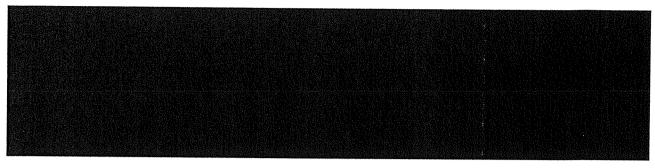
**BTC Security Agreement** 

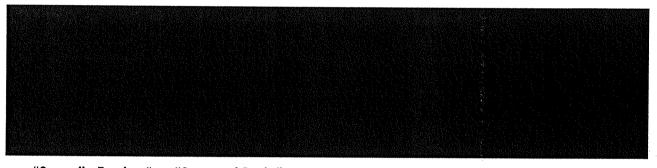


between



- "Issuer" or "Grantor"-

and



- "Security Trustee" or "Secured Party"-

the Grantor and Secured Party are hereinafter individually referred to as **"Party"**, and together as **"Parties"**-

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#### Preamble

- A. The Grantor as an Issuer is issuing up to 9.000.000.000 Perpetual Bitcoin backed Notes without par value in bearer form (the "Notes"). The Notes are issued in the form of a global note with the terms and conditions (the "Terms and Conditions") attached thereto. Each Note represents the right of the holders of the Notes (the "Holders"), to demand delivery of Bitcoin ("BTC") from the Issuer or cash as set out in and pursuant to the Terms and Conditions.
- B. The Grantor has appointed the Secured Party to act as Security Trustee based on a Security Trustee Agreement dated April 14, 2021. The Security Trustee is authorised under the Terms and Conditions to represent the Holders in relation to this Agreement.
- C. The Grantor as an Issuer has agreed to grant the Issuer-owned Notes Security and the BTC Security for the benefit of the Security Trustee. The issuer-owned Notes Security and BTC under-management owned by the Grantor, and such additional assets as may be derived therefrom, shall be administered pursuant to the terms of a Security Trustee Agreement.
- D. By the following Agreement the Issuer grants the BTC Security for the benefit of the Security Trustee as a security interest in the Collateral to secure specified payment obligations of Grantor to the Secured Creditor by.

The Parties agree as follows:

### 1. Interpretation

### 1.1 Definitions

Capitalised terms used and not otherwise defined herein shall have the meaning as defined in the Terms and Conditions (directly or by reference to another document). In addition to in this Agreement (including the preamble):

"Administrator" means any third party entity to provide Fund Accounting services to the Issuer for the latter's in-scope fund(s), share class(es) and asset class(es) The Administrator will apply a benchmark pricing to estimate the value of the Bitcoin held as defined in the prospectus. The Issuer has designated the NYSE Bitcoin Index (NYXBT) as the benchmark price. After the Administrator has calculated the value of the Bitcoin portfolio, the information will be made available to the Issuer and its designated auditors.

"BGB" means the German Civil Code (Bürgerliches Gesetzbuch).

"Holder's Representative" shall have the meaning set forth in the Terms and Conditions.

"Business Day" is any day (excluding Saturday and Sunday) on which banks are open for general business in Frankfurt am Main and on which the Clearing System as well as all relevant parts of the Trans-European Automated Real-time Gross Settlement Express Transfer System 2 (TARGET2) are operational to effect payments.

"**Note Documents**" means this Agreement, the BTC Security Agreements and any other document entered into by the Issuer in connection with the Notes.

"BTC" means Bitcoin, a cryptocurrency and worldwide payment system, released as an open-source software in 2009 and displayed on https://bitcoin.org/en/.

"BTC Security" means the assignment of security by the Issuer in favour of the Holders on all its present and future claims, in particular claims for surrender, with respect to the BTCs deposited by the Issuer with the Custodian(s) in its Wallets.

"BTC Security Agreements" means any agreement or document acknowledging, perfecting or giving legal effect to Holder's security interest in the Custodian Wallet and/or the deposited BTC.

"Collateral Documents" shall mean this Agreement and all other documents delivered pursuant to this Agreement or any other Loan Document (including all Code financing statements and account control agreements) and granting or purporting to grant to any Secured Party a Lien as security for any Obligation.

"Depositary	Accoun	<b>f</b> " shall	mean	the	accounts	created,	conti	rolled	and
secured by the	ne Depo	ositaries							
									in
accordance	with c	ustodial	service	es ag	greements	between	the	Issuer	and
							to st	ore Bi	lcoin
and any othe	, ,			•	•				

and any other supported cryptocurrency or digital asset which results from the split of or airdrop on Bitcoin blockchain, which is made available to the Issuer, which include one or more cryptographic asset wallets that hold Digital Currency and/or Digital Assets ("Depositary Wallet"), which are subject to the security interest granted hereby, and any successor account to any such account, whether maintained by the initial Depositary or maintained by any successor Depositary.

"Event of Default" shall mean that (i) any one or more of the Issuer or the Holders' Representative shall deliver written notice to the Security Trustee of the occurrence of an Event of Default listed in Section 9 (1) of the Terms and Conditions of the Notes or (ii) the Issuer shall fail to duly perform any covenant set forth in Section 6, and such failure, if capable of remedy, continues unremedied for more than 60 (sixty) Business Days after the Security Trustee or the Holders Representative has delivered notice thereof to the Issuer.

"Loan Document" shall mean, collectively, this Agreement, the Terms and Conditions, the Security Trust Agreement, each Collateral Document, and all other documents, instruments, notices, certificates and agreements executed or delivered in connection with or contemplated by this Agreement or any of the Obligations.

"Secured Obligations" means (i) Payment Obligations, the Outstanding Amount and the Settlement Obligations of the Issuer under the Notes (including its Terms and Conditions) to the Holders; (ii) the obligations of the Issuer under the Security Trustee Claim to the Security Trustee, and (iii) any payment liabilities of the Issuer towards any Holder under the Notes, in each case together with all costs, charges and expenses incurred therewith. The Secured Obligations shall in particular include any claims based on unjust enrichment (ungerechtfertigte Bereicherung) or tort (Delikt) including any claims arising from the insolvency administrator's discretion to perform obligations in agreements according to section 103 of the InsO.

### 1.2 Successors, Assigns and Transferees

The expressions "Grantor" and "Security Trustee" shall, where the context permits, include all of their respective successors, assigns and transferees (by way of assignment, subrogation, substitution or otherwise).

#### 1.3 Construction

In this Agreement, unless the context requires otherwise:

- 1.3.1 references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced from time to time;
- 1.3.2 references to this Agreement and any document or agreement defined herein shall be construed as references to this Agreement or such document or agreement as the same may be amended, supplemented, restated or novated from time to time;

- 1.3.3 save where the contrary is indicated, the singular of any defined term includes the plural, and vice versa; and
- 1.3.4 this Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

### 1.4 Severability

- 1.4.1 Whenever possible, each provision of this Agreement shall be interpreted in a manner as to be effective and valid under applicable law. But if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.
- 1.4.2 This Agreement is to be read, construed and applied together with the Terms and Conditions and the other Loan Documents which, taken together, set forth the complete understanding and agreement of the Secured Party and Grantor with respect to the matters referred to herein and therein.

### 2. Grant of Lien

To secure the prompt and complete payment, performance and observance of all of the Obligations, Grantor, for and in consideration of good and valuable consideration, the receipt of which hereby is acknowledged, hereby grants, assigns, conveys, mortgages, pledges, hypothecated and transfers to the Secured Party a Lien upon and security interest in all of Grantor's right, title and interest in, to and under the following of its assets and property (all of which being referred to herein as the "Collateral"):

- 2.1.1 the Depositary Account and all Digital Currency, Digital Assets and other assets therein from time to time, including each Depositary Wallet, and including all money, cash or cash equivalents therein from time to time; and
- 2.1.2 to the extent not otherwise included in the foregoing, all Proceeds and products of the foregoing and all accessions to, substitutions and replacements for, and rents and profits of, and other assets, including all Digital Currency and Digital Assets, derived from each of the foregoing items mentioned above.

### 3. Security Purpose

- 3.1 The security interests created under this Agreement serve to secure the Issuers Obligations.
- 3.2 In addition, the Lien created by this Agreement are made as continuing security in order to secure the prompt, full and final discharge of all secured Obligations. The Lien contained in this Agreement shall also cover any future extension, prolongation or increase of the secured Obligations. The Issuer hereby expressly agrees that the provisions of section 1210 paragraph 1 sentence 2 of the BGB shall not apply to this Agreement. The Issuer hereby expressly declares its consent to any assumption (Schuldübernahme) of any of the secured Obligations by any third party debtor pursuant to section 418 paragraph 1 sentence 3 of the BGB.

# 4. Interpretation of the security interests

The security interests created under this Agreement are in addition, and without prejudice, to any other Security the Security Trustee may now or hereafter hold in respect of the secured Obligations. The parties hereto agree that nothing in this Agreement shall exclude a transfer of all or part of the Liens created hereunder by operation of law upon the transfer or assignment including by way of assumption (Vertragsübernahme) of all or part of the secured Obligations by the Security Trustee to a successor security trustee.

# 5. Representations and Warranties of Grantor

Grantor hereby represents and warrants to the Secured Party, each such representation and warranty being an independent guarantee (selbständiges Garantieversprechen) pursuant to sections 241 and 311 of the BGB, that each of the following is true and accurate as at the date hereof:

- 5.1 Without prejudice to the restrictions imposed by this Agreement, it has the right to transfer or grant a lien or otherwise freely dispose of the Collateral without the consent of any person, and there is no other restriction in relation to Collateral other than as set out in the Terms and Conditions, this Agreement and as provided by German statutory law;
- 5.2 No effective security agreement, financing statement, equivalent security or lien instrument or continuation statement, financing statement or financing change statement covering all or any part of the Collateral is on file or of record in any public office, other than any such instrument included in the Loan Documents.

- 5.3 This Agreement is effective to create in favor of the Secured Party a valid and continuing Security Interest in the Collateral.
- 5.4 All action by Grantor necessary or desirable to protect and perfect such Security Interest on each item of the Collateral shall have been duly taken.
- 5.5 All necessary corporate action has been taken to authorise the execution of this Agreement and the Security trustee Agreements and the performance of its obligations hereunder and the exercise of its rights and performance of its obligations hereunder and the Security Trustee Agreements will not violate any provision of any existing law applicable to it or any contractual undertaking to which the Issuer is a party or which is binding on the Issuer or any of its assets and this Agreement creates legal, valid and binding obligations of the Issuer which are enforceable in accordance with their terms.
- 5.6 No effect on or change to the business of Grantor, taken as a whole, that is, or is reasonably likely to be, materially adverse to the operations, condition (financial or otherwise), assets, liabilities (contingent or otherwise), prospects, cash flow, income or business operations of such business (a "Material Adverse Effect"), taken as a whole, has occurred or shall occur as a result of the entering into of this Agreement or the performance of Grantor's obligations hereunder.
- 5.7 No action, suit, investigation, arbitration or proceeding by any Person or before any regulatory authority or Governmental Authority is pending, or, to the knowledge of Grantor, threatened against or affecting Grantor or its business which, individually or in the aggregate, if determined adversely to the interest of Grantor, could have a Material Adverse Effect or which could prevent or materially impede the consummation of the transactions contemplated by this Agreement.

### 6. Convenants of Grantor in Favor of Secured Party

Grantor hereby covenants and agrees with the Secured Party, from and after the Effective Date and during the effectiveness of this Agreement and until the Obligations have been fully and irreversibly paid in full or otherwise fully and irreversibly satisfied, as follows:

6.1 Further Assurances; Authorization to File; Possession: At any time and from time to time, upon the written request of the Secured Party and at the sole expense of Grantor, Grantor shall promptly and duly execute and deliver any and all such further instruments and documents and take such further actions as the Secured Party may deem desirable to obtain the full benefits of this Agreement and of the rights and powers herein granted (including to create and maintain

a first priority perfected security interest in and, as applicable, control of, the Collateral), including, without limitation:

- 6.1.1 filing any financing or continuation or financing change statements with respect to the Security Interest granted hereunder;
- 6.1.2 transferring Collateral to the Secured Party's possession if a Lien on such Collateral can be perfected only by possession.

Grantor also hereby authorizes the Secured Party to file, at any time, any such financing or financing change or continuation statements without the signature of Grantor to the extent permitted by applicable law.

- 6.2 Control of Depositary Account: Upon or promptly following the Effective Date, Grantor shall provide in form and substance satisfactory to the Secured Party, a proof that it effectively granted to the Secured Party full authority to dispose over the Depositary Account.
- 6.3 Maintenance of Records: Grantor shall keep and maintain, at its own cost and expense, satisfactory and complete records of the Collateral.
- 6.4 Limitation on Liens on Collateral: Grantor will not create, permit or suffer to exist, and Grantor will defend the Collateral against, and take such other action as is necessary to remove, any Lien on the Collateral (other than those in favor of the Secured Party), and will defend the right, title and interest of the Secured Party in and to any of Grantor's rights under the Collateral and the priority thereof against the claims and demands of all Persons whomsoever.
- 6.5 Limitations on Disposition: Grantor will not sell, lease, transfer or otherwise dispose of any of the Collateral, or attempt or contract to do so, except as expressly permitted under this Agreement or the terms of any other Loan Document.
- 6.6 Further Identification of Collateral: Grantor will, if so requested by the Secured Party, furnish to the Secured Party, as often as the Secured Party requests, statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may reasonably request, all in such detail as the Secured Party may specify.
- 6.7 Notices: Grantor will advise the Secured Party promptly (upon its knowledge or information), in reasonable detail:
  - 6.7.1 of any Lien (other than those in favor of the Secured Party) or claim made or asserted against any of the Collateral;

- 6.7.2 of the occurrence of any other event which would have a material adverse effect on the Security Interest created hereunder;
- 6.7.3 of updates of any of the schedules to this Agreement to the extent necessary to keep them accurate on an ongoing basis, and
- 6.7.4 of any Event of Default.
- 6.8 No Change in Principal Office, or Merger or Consolidation: Grantor shall not:
  - 6.8.1 change its headquarters, principal business address, mailing address, jurisdiction of incorporation, or name as it appears in official filings in the jurisdiction of its organization unless the Secured Party shall have received at least fifteen (15) days prior written notice thereof and any reasonable action requested by the Secured Party in connection therewith has been completed or taken (including any action to continue the perfection of the Security Interest in favor of the Secured Party in any Collateral),
  - 6.8.2 merge into, amalgamate or consolidate with any other entity except in accordance with the Terms and Conditions,
  - 6.8.3 maintain any Collateral other than in the Depositary Account.
  - 6.8.4 Notification of Depositary: If so requested by the Security Trustee the Grantor will notify the Depositary within 5 Business Days after such request about the Grant of Lien, by sending a notice by registered post with return receipt (Einschreiben mit Rückschein), requesting the Depositary to acknowledge receipt of the notification by sending to the Security Trustee an acknowledgement, and provide evidence to the Security Trustee in form of a copy of such signed notification and the respective return receipt (Rückschein) within five Business Days after reception of the receipt.; such notification about, and acknowledgement of, the Grant of Lien can also be made as part of any relevant agreement to which the Depositary is a party;

# 7. Remedies: Rights upon default

7.1 In addition to all other rights and remedies granted to it under this Agreement and any of the other Loan Documents, and under any other instrument or agreement securing, evidencing or relating to any of the Obligations, if any Event of Default shall have occurred and be continuing, the Secured Party may exercise all rights and remedies of a secured party.

- 7.2 Without limiting the generality of the foregoing, Grantor expressly agrees that in any such event the Secured Party
  - 7.2.1 may give notice of sole control or any other instruction permitted and take any action permitted with respect to the Collateral, and
  - 7.2.2 without demand, notice of performance or advertisement or notice of any kind to or upon Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the applicable law), may collect, receive, assemble, process, appropriate and realize upon the Collateral, or any part thereof, and may forthwith sell, lease, assign, give an option or options to purchase, or sell or otherwise dispose of and deliver said Collateral (or contract to do so), or any part thereof, in one or more parcels at a public or private sale or sales (provided, notice thereof shall be provided to Grantor, pursuant to Section 11 hereof, if required thereunder), at any exchange at such prices as it may deem acceptable, for cash or on credit or for future delivery without assumption of any credit risk. The Secured Party shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption, which equity of redemption Grantor hereby releases. Such sales may be adjourned and continued from time to time (and notice thereof shall be provided to Grantor). The Secured Party shall have the right to conduct such sales on Grantor's premises or elsewhere and shall have the right to use Grantor's premises without charge for such time or times as the Secured Party deems necessary or advisable. Grantor acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private.
- 7.3 Grantor further agrees, after the occurrence of an Event of Default, at the Secured Party's request, to assemble the Collateral and all books and records relating thereto (the "Books and Records") and make it available to the Secured Party at places which the Secured Party shall select, whether at Grantor's premises or elsewhere and, permit the Secured Party, by the Secured Party's representatives and agents, to enter, occupy and use any premises where all or any part of the Collateral, or the Books and Records relating thereto, or both, are located, to take possession of all or any part of the Collateral or the Books and Records relating thereto, or both, to remove all or any part of the Collateral or the Books and Records relating thereto, or both, and to conduct

sales of the Collateral, without any obligation to pay Grantor for such use and occupancy. Until the Secured Party is able to effect such a sale, lease, or other disposition of Collateral, the Secured Party shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by the Secured Party. The Secured Party shall have no obligation to Grantor to maintain or preserve the rights of Grantor as against third parties with respect to Collateral while Collateral is in the possession of the Secured Party. The Secured Party may, if it so elects, seek the appointment of a receiver or keeper (each, a "Receiver") to take possession of Collateral and to enforce any of the Secured Party's remedies, without prior notice or hearing as to such appointment.

7.4 Grantor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Obligations, including any attorneys' fees and other expenses incurred by the Secured Party to collect such deficiency.

# 8. Power of Attorney

- 8.1 Grantor hereby irrevocably constitutes and appoints the Secured Party or any officer thereof as its true and lawful attorney, with full power of substitution, to, without having any obligation to do so, execute all documents and take all actions as may be necessary or desirable to perform any obligations of Grantor arising pursuant to this Agreement, including, without limitation, performing or paying any obligation which Grantor has agreed in this Agreement to perform or pay, and in executing such documents and taking such actions, to use the name of Grantor whenever and wherever it may be considered necessary or expedient, and Grantor agrees to reimburse the Secured Party on demand for any payment made or any expense incurred by the Secured Party in connection with the foregoing; provided, that, this authorization shall not relieve Grantor of any of its obligations under this Agreement or any other Loan Documents.
- 8.2 These powers are coupled with an interest, are irrevocable until all of the Obligations have been repaid in full and this Agreement is terminated.
- 8.3 Nothing contained in this Section 7 (or otherwise) shall impose any duty upon the Secured Party or any of its affiliates, officers, directors, employees, agents or representatives to exercise (or preserve) any powers granted herein, and be liable for any failure to do so or for any delay in doing so.

#### 9. Reinstatement

- 9.1 This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time, payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a "voidable preference" or otherwise, all as though such payment or performance had not been made.
- 9.2 In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

# 10. Benefit of the Secured Party

All Security Interests granted or contemplated hereby and the trust hereby created shall be for the benefit of the Secured Party, and all proceeds or payments realized from Collateral in accordance herewith shall be applied to the Obligations as determined by the Secured Party in its sole and absolute discretion.

### 11. Expenses

- 11.1 Grantor shall pay upon demand to the Secured Party all properly incurred expenses, including legal, accounting, Receiver's and agent's fees and disbursements (if any), which the Secured Party has incurred in connection with
  - 11.1.1 the exercise, enforcement, or protection of any of the rights of the Secured Party hereunder (including, the preservation of, or the sale of, collection from, or other realization of, the Collateral), or
  - 11.1.2 the failure of Grantor to perform or observe any of its covenants herein.
- 11.2 The covenant in this Section 8 shall survive the payment of the Obligations.

### 12. Notice of sale; Waiver

12.1 The Secured Party shall give Grantor not less than ten (10) days' prior notice of the time and place of any public sale or the time after which any private sale

or other disposition of all or any part of the Collateral may be made (and/or adjourned to).

12.2 To the maximum extent permitted by applicable law, Grantor waives all claims, damages, and demands against the Secured Party arising out of the repossession, retention or sale of the Collateral, except such as arise solely out of the gross negligence or wilful misconduct of the Secured Party as finally determined by a court of competent jurisdiction; provided, that, in no event shall the Secured Party be liable for any punitive, exemplary, indirect or consequential damages. Except as otherwise specifically provided in this Agreement with respect to specific notice requirements, to the maximum extent permitted by applicable law, Grantor hereby waives presentment, demand, protest or any notice of any kind in connection with the enforcement of the Security Interest under this Agreement by the Secured Party.

#### 13. Term

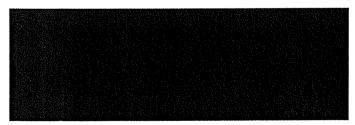
The term of this Agreement shall continue until either

- 13.1 the Obligations are paid in full or
- 13.2 the Holders' Representative shall direct the Secured Party to terminate this Agreement and both the Grantor and the Secured Party shall agree in writing to terminate this Agreement, with the Secured Party acting upon such written direction of the Holders' Representative.

### 14. Notices

All notices, demands and other communications provided for or permitted hereunder shall be made in writing (including facsimile or e-mail communication) and shall be sent by overnight courier service, personal delivery, facsimile or e-mail (or in such other manner as the Parties may agree in writing in the case of postal strike, war, environmental catastrophe or similar occurrence):

if to Grantor:



if to the Secured Party:



All such notices and communications shall be deemed to have been duly given: if delivered by hand, upon personal delivery; if delivered by overnight courier service, two (2) Business Days after delivery to such courier service; and if delivered by facsimile or e-mail, the next Business Day following the transmission.

### 15. Invalidity

The illegality, invalidity or unenforceability of any provision of this Agreement or any omission from this Agreement shall not affect the legality, validity or enforceability of this Agreement or any of its other provisions. Any illegal, invalid or unenforceable provision shall be replaced by the parties hereto by a provision, or any omission shall be rectified by incorporation of a provision, which best achieves the commercial effect that the parties hereto intended thereby. The Pledge shall not be affected by the number and/or denomination of any Pledged Notes being inaccurate or incomplete.

#### 16. Specific performance of certain convenants

Grantor acknowledges and agrees that a breach of any of Grantor's covenants contained in this Agreement will cause irreparable injury to the Secured Party, that the Secured Party has no adequate remedy at law in respect of such breaches and therefore agrees, without limiting the right of the Secured Party to seek and obtain specific performance of other obligations of the Grantor contained in this Agreement, that each of the covenants of the Grantor contained in this Agreement shall be specifically enforceable against the Grantor.

### 17. No waiver; cumulative remedies; entire Agreement

- 17.1 The Secured Party shall not, by any act, delay, omission, or otherwise, be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by the Secured Party and then only to the extent therein set forth.
- 17.2 A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Secured Party would otherwise have had on any future occasion. No failure to exercise nor any delay in exercising on the part of the Secured Party, any right,

power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege.

# 18. Limitation by law

All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

### 19. Waivers and Subrogations

#### 19.1 Waivers of Defences

The Issuer hereby waives all defences (Einwendungen) it may have pursuant to sections 1211 and 770 (1) and (2) of the BGB, including the defences of revocation (Anfechtbarkeit), set-off (Aufrechenbarkeit) and comparable defences under foreign law. The waiver shall not apply to set-off with counterclaims that are uncontested (unbestritten) or based on an unappealable court decision (rechtskräftig festgestellt).

#### 19.2 Immediate Recourse

The Issuer waives any right it may have of first requiring the Security Trustee or any Holder to proceed against or enforce any other rights or security or claim for payment from any person prior to enforcing the rights under this Agreement.

### 20. Termination of the Security Interest

- 20.1 Upon termination of this Agreement as set forth in clause 13, the Collateral shall then be released from the Security Interest created hereby, and the Security Interest shall terminate.
- 20.2 Upon such termination of the Security Interest, and at the request and sole expense of Grantor, the Secured Party shall execute and deliver such documents as Grantor shall reasonably request to evidence such termination.

20.3 If any of the Collateral is sold, leased, transferred or otherwise disposed of by the Grantor in the manner which is expressly permitted under this Agreement or the terms of any other Loan Document, such Collateral shall be released from the Security Interest created hereby.

# 21. Secured Party Entitled to Benefit of Security Trust Agreement

- 21.1 Notwithstanding anything else in this Agreement or in any other Loan Document, in acting hereunder, the Secured Party acts at all times and in all circumstances in accordance with, and with the benefit of the protections set out in, the Security Trustee Agreement. Any reference within this Agreement to the Secured Party providing approval or consent or acting in its discretion or making a request, or to an item or a person or a course of action being acceptable to, satisfactory to, to the satisfaction of or approved by or considered appropriate in the opinion of the Secured Party, are to be construed as references to the Secured Party so acting or refraining from acting or coming to such an opinion or determination on the instructions of the Holders' Representative, and reference in this Agreement to
  - 21.1.1 the Secured Party acting reasonably,
  - 21.1.2 a matter being in the reasonable opinion of the Secured Party,
  - 21.1.3 the Secured Party's approval or consent not being unreasonably withheld or delayed or
  - 21.1.4 any document, report, confirmation or evidence being required to be reasonably satisfactory to the Secured Party, are to be construed as the Secured Party acting on the instructions of the Holders' Representative which is acting reasonably or not unreasonably withholding or delaying their consent (as the case may be).

Where the Secured Party is obliged to consult under the terms of this Agreement, the Secured Party shall carry out that consultation in accordance with the instructions it receives from the Holders' Representative provided that such instructions are in accordance with the terms of the Security Trust Agreement.

### 22. Benefit of the secured party

All Security Interests granted or contemplated hereby and the trust hereby created shall be for the benefit of the Secured Party, and all proceeds or payments realized

from Collateral in accordance herewith shall be applied to the Obligations as determined by the Secured Party in its sole and absolute discretion.

#### 23. Miscellaneous

### 23.1 Changes and amendments

Changes and amendments to and waivers of this Agreement including this Clause 27.1 shall be made in writing (and in notarial form if required by law).

### 23.2 Language of this Agreement

This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, this Agreement shall be interpreted in accordance with German law and where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

#### 23.3 No Waiver

No failure or delay by the Security Trustee and/or the Holders to exercise any right, power or remedy under this Agreement will operate as a waiver thereof nor will any single or partial exercise or waiver of any right, power or remedy. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

### 23.4 Notices and their Languages

All notices, requests, demands or other communications to or upon the respective Parties hereto shall be given or made by letter, fax, email or telephone (later to be confirmed in writing by mail) or by mail to the Party to which such notice, request, demand or other communication is required or permitted to be given or made under this Agreement addressed to the addresses as set out on the signature pages or as each Party informed the respective other Party in writing.

#### 24. Jurisdiction

#### 24.1 Law

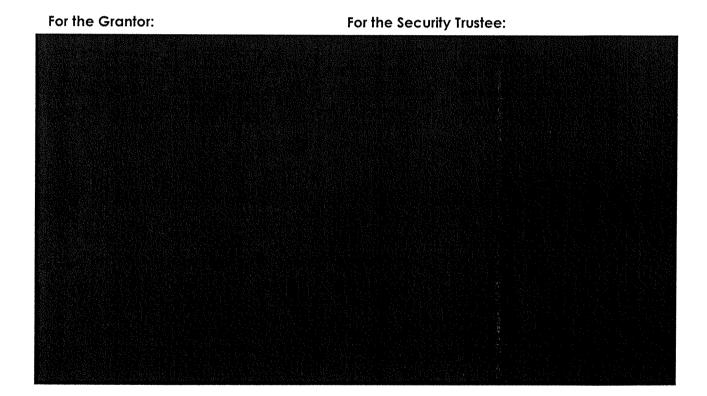
This Agreement (and all non-contractual rights and obligations out of or in connection with this Agreement) shall be governed by and construed in accordance with the laws of the Federal Republic of Germany.

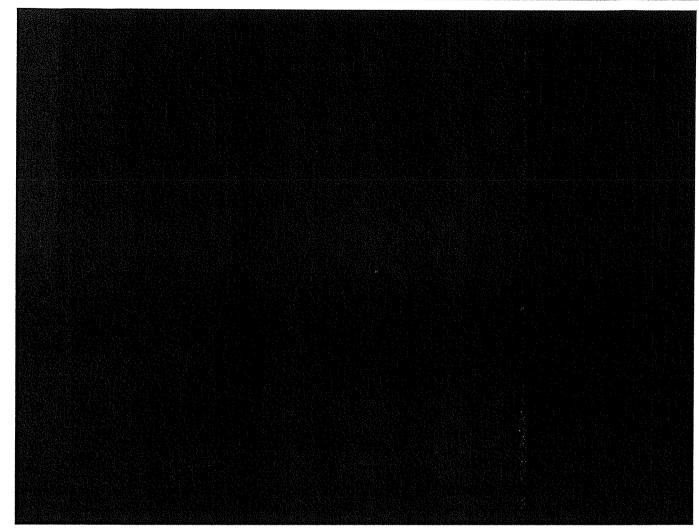
#### 24.2 Jurisdiction

The courts of Frankfurt am Main, Germany have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligations arising out of or in connection with this Agreement.

# 24.3 Benefit of the Security Trustee only

This Clause 24.2 (Jurisdiction) is for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a dispute in any other courts with jurisdiction.





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