deed. Notwithstanding any term of this English Law Security Trust Deed, the consent of any person who is not a party to this English Law Security Trust Deed is not required to rescind or vary this English Law Security Trust Deed at any time.

## 1.6 Schedules

The Schedules are part of this English Law Security Trust Deed and have effect accordingly.

## 1.7 Liabilities of the Issuer Several and Separate

The liability of the Issuer under each English Law Security Trust Deed and each of the Transaction Documents to which it is a party is several and is separate in respect of each Series. The failure of the Issuer to perform its obligations under this English Law Security Trust Deed or under any of the Transaction Documents to which it is a party relating to a Series shall not release the Issuer from its obligations under the English Law Security Trust Deed(s) or under any of the Transaction Documents to which it is a party relating to any other Series.

## 1.8 Details of Secured Property

The fact that no, or incomplete, details of any Secured Property are inserted in the relevant English Law Security Trust Deed does not affect the agreement of the Issuer and the Security Trustee to create a mortgage, an assignment or charge, as applicable, over that Secured Property.

## 1.9 Security supplement to Irish Law Security Trust Deed.

The relevant English Law Security Trust Deed in respect of a Series supplements the relevant Irish Law Security Trust Deed in respect of such Series in order to create security over the Issuer Cash Account and Account Bank Agreement in respect of such Series. In the event of any conflict between the relevant English Law Security Trust Deed and the relevant Irish Law Security Trust Deed, the terms of the relevant Irish Law Security Trust Deed shall prevail. In acting under this English Law Security Trust Deed the Security Trustee shall have the same rights as under the Irish Law Security Trust Deed. Termination of the relevant Irish Law Security Trust Deed in accordance with its terms shall be deemed to constitute termination of this English Law Security Trust Deed.

## 2 Security and Secured Property

This Clause 2 (*Security and Secured Property*) shall constitute Security for the relevant Series identified in the Issue Deed relating to the relevant Series and for each Tranche of such Series only.

### 2.1 The Secured Property

The Issuer with full title guarantee and as continuing security for the performance of the Secured Issuer Obligations grants the following security in favour of the Security Trustee (for the benefit of itself and as trustee for the other Secured Creditors:

- 2.1.1 an assignment by way of security of all of the Issuer's rights (but not obligations), title, interest and benefit, present and future, in, to and under the Account Bank Agreement; and

2.1.2 a first fixed charge over the Issuer Cash Account and all amounts from time to time standing to the credit thereof (together with all interest accruing from time to time thereon and the debts represented thereby).

## 2.2 **Additional Security**

Additionally, the Secured Issuer Obligations may be secured pursuant to a Security Document other than the Irish Law Security Trust Deed or this English Law Security Trust Deed, as specified in the relevant Issue Deed.

## 2.3 **Secured Property as continuing Security**

The Security is granted to the Security Trustee as continuing Security for the Secured Issuer Obligations relating to the relevant Series and shall remain in force as a continuing security to the Security Trustee, notwithstanding any intermediate payment or satisfaction of any part of the Secured Issuer Obligations or any settlement of account or any other act, event or matter whatsoever. The Issuer may from time to time issue further Tranches of the relevant Series in accordance with the Trust Deed relating to the relevant Series, this English Law Security Trust Deed, the Conditions relating to such Series and the relevant Authorised Participant Agreement. Upon the issue by the Issuer of any ETC Securities expressed to be constituted by the Trust Deed for the relevant Series and secured by this English Law Security Trust Deed, such ETC Securities will forthwith be constituted by such Trust Deed and shall be secured by the same Secured Property (as increased and/or supplemented in connection with such issue of new securities) under this English Law Security Trust Deed without any further formality.

Prior to any enforcement of the Security, the Security shall be automatically released without the need for any notice or other formalities (and without liability to the Security Trustee) with respect to:

- (a) sums held by or on behalf of the Issuer and/or the Account Bank, as applicable, to the extent required for payment of any sum in respect of the ETC Securities and/or under the Transaction Documents which is due and payable or deliverable and which, for the avoidance of doubt, shall include, without limitation:
  - (i) amounts payable in respect of the Redemption Amount or any other amount payable in accordance with the Conditions or under the Trust Deed;
  - (ii) the proceeds of any sale TER Metal deliverable to a Metals Counterparty that is payable to the Arranger as described in Condition 4 (*Metal Entitlement, Total Expenses Ratio and Cash Value per ETC Security*); and
  - (iii) following any sale of the Underlying Metal in connection with an early or final redemption of the ETC Securities, any Over-allocated Metal Cash Proceeds payable to the relevant Metals Counterparty in priority to the payment of the Redemption Amount to any ETC Holder.

Where the Security is released over any Over-allocated Metal Cash Proceeds in accordance with (iii), it shall be paid to the relevant Metals Counterparty only and not to any other Secured Creditor, Other Creditor or other person; and

- (b) any part of the Secured Property to the extent required to comply with and subject to the provisions of Conditions 5(c) (*Liquidation of Underlying Metal following an Early Redemption Event or the Final Redemption Valuation Date*), 5(h) (*Shortfall after Application of Proceeds (Limited Recourse) and Non-Petition*) and 5(i) (*Issuer's Rights as Beneficial Owner of Secured Property*).

Any ETC Securities of a relevant Series purchased and cancelled by the Issuer may not be reissued or resold and the obligations of the Issuer in respect of any such ETC Securities shall be discharged. In accordance therewith, the relevant portion of the Secured Property relating to the ETC Securities so purchased and cancelled will be automatically released from such Security without the need for any notice or other formalities.

#### 2.4 **Declaration of Trust**

Upon execution of the Issue Deed relating to the relevant Series incorporating these Master English Law Security Trust Terms, the Security Trustee shall be deemed to have declared itself trustee under this English Law Security Trust Deed of all the covenants, undertakings and interests created by the Security made or given or to be made or given under or pursuant to this English Law Security Trust Deed and the other Transaction Documents to which it is a party for itself and the other Secured Creditors in respect of the Secured Issuer Obligations upon and subject to the terms and conditions of this English Law Security Trust Deed.

#### 2.5 **Acknowledgement of the Security**

Each of the Secured Creditors, upon execution of the Issue Deed relating to the relevant Series (or accession thereto), acknowledges the Security made or granted by this English Law Security Trust Deed and undertakes to the Security Trustee not to do anything inconsistent with the Security given under or pursuant to this English Law Security Trust Deed or knowingly to prejudice the Security granted to the Security Trustee pursuant to this English Law Security Trust Deed or the Secured Property or the Security Trustee's interest therein, provided that, without prejudice to Clause 2.17 (*Appointment of receiver*), nothing in this English Law Security Trust Deed shall be construed as limiting the rights exercisable by the aforesaid parties in accordance with and subject to the terms of the other Transaction Documents relating to the relevant Series.

#### 2.6 **Covenant to pay**

The Issuer, as primary obligor and not merely as surety, hereby covenants to the Security Trustee that it will pay, perform or discharge the Secured Issuer Obligations when they become due for payment, performance or discharge in accordance with the Transaction Documents and undertakes to pay every sum (whether of principal, interest or otherwise) now or hereafter owing, due or incurred by the Issuer in respect of the Secured Issuer Obligations as and when they become due to be paid, performed or discharged and in the manner provided for in the relevant Transaction Document.

#### 2.7 **Enforcement of Security**

The Security constituted by this English Law Security Trust Deed and/or any other Security Documents shall become enforceable if payment of any amount in respect of the relevant Series is not made when due on the Scheduled Maturity Date or the relevant Early Redemption Date (if applicable) (such date of non-payment, the "**Enforcement Date**"). As



soon as reasonably practicable upon any enforcement of the Security, the Security Trustee shall give notice in writing to the Issuer and each Transaction Party of the relevant Series.

## **2.8 Liability in respect of the Security**

The Security Trustee shall not be responsible or liable to the Issuer, any ETC Holder, any Secured Creditor, any Other Creditor or any other party for the validity, enforceability, registration, perfection, value or sufficiency (which the Security Trustee shall not investigate) of the Security relating to the relevant Series or in respect of any payment made in connection therewith. The Security Trustee shall not be liable to any ETC Holder, any Secured Creditor, any Other Creditor or any other person for any failure to make or cause to be made on its behalf the searches, investigations and enquiries which would normally be made by a prudent chargee, mortgagee or assignee in relation to the Security-relating to the relevant Series. The Security Trustee shall have no responsibility to the Issuer as regards any deficiency which might arise because the Issuer is subject to any tax in respect of the Secured Property or any income or any proceeds from or of them.

## **2.9 Liability in respect of the Secured Property**

Subject to Clause 3.30, the Security Trustee shall not be responsible for, nor shall it have any liability with respect to any loss or theft or reduction in value of, any property comprising the Secured Property relating to the relevant Series. The Security Trustee shall have no responsibility or liability to the Issuer, any ETC Holder, any Secured Creditor, any Other Creditor or any other party as regards any deficiency which might arise because (i) all or part of the property comprising the Secured Property relating to the relevant Series is or will be held by the Custodian, the Primary Sub-Custodian and/or any Sub-Custodian and/or (ii) the Security Trustee, the Custodian, the Primary Sub-Custodian, any Sub-Custodian and/or the Metals Counterparty (if any), as applicable, is subject to any Tax in respect of any of the Secured Property, any income therefrom and/or the proceeds thereof.

## **2.10 Title to the Secured Property**

The Security Trustee shall accept without investigation, requisition or objection such right and title as the Issuer has to any of the Secured Property relating to the relevant Series and need not examine or enquire into or be liable for any defect or failure in the right or title of the Issuer to the Secured Property or any part of it, whether such defect or failure was known to the Security Trustee or might have been discovered upon examination or enquiry and whether capable of remedy or not. The Security Trustee shall not be liable to any ETC Holder, any Secured Creditor, any Other Creditor or any other person for any failure to make or cause to be made on its behalf the searches, investigations and enquiries which would normally be made by a prudent chargee, mortgagee or assignee in relation to the Secured Property relating to the relevant Series.

## **2.11 Creditworthiness of the Transaction Parties**

The Security Trustee shall have no responsibility or liability to the Issuer or any ETC Holder, any Secured Creditor, Other Creditor or any other party for the creditworthiness (which the Security Trustee shall not investigate) of any Transaction Party relating to the relevant Series, or the validity or enforceability of the obligations of any Transaction Party.

## 2.12 **No obligation to insure the Secured Property**

The Security Trustee is not under any obligation to insure any property comprising the Secured Property relating to the relevant Series or any certificate, note, bond or other evidence in respect thereof, or to require any other person to maintain any such insurance. The Security Trustee shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

## 2.13 **Rights of the Issuer**

Without prejudice to Condition 15(a) (*Meetings of ETC Holders*) at any time before any Security in respect of the relevant Series becomes enforceable the Issuer may, with respect to the relevant Series, with the sanction of an Extraordinary Resolution or with the prior written consent of the Security Trustee (acting upon instructions from the Trustee):

2.13.1 take such action in relation to the Secured Property relating to the relevant Series as it may think expedient; and

2.13.2 exercise any rights incidental to the ownership of the Secured Property which are exercisable by the Issuer and, in particular (but, without limitation, and without responsibility for their exercise), all rights to enforce any such ownership interests in respect of such property.

The Issuer shall not exercise any rights with respect to any Secured Property relating to the relevant Series unless it has the consents referred to above or is directed to do so by an Extraordinary Resolution and, if such direction or consent is given, the Issuer shall act only in accordance with such direction or consent, provided that, prior to the enforcement of the Security, the Issuer may release or modify the rights and assets which comprise the Secured Property for the relevant Series without any further action being required from the ETC Holders or the Security Trustee to the extent necessary in connection with any of the circumstances described in Clause 2.3 (*Secured Property as continuing Security*) in relation to which the Security is released.

## 2.14 **Security Trustee enforcing Security over the Property**

At any time after the Security has become enforceable, the Security Trustee may, at its discretion, and shall, if so directed in writing by the Trustee (the Trustee having been directed in writing by the holders of at least one-fifth in number of the ETC Securities then outstanding or by an Extraordinary Resolution of the ETC Holders), in each case subject to it having been pre-funded and/or secured and/or indemnified to its satisfaction by one or more ETC Holders (or otherwise to its satisfaction), enforce the Security.

To do this, the Security Trustee may, at its discretion,

2.14.1 enforce, terminate and/or realise the Account Bank Agreement and any of the Issuer's rights thereunder in accordance with its terms, and/or take action against the relevant Obligor(s); and/or

2.14.2 take possession of and/or realise all or part of the Secured Property over which the Security shall have become enforceable and may, in its discretion, but subject to the following sentence, sell, call in, collect and convert into money all or part of the

Secured Property, in such manner and on such terms as it thinks fit, in each case without any liability as to the consequence of such action and without having regard to the effect of such action on individual ETC Holders; and/or

2.14.3 take any other actions specified in the relevant Security Document.

The Security Trustee shall not be required to take any action, step or proceeding in relation to the enforcement of the Security that would involve any personal liability or expense without first being indemnified and/or secured and/or pre-funded to its satisfaction by one or more ETC Holders (or otherwise to its satisfaction).

## 2.15 **Power of sale**

The power of sale under Section 101 of the Law of Property Act 1925 (but without the restrictions imposed by Sections 93 and 103 of such Act) shall apply (as varied or extended by this English Law Security Trust Deed) and have effect on the basis that the Security constituted by this English Law Security Trust Deed constitutes a mortgage within the meaning of that Act and the Security Trustee is a mortgagee exercising the power of sale conferred on mortgagees by that Act with limited title guarantee.

## 2.16 **Receipts**

The receipt of the Security Trustee or the receiver for any moneys paid to it shall discharge the person paying them and such person shall not be responsible for their application.

## 2.17 **Appointment of receiver**

The Security Trustee may, in writing, appoint a receiver of all or part of the Secured Property over which any Security shall have become enforceable and may remove any receiver so appointed and appoint another in his place. No delay or waiver of the right to exercise these powers shall prejudice their future exercise. The following provisions shall have effect:

2.17.1 such appointment may be made before or after the Security Trustee shall have taken possession of all or part of the Secured Property;

2.17.2 such receiver may be vested by the Security Trustee with such powers and discretions as the Security Trustee may think expedient including, without limitation, all the powers set out in Schedule 1 to the Insolvency Act 1986 (subject to Clause 22 (*Limited Recourse and Non-Petition*) of the Irish Law Security Trust Deed for the relevant Series (incorporated herein pursuant to Clause 6 (*Incorporation of Terms*)) and may sell, concur in selling, assign or release any of the Secured Property without restriction and on such terms as he may think fit and may effect any such transaction in the name or on behalf of the Issuer or otherwise;

2.17.3 such receiver shall in the exercise of his functions conform to the regulations from time to time made by the Security Trustee;

2.17.4 the Security Trustee may from time to time fix such receiver's remuneration and direct its payment out of moneys accruing to such receiver in the exercise of its powers as such receiver;

- 2.17.5 the Security Trustee may from time to time and at any time require such receiver to give security for the due performance of its duties as receiver and may fix the nature and amount of the security to be given. The Security Trustee need not, however, in any case require any such security nor shall it be responsible for the adequacy or sufficiency of such security;
- 2.17.6 all moneys received by such receiver shall be paid over to the Security Trustee unless the Security Trustee directs otherwise;
- 2.17.7 such receiver shall be the Issuer's agent for all purposes. The Issuer alone shall be responsible for its acts, defaults, omissions and misconduct and none of the Security Trustee, the ETC Holders of any Series or any other Transaction Party relating to any Series shall incur any liability therefor; and
- 2.17.8 none of the Security Trustee, the ETC Holders of any Series of ETP Securities or any other Transaction Party relating to any Series shall be responsible for any omission, misconduct or negligence on the part of any such receiver.

## 2.18 **Perfecting the Security**

The Issuer shall take such action as the Security Trustee may reasonably require (i) to perfect or protect the Security created or intended to be created by or pursuant to this English Law Security Trust Deed or any Security Document over the Secured Property and (ii) from time to time and at any time after the Security constituted by or pursuant to this English Law Security Trust Deed shall have become enforceable to facilitate the realisation of such Security and the exercise of the functions of the Security Trustee or any receiver of any such Secured Property. A certificate from the Security Trustee to the effect that a particular action is reasonably required by it shall be conclusive evidence of that fact.

## 2.19 **Ability to borrow on Secured Property**

The Security Trustee may raise and borrow money on the security of the Secured Property or any part of it in order to defray moneys, costs, charges, losses and expenses properly paid or incurred by it in relation to this English Law Security Trust Deed (including the costs of realising any Security and the remuneration of the Security Trustee) or in exercise of any of its functions pursuant to this English Law Security Trust Deed. The Security Trustee may raise and borrow such money on such terms as it shall think fit and may secure its repayment with interest by mortgaging or otherwise charging all or part of the Secured Property, whether or not in priority to the Security constituted by or pursuant to this English Law Security Trust Deed or any Security Document and generally in such manner and form as the Security Trustee shall think fit and for such purposes may take such action as it shall think fit.

## 2.20 **Power of attorney**

2.20.1 The Issuer, by way of security, irrevocably appoints the Security Trustee and each and every Receiver and each of them jointly and also severally to be the attorney of the Issuer (with full powers of substitution and delegation) in its name and otherwise and on its behalf and as its act and deed to:

- (a) sign, seal, execute, deliver, perfect and do any and all deeds, acts, instruments, agreements and things which the Issuer may or must, but has failed to, do

hereunder whether for the purposes of perfecting the title of the Security Trustee or vesting all or any part of the Secured Property in the Security Trustee, its/their nominees or any purchaser;

- (b) upon the occurrence of an Enforcement Date, in the Issuer's name and on its behalf, exercise any or all of the rights, powers, privileges, discretions and immunities conferred hereby, or pursuant hereto, or at law, on the Security Trustee and/or any Receiver or which may be required or which the Security Trustee and/or any Receiver as such Security Trustee or Receiver shall think fit for carrying any sale, lease, or mortgage or the like into effect, or for giving to the Security Trustee or Receiver the full benefit of this English Law Security Trust Deed; and
- (c) upon the occurrence of an Enforcement Date, generally use its name in the exercise of any or all of the rights, powers, privileges, discretions and immunities conferred hereby (for the avoidance of doubt, only after the occurrence of an Enforcement Date if any such rights, powers, privileges, discretions and immunities are only conferred after any such occurrence) on the Security Trustee or any Receiver.

2.20.2 The Issuer hereby ratifies and confirms and agrees to ratify and confirm whatever such an attorney does, may do, or may purport to do pursuant to this clause and all monies expended by such an attorney shall be deemed to form part of the Secured Issuer Obligations except in either case of fraud, gross negligence or wilful misconduct on the part of that attorney.

2.20.3 Substitution: Each of the attorneys appointed hereunder may appoint one or more persons to act as substitute or substitutes in its place for all or any of the purposes referred to in Clause 3.19.1 and may revoke any such appointment at any time.

2.20.4 Delegation: Each of the attorneys appointed hereunder may delegate to one or more person all or any of the powers referred to in Clause 3.19.1 such terms as it thinks fit and may revoke any such delegation at any time.

2.20.5 Revocation: The power of attorney contained in this Clause 3.19 (Power of attorney) is irrevocable and accordingly, for so long as the Secured Issuer Obligations remain undischarged, such power of attorney shall not be revoked:

- (a) by the Issuer without the consent of each of the attorneys; or
- (b) on the occurrence of any insolvency event in respect of the Issuer (including the occurrence of the events referred to in Condition 13(b) and Condition 13(c)).

## 2.21 **Liability of Security Trustee, receiver, attorneys or Agents**

Neither the Security Trustee nor any receiver appointed by it or any attorney or agent of the Security Trustee will by reason of taking possession of any Secured Property relating to the ETC Securities or any other reason (including refraining to act) and whether or not as mortgagee in possession, be liable to account for anything except actual receipts or be liable for any loss or damage arising from the realisation of such Secured Property or from any act

or omission in relation to such Secured Property or otherwise unless such loss or damage shall be caused by its own fraud, wilful default or gross negligence.

## 2.22 **LPA 1925**

The powers conferred by this English Law Security Trust Deed in relation to the Secured Property on the Security Trustee or on any receiver of any such property shall be in addition to those conferred on mortgagees or receivers under the Law of Property Act 1925. If there is any ambiguity or conflict between the powers contained in that Act and those conferred by this English Law Security Trust Deed, the terms of this English Law Security Trust Deed shall prevail.

The Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 ("**LPA 1925**") on mortgagees and receivers.

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this English Law Security Trust Deed.

## 2.23 **Dealings with Security Trustee**

No-one dealing with the Security Trustee or any receiver of any of the Secured Property appointed by the Security Trustee need enquire whether any of the powers, authorities and discretions conferred by or pursuant to this English Law Security Trust Deed in relation to such property are or may be exercisable by the Security Trustee or such receiver or as to the propriety or regularity of acts purporting or intended to be in exercise of any such powers. The protection to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to anyone dealing with the Security Trustee or such receiver as if the statutory powers of sale and of appointing a receiver in relation to the Secured Property had not been varied or extended by this English Law Security Trust Deed.

## 2.24 **Financial Collateral Arrangement**

2.24.1 To the extent that this English Law Security Trust Deed constitutes a "financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended (the "**Regulations**")), the Security Trustee shall have the right (at any time after the Security becomes enforceable) to appropriate any Secured Property relating to the relevant Series which constitutes "*financial collateral*" (as defined in the Regulations) ("**Financial Collateral**") in relation to the relevant ETC Securities in or towards satisfaction of the claims of the Secured Creditors relating to the relevant Series in accordance with the Regulations.

2.24.2 For the purpose of Clause 2.24.1 above, the parties hereto agree that the value of (i) the financial collateral (other than cash) so appropriated shall be the market value of that financial collateral determined reasonably by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select, including independent valuation and (ii) in the case of cash shall be the face value of the cash, together with any accrued but unposted interest, at the time the right of appropriation is exercised. The parties hereto further agree that the method of valuation provided for in the English Law Security Trust Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## 2.25 **Payment and delivery after a default**

At any time after the Security under the English Law Security Trust Deed relating to the relevant Series has become enforceable, the Security Trustee may by notice in writing to the Issuer and the Account Bank, require the Account Bank, until notified by the Security Trustee to the contrary, so far as permitted by applicable law to

- (a) act as agent of the Security Trustee under this English Law Security Trust Deed *mutatis mutandis* on the terms of the Account Bank Agreement relating to the relevant Series (with consequential amendments as necessary and except that the Security Trustee's liability under the Account Bank Agreement relating to the relevant Series for the indemnification, remuneration and all other expenses of the Account Bank (if any) will be limited to the amounts for the time being held by the Security Trustee in respect of the relevant Series on the terms of this English Law Security Trust Deed and which are available (after application in accordance with the relevant order of priority set out in the Conditions and this English Law Security Trust Deed) to discharge such liability), and thereafter to hold all moneys, documents and records held by them in respect of the relevant Series to or to the order of the Security Trustee; or
- (b) deliver all moneys, documents and records held by them in respect of the relevant Series to the Security Trustee or as the Security Trustee directs in such notice;

## 2.26 **Security Trustee's directions**

Upon the Security created by this English Law Security Trust Deed becoming enforceable, the Security Trustee may at its discretion (and shall, if so directed by the Trustee) give notice of the same to the Account Bank, and require it to deliver or transfer the Secured Property and generally deal with the same and with any moneys received by them in respect of the Secured Property but not yet paid out, pursuant to the terms of the Transaction Document(s) relating to the relevant Series to the order of the Security Trustee in accordance with the directions of the Security Trustee and the Account Bank shall hold any such moneys or assets comprising the Secured Property to the order of the Security Trustee.

## 2.27 **Before Security becomes enforceable**

Before the Security becomes enforceable, the Issuer may exercise all of its rights in respect of the Secured Property as permitted under the English Law Security Trust Deed.

## 2.28 **When Security becomes enforceable:**

2.28.1 On an Enforcement Date:

- (a) the Security will become immediately enforceable without any requirement for notice to, or the service of a demand on, the Issuer;
- (b) the statutory power of sale will become immediately exercisable; and
- (c) all other powers conferred on mortgagees by law will become immediately exercisable.

2.28.2 After this Security has become enforceable:

- (a) the Security Trustee may exercise (without any further consent or authority on the part of the Issuer and irrespective of any direction given by the Issuer) any of the rights of the Issuer in connection with any amounts payable to it by the Account Bank;
- (b) the Security Trustee may enforce, in its absolute discretion its rights under the English Law Security Trust Deed and all or any part of the Security in any matter it sees fit (including by the institution of proceedings and the appointment of a Receiver);
- (c) the Issuer shall take such steps (at its own cost) as the Security Trustee may require to enforce those rights; this includes initiating and pursuing legal proceedings in the name of the Issuer; and
- (d) the Security Trustee or any other relevant delegate may exercise or refrain from exercising any other powers or rights which may be exercised by the legal or beneficial owner of any part of the Secured Property or any person who is the registered holder of any Secured Property or otherwise,

in each case, in the name of the Issuer, the registered holder or otherwise and without any further consent or authority on the part of the Issuer and irrespective of any direction given by the Issuer and the Issuer must, as regards any declarations of trust or nominee agreements, act on the instructions of the Security Trustee and, if the Security Trustee so directs, procure that each trustee or nominee acts on the instructions of the Security Trustee.

### **3 Provisions Supplemental to the Trustee Act 1925 and the Trustee Act 2000**

The Security Trustee may obtain at the Issuer's expense and act on any opinion, evaluation, report, certificate or advice of, or information obtained from, any expert (including, without limitation, any banker, lawyer, accountant, auditor, surveyor, valuer, broker, auctioneer or other expert) and shall not be responsible to anyone for any loss occasioned by so acting, whether such advice is obtained by or addressed to the Issuer, the Security Trustee or any other person, provided that any expert is selected with reasonable care and are reasonably believed to be experienced in matters of the nature at issue. Any such opinion, advice or information may be sent or obtained by letter, fax or otherwise and the Security Trustee shall not be liable to anyone for acting in good faith on any opinion, advice or information purporting to be conveyed by such means even if it contains some error or is not authentic and whether or not such expert's liability in respect thereof is limited, whether by reference to a monetary cap or otherwise.

#### **3.1 Security Trustee to assume performance**

The Security Trustee need not notify anyone of the execution of the relevant Issue Deed or any other Transaction Document or do anything to find out if an Event of Default, an Early Redemption Event, a Disruption Event, a Metal Reference Price Event, a substitution of the Metal Reference Price or Metal Reference Price Source or a resignation or termination of an Agent's appointment has occurred and is continuing or if the Security has become enforceable. Until it has actual knowledge or express notice to the contrary, the Security



Trustee may assume that no such event has occurred and that the Issuer is performing all its obligations under the English Law Security Trust Deed, the ETC Securities and the other Transaction Documents. The Security Trustee is not responsible for monitoring or supervising the performance by any other person of its obligations to the Issuer and may assume these are being performed unless it shall have actual knowledge to the contrary.

### **3.2 Certificate signed by duly authorised signatories**

If the Security Trustee, in the exercise of its functions, requires to be satisfied or to have information as to any fact or the expediency of any act, it may call for and accept as sufficient evidence of that fact or the expediency of that act a certificate signed by any duly authorised signatory of the Issuer as to that fact or to the effect that, in their opinion, that act is expedient and the Security Trustee need not call for further evidence and shall not be responsible for any loss occasioned by acting on such a certificate.

### **3.3 Deposit of documents**

The Security Trustee may appoint as custodian, on any terms, any bank or entity whose business includes the safe custody of documents or any lawyer or firm of lawyers believed by it to be of good repute and may deposit the relevant Issue Deed and any other documents with such custodian and pay all sums due in respect thereof. The Security Trustee is not obliged to appoint a custodian of securities payable to bearer.

### **3.4 Agents**

Whenever it considers it expedient in the interests of the ETC Holders, the Security Trustee may, in the conduct of its trust business, instead of acting personally, employ and pay an agent selected by it, whether or not a lawyer or other professional person, to transact or conduct, or concur in transacting or conducting, any business and to do or concur in doing all acts required to be done by the Security Trustee (including the receipt and payment of moneys). The Security Trustee may rely on the advice of any such person and shall not be responsible for any loss or liability occasioned by doing so.

### **3.5 Delegation**

Whenever it considers it expedient in the interests of the ETC Holders, the Security Trustee may delegate to any person on any terms (including power to sub-delegate) all or any of its functions.

### **3.6 Nominees**

In relation to any asset held by it under this English Law Security Trust Deed or any other Transaction Document, the Security Trustee may appoint any person to act as its nominee on any terms.

### **3.7 Forged ETC Securities**

The Security Trustee shall not be liable to the Issuer or any ETC Holder, Secured Creditor or Other Creditor by reason of having accepted as valid or not having rejected any ETC Security purporting to be such and later found to be forged or not authentic.

### 3.8 Confidentiality

3.8.1 Unless ordered to do so by a court of competent jurisdiction, the Security Trustee shall not be required to disclose to any ETC Holder, Secured Creditor or Other Creditor any confidential financial or other information made available to the Trustee by the Issuer.

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

### 3.9 Determinations conclusive

As between itself and the ETC Holders, and/or any Secured Creditor and/or any Other Creditor, the Security Trustee may determine all questions and doubts arising in relation to any of the provisions of this English Law Security Trust Deed or any other Transaction Document. Such determinations, whether made upon such a question actually raised or implied in the acts or proceedings of the Security Trustee, shall be conclusive and shall bind the Security Trustee, the ETC Holders, the Secured Creditors and/or any Other Creditor and the Security Trustee shall not be responsible for any loss or liability occasioned thereby.

### 3.10 Currency conversion

Where it is necessary or desirable for any purpose in connection herewith to convert any sum from one currency to another, it shall (unless otherwise provided in the relevant Issue Deed or the Conditions or required by law) be converted at such rate or rates, in accordance with such method and as at such date as may reasonably be specified by the Security Trustee but having regard to current rates of exchange, if available. Any rate, method and date so specified shall be binding on the Issuer, the ETC Holders and the Transaction Parties.

### 3.11 Indemnity

Without prejudice to the right of indemnity by law given to trustees and subject to the provisions of Section 750 of the Companies Act 2006 (if applicable) and Clause 22 (*Limited Recourse and Non-Petition*) of the Irish Law Security Trust Deed for the relevant Series (incorporated herein pursuant to Clause 6 (*Incorporation of Terms*)), the Security Trustee and every receiver, attorney, manager, agent or other person appointed by the Security Trustee under this English Law Security Trust Deed shall be entitled to be indemnified out of the relevant Secured Property (in respect of the relevant Series) in respect of all liabilities and expenses properly incurred by them or him in the execution or purported execution of the trusts or of any functions vested in them or him pursuant to the English Law Security Trust Deed and against all actions, proceedings, costs, claims and demands in respect of any acts or omissions relating to the Secured Property, and the Security Trustee may retain any part of any moneys in its hands arising from the trusts of this English Law Security Trust Deed to pay all sums necessary to effect such indemnity and also the remuneration of the Security Trustee. The provisions of this Clause 3.11 (*Indemnity*) shall survive termination of the appointment of the Security Trustee.

### 3.12 **Issue Deed**

The Security Trustee assumes no responsibility for, and shall not by the execution of any Issue Deed or any other Transaction Document be deemed to make any representation as to, the adequacy, sufficiency, validity or enforceability of such document(s) or any agreement constituted by the execution thereof.

### 3.13 **Transaction Parties**

In acting as Security Trustee under this English Law Security Trust Deed, the Security Trustee shall not assume any duty or responsibility to any Transaction Party (other than to pay to any such party any moneys received and payable to it and to act in accordance with the provisions of Condition 5 (*Security and Application of Proceeds*) and, in respect of ETC Securities, this English Law Security Trust Deed) and shall have regard solely to the interests of the ETC Holders of any Series or, as the case may be, all Series.

### 3.14 **Determination or Calculation by Security Trustee:**

If, at any time after the Security has become enforceable pursuant to Condition 5(e) (*Enforcement of the Security*) any determination or calculation relating to the Metal Entitlement, the Final Redemption Amount, the Early Redemption Amount or any Enforcement Surplus Principal Amount has not been made when required pursuant to the Conditions and the Transaction Documents, then the Security Trustee may (and shall following an instruction from the Trustee) appoint an agent to make the relevant determination or calculation, provided that the Security Trustee shall have been pre-funded and/or secured and/or indemnified to its satisfaction. Any such agent appointed in accordance with the terms of Condition 11(e) (*Determination or Calculation by Security Trustee*) shall act as agent of the Issuer. Any such determination or calculation made by any such agent shall for the purposes of the Conditions and the Transaction Documents be deemed to have been made by the original party. In doing so, the relevant agent shall apply the provisions of the Conditions and/or the relevant Transaction Document(s), with any necessary consequential amendments, to the extent that, in its opinion, it can do so, and in all other respects it shall do so in such manner as it shall deem fair and reasonable in the circumstances. The Security Trustee shall not be liable to the Issuer, the ETC Holders, any Transaction Party or any other person (i) if it does not appoint an agent to make the determinations or calculations referred to in Condition 11(e) (*Determination or Calculation by Security Trustee*) or (ii) if it does appoint an agent, for any calculations and determinations (or any delay in making any calculation or determination) so made, unless in either case the Security Trustee has acted fraudulently, with gross negligence or in wilful default.

### 3.15 **Payment for and delivery of ETC Securities**

The Security Trustee shall not be responsible for the receipt or application by the Issuer of the proceeds of the issue of the ETC Securities, any exchange of ETC Securities or the delivery of ETC Securities to the persons entitled to them.

### 3.16 **Legal opinions**

The Security Trustee shall not be responsible to any person for failing to request, require or receive any legal opinion relating to the ETC Securities or for checking or commenting upon the content of any such legal opinion.

### 3.17 **Programme limit**

The Security Trustee shall not be concerned, and need not enquire, as to whether or not any ETC Securities are issued or entered into in breach of the Programme Maximum Number of ETC Securities.

### 3.18 **Events**

The Security Trustee shall not be under any obligation to monitor, enquire or satisfy itself as to whether or not an Event of Default, an Early Redemption Event, a Disruption Event, a Metal Reference Price Event, a substitution of the Metal Reference Price or Metal Reference Price Source, or a resignation or termination of an Agent's appointment has occurred or is continuing or to monitor compliance by the Agents or any other Transaction Party with any of their respective obligations under the Transaction Documents.

### 3.19 **Responsibility for Appointees**

The Security Trustee shall exercise reasonable care in selecting any custodian, agent, delegate or nominee appointed under this Clause 13 (*Provisions Supplemental to the Trustee Act*) (an "**Appointee**")—and provided that the Security Trustee shall have exercised reasonable care in selecting such Appointee for the purposes hereof and in exercising such delegation it will not have any obligation to supervise the Appointee or be responsible for any loss, liability, cost, claim, action, demand or expense incurred by reason of the Appointee's misconduct, gross negligence or default or the misconduct, gross negligence or default of any substitute appointed by the Appointee.

### 3.20 **Notice in respect of Appointees**

The Security Trustee shall, within a reasonable time prior to any delegation to an Appointee or any renewal, extension or termination thereof, give notice thereof (containing details of such appointment) to the Issuer (whereupon the Issuer shall copy such notice to the Administrator).

### 3.21 **No responsibility for Clearing Systems**

None of the Issuer, the Security Trustee nor any other Transaction Party will have any responsibility for the performance by the Clearing Systems (or their participants or indirect participants) of any of their respective obligations under the rules and procedures governing their operations.

### 3.22 **Certifications**

The Security Trustee shall be entitled to rely upon, and accept as sufficient evidence, a certificate of any Transaction Party in respect of every matter and circumstance for which a certificate, calculation or determination is expressly provided for under the Conditions and/or the relevant Transaction Documents and also in relation to any matter reasonably believed by the Security Trustee to be within the knowledge of the party certifying the same and the Security Trustee shall not be bound in any such case to call for further evidence or be responsible for any loss, liability, costs, damages, expenses or inconvenience that may be occasioned by its failing so to do.

### **3.23 No obligations to monitor Transaction Parties**

The Security Trustee shall not be obliged to monitor or be liable for any failure to monitor the performance by any Transaction Party of its duties and obligations under the Transaction Documents to the Issuer or by any other person of its obligations to the Issuer. The Security Trustee may assume that such are being performed unless it shall have actual knowledge to the contrary. The Security Trustee shall not be obliged to take any action or step against any such Transaction Party or other person (unless secured and/or pre-funded and/or indemnified to its satisfaction).

### **3.24 Certification of amounts owed**

The Security Trustee shall be entitled to rely upon, and accept as sufficient evidence, a certificate of any party to the Transaction Documents as to any amounts owing to any such party and shall not be responsible for any loss occasioned by its relying and acting on such certificate.

### **3.25 Authorised Participants**

The Security Trustee shall not be responsible for monitoring or ascertaining whether there is or are one or more Authorised Participants or no Authorised Participant in respect of the ETC Securities or whether no Authorised Participant is willing to purchase any ETC Securities and, unless and until it receives express notice to the contrary, it shall be entitled to assume that there is or are one or more Authorised Participants in respect of the ETC Securities and that one or more Authorised Participants is or are willing to purchase ETC Securities.

### **3.26 Signed documents**

The Security Trustee shall not incur liability to any person in acting upon any signature, instrument, notice, resolution, endorsement, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties.

### **3.27 Entitlement of the Security Trustee**

In connection with the exercise of any of its functions under the Transaction Documents the Security Trustee will have regard to the interests of the ETC Holders as a class and shall not have regard to the consequences of such exercise for individual ETC Holders or the other Secured Creditors and the Security Trustee will not be entitled to require, nor shall any ETC Holder be entitled to claim, from the Issuer any indemnification or payment in respect of any tax consequence of any such exercise upon individual ETC Holders.

### **3.28 No duty to account**

The Security Trustee shall not be bound to account to any other Secured Creditor for any sum or the profit element of any sum received by it for its own account.

### **3.29 Instructions to the Security Trustee**

3.29.1 Where the Trustee has given a direction or instruction to the Security Trustee in accordance with the provisions of this Deed and/or the other Transaction Documents,

the Security Trustee shall act solely in accordance with such direction and/or instruction in the performance of its duties and/or the exercise of its rights (together, the "**Instructed Rights**" and each an "**Instructed Right**").

3.29.2 In the performance of the Instructed Rights, the Security Trustee shall act in a purely mechanical and administrative capacity, and shall not be entitled to exercise any discretion with respect thereto. In connection with the Instructed Rights, the Security Trustee will not be bound to enquire as to the efficacy of such directions nor as to whether all applicable conditions in this Deed and/or any Transaction Document have been satisfied and shall:

- (a) act in accordance with any written instructions given to it by the Trustee and shall be entitled to assume that;
  - (i) any instructions received by it from the Trustee are duly given in accordance with the terms of this Deed and any other Transaction Documents; and
  - (ii) unless it has received actual notice or revocation, that any instructions or directions given by the Trustee have not been revoked;
- (b) be entitled to request instructions or clarifications of any direction, from the Trustee as to whether, and in what manner, it should exercise or refrain from exercising the Instructed Rights and may refrain from acting unless and until those instructions or clarification are received by it;
- (c) in the absence of any instructions to the contrary, not take any action in the exercise of the Instructed Rights; and
- (d) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with an instruction from the Trustee.

3.29.3 In the performance of the Instructed Rights, the Security Trustee shall look to the written directions of the Trustee, in accordance with Clause 13.30.1 The Security Trustee shall not be obliged to have regard to the consequences of the exercise of its duties for any individual Secured Creditor resulting from his or its being for any purpose domiciled or resident in, or otherwise connected in any way with, or subject to the jurisdiction of, any particular territory or taxing jurisdiction.

3.29.4 Notwithstanding anything to the contrary contained herein, in the performance of the Instructed Rights the Security Trustee may refrain:

- (a) from doing anything which may in its opinion be a breach of any fiduciary duty, any law of any jurisdiction or any directive or regulation of any agency of any state or duty of confidentiality which would or might render it liable to any person may do anything which, in its opinion, necessary to comply with any such law, directive or regulation;
- (b) from agreeing to any amendment or modification to the Transaction Documents which, in the sole opinion of the Security Trustee, would have the

effect of increasing the obligations or duties or decreasing the protections of the Security Trustee in the Transaction Documents;

- (c) from expending or risking its own funds or otherwise incurring any liability in the performance of its duties or the exercise of any right, power, authority or discretion hereunder if it had grounds for believing the repayment of such funds or adequate indemnity against, or security or prefunding for, such risk or liability is not reasonably assured to it.

### 3.30 **Security Trustee Liable for Gross Negligence**

3.30.1 Section 1 of the Trustee Act 2000 shall not apply to any function of the Security Trustee, provided that if the Security Trustee fails to show the degree of care and diligence required of it as trustee, nothing in this English Law Security Trust Deed shall relieve or indemnify it from or against any liability that would otherwise attach to it in respect of any gross negligence, wilful default-breach of duty or breach of trust of which it may be guilty.

3.30.2 Notwithstanding any other provision of this English Law Security Trust Deed (but without prejudice to any liability arising from its own fraud), under no circumstances will the Security Trustee be liable to the Issuer or any other person for any incidental, consequential, indirect, special or exemplary damages of any kind or nature whatsoever or for any loss of revenues, loss of profits, loss of business, loss of opportunity or loss of goodwill (collectively "**Additional Damages**") howsoever arising, including from any representation, any breach of implied term or any duty at common law or under any statute or express term of this Irish Law Security Trust Deed, and whether such liability is asserted on the basis of contract, tort or otherwise, whether or not foreseeable, even if the Security Trustee has been advised or was aware of the possibility of such Additional Damages.

### 3.31 **Powers Supplemental**

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

### 3.32 **Disapplication**

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

## 4 **Retention of Security**

### 4.1 **Release conditional**

Any release, settlement, discharge, re-assignment or arrangement (in this Clause, a "**release**") shall be deemed to be made subject to the condition that it will be void if any payment or discharge of the Secured Issuer Obligations is set aside under any applicable law or proves to have been for any reason invalid or void.

## 4.2 Retention of Security

4.2.1 The Security Trustee may retain all or part of the security created by this English Law Security Trust Deed, the documents of title and other documents relating to the Secured Property and its other rights under this English Law Security Trust Deed as security for the Secured Issuer Obligations for a period of one month plus any statutory period within which any payment or discharge of the Secured Issuer Obligations can be avoided or invalidated under any provision or rule of law after the Secured Issuer Obligations shall have been paid and discharged in full.

4.2.2 If at any time within such period a petition is presented to the court for a winding-up order to be made in respect of the Issuer, steps are taken to wind up the Issuer voluntarily, an application is made to the court to have the Issuer placed into examinership, a notice of intention to appoint an examiner to the Issuer is filed in court or the appointment of an examiner to the Issuer takes effect, then the Security Trustee may continue to retain all or part of the security created by this English Law Security Trust Deed, those documents and those other rights for any further period as the Security Trustee may (acting on the instructions as the Trustee) determine.

## 5 Governing Law and Submission to Jurisdiction

### 5.1 Governing law

These Master English Law Security Trust Terms and each English Law Security Trust Deed, unless otherwise specified therein, and any non-contractual obligations arising out of or in connection with them shall be governed by and construed in accordance with English law.

### 5.2 Jurisdiction

The courts of England are to have non-exclusive jurisdiction to settle any disputes that may arise out of or in connection with these Master English Law Security Trust Terms or the relevant English Law Security Trust Deed and, accordingly, any legal action or proceedings arising out of or in connection with these Master English Law Security Trust Terms or the relevant English Law Security Trust Deed (“**Proceedings**”) may be brought in such courts. The parties hereto irrevocably submit to the jurisdiction of such courts and waive any objections to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum. This submission is for the benefit of each of the Security Trustee and the ETC Holders and shall not limit the right of any of them to take Proceedings in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

### 5.3 Service of Process

In respect of a Series, the Issuer agrees to appoint, on or around the Series Issue Date, a process agent as its agent to receive, for and on its behalf, service of process in any Proceedings in England. The process agent in respect of each such party appointing a process agent shall either (i) be the party specified as its process agent for the Series in the Issue Deed for the first Tranche for such Series or (ii) if no such process agent is specified in such Issue Deed in respect of such party, be notified to the Trustee as soon as reasonably practicable following its appointment. Service of process on any such process agent shall be



deemed valid service upon the party appointing such process agent, whether or not it is forwarded to and received by the appointing party. Each party appointing a process agent shall inform the Trustee in writing of any change in its process agent's address within 28 calendar days of such change. If for any reason any such process agent ceases to be able to act as such or no longer has an address in London, each party who has appointed such process agent irrevocably agrees to appoint a substitute process agent in England and to deliver to the Trustee a copy of the substitute process agent's written acceptance of that appointment, within 14 calendar days. Each party appointing a process agent irrevocably consents to any process in any Proceedings anywhere being served by mailing a copy by registered post to such process agent in accordance with Clause 19 (*Communications*) of the Irish Law Security Trust Deed for the relevant Series (incorporated herein pursuant to Clause 6 (*Incorporation of Terms*)). However, nothing in this Clause 5.3 (*Service of Process*) shall affect the right to serve process in any other manner permitted by law.

## **6 Incorporation of Terms**

The provisions of Clause 2, Clauses 4 to 13 (inclusive), Clauses 16, 17, 19 and 20 (inclusive) and Clause 22 of the Irish Law Security Trust Deed in respect of the relevant Series shall apply to this English Law Security Trust Deed mutatis mutandis and as if references therein to "this Irish Law Security Trust Deed" were a reference instead to this English Law Security Trust Deed.