



Registration of a Charge

Company name: **STEMCOR DISTRIBUTION LIMITED**

Company number: **00759991**

Received for Electronic Filing: **08/01/2019**



X7WP1HAB

Details of Charge

Date of creation: **07/01/2019**

Charge code: **0075 9991 0042**

Persons entitled: **BRITISH ARAB COMMERCIAL BANK PLC**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **OLIVER JENKINS, SOLICITOR**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 759991

Charge code: 0075 9991 0042

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th January 2019 and created by STEMCOR DISTRIBUTION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th January 2019 .

Given at Companies House, Cardiff on 10th January 2019

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



Companies House



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

DATED 7 JANUARY 2019

- (1) STEMCOR DISTRIBUTION LIMITED
- (2) BRITISH ARAB COMMERCIAL BANK PLC

ASSIGNMENT AGREEMENT

I certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

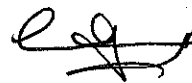

Oliver Jenkins, Solicitor

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DATED 7 JANUARY 2019

PARTIES

- (1) **STEMCOR DISTRIBUTION LIMITED**, a company registered in the United Kingdom with number 00759991, whose registered office is at Longbow House, 4th Floor, 14-20 Chiswell Street, London EC1Y 4TW ("the Assignor")
- (2) **BRITISH ARAB COMMERCIAL BANK PLC**, a company registered in England and Wales with registered number 01047302 whose registered office is at 8-10 Mansion House Place, London EC4N 8BJ (the "Bank")

INTRODUCTION

In consideration of the Bank from time to time granting or continuing to make available to the relevant borrower(s) loans or advances or other banking or credit facilities or by way of the issue of guarantees, bonds or indemnities, the acceptance or discount of bills or in respect of documentary credits, standby letters of credit or other credits or any instruments whatsoever from time to time under a facility letter agreement entered or to be entered into between, among others, the Assignor and the Bank (the "**Facility Agreement**") or pursuant to any other document or arrangement, the Assignor hereby irrevocably and unconditionally agrees as follows:

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Assignment Agreement:

"**Assigned Assets**" means all the assets and undertaking of the Assignor which from time to time are the subject of the security created or expressed to be created in favour of the Bank by or pursuant to this Assignment Agreement.

"**Collateral Rights**" means all rights, powers and remedies of the Bank provided by or pursuant to this Assignment Agreement or by law.

"**Commodities**" means any product, good, merchandise, produce, stock or other thing as approved by the Bank in writing from time to time and which are the subject of any utilisation of any Bank facility or in connection with which any such utilisation is to be used (in whole or in part) and "**Commodity**" means any of them.

"**Contracts**" means:

- (a) each Sale Contract;
- (b) each Export L/C;
- (c) each Letter of Indemnity; and
- (d) the rights of the Assignor to receive deliveries of any Commodity under or pursuant to any Purchase Contract.

"Enforcement Event" means:

- (a) immediately upon the Bank's first demand for the payment of all or any part of the Secured Liabilities;
- (b) if the Assignor requests the Bank to exercise any of its powers under this Assignment Agreement;
- (c) if a petition or application is presented for the making of an administration order in relation to the Assignor or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Assignor or files such a notice with the court or any analogous procedure or step is taken in any relevant jurisdiction, upon the expiry of any period allowed by law to contest any of the foregoing; or
- (d) an Obligor fails to comply with any requirement to maintain any cash cover or other acceptable security required by any Finance Document or other document.

"Export L/C" means each letter of credit opened in favour of the Assignor by an acceptable international bank covering the sale of Commodity in form and substance satisfactory to the Bank.

"Finance Document" has the meaning given to it in the Facility Agreement.

"Letter of Indemnity" means a letter of indemnity, guarantee or other assurance against financial loss issued in favour of, or for the account of, the Assignor by or on behalf of the seller of any produce or goods the subject of a Contract (the **"Seller"**) in respect of any or all losses, costs, charges, expenses, liabilities, claims and demands which may be incurred by or made against the Assignor as a consequence of payment being made by or for the account of the Assignor to or for the account of the Seller in respect of such produce or goods in circumstances where no bill of lading or other document of title relating thereto shall have been delivered to or to the order of the Assignor, and includes any amendment or supplement thereto from time to time.

"Notice of Assignment" means a notice of assignment in substantially the form set out in part 1 of the Schedule or in such form as may be specified by the Bank.

"Party" means a party to this Assignment Agreement.

"Purchase Contract" means each purchase contract (in form and substance satisfactory to the Bank) entered or to be entered into by the Assignor from time to time for the purchase by the Assignor of the relevant Purchase Goods.

"Purchase Goods" means the Commodity purchased or to be purchased by the Assignor under the Purchase Contracts.

"Receiver" means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Assigned Assets and that term will include any appointee made under a joint and/or several appointment.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;

- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

"Sale Contract" means each sale contract (in form and substance satisfactory to the Bank) entered or to be entered into by the Assignor from time to time for the sale by the Assignor of the relevant Sale Goods.

"Sale Goods" means the Commodity sold or to be sold by the Assignor under the Sale Contracts.

"Secured Liabilities" means all obligations due, owing or incurred to the Bank by the Assignor pursuant to any Finance Document, whether present or future, actual or contingent (and whether incurred by each such party alone or jointly, and whether as principal or surety or in some other capacity) together with all interest and other amounts accruing thereon.

"Security" means a mortgage, charge, pledge, lien, or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

1.2 Construction

- (A) Terms defined in the Facility Agreement shall, unless defined in this Assignment Agreement, have the same meaning in this Assignment Agreement.
- (B) Schedule 3 (*Interpretation*) of the Facility Agreement shall apply to this Assignment Agreement as if set out here in full save that references in those provisions to "this letter" or an "Obligor" shall be construed as references to "this Assignment Agreement" and "the Assignor", respectively.
- (C) Headings are for ease of reference only and shall not affect the construction of this Assignment Agreement.
- (D) The security constituted and/or evidenced by this Assignment Agreement shall not be affected by any change in the constitution nor the merger, reconstruction or other reorganisation of the Bank or by any change in the ownership or control of the Bank or all or any part of its undertaking.
- (E) It is intended that this document takes effect as a deed notwithstanding that a party may only execute this document under hand.

1.3 Third Party Rights

A person who is not a party to this Assignment Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Assignment Agreement.

2. PAYMENT OF SECURED LIABILITIES

2.1 Covenant to Pay

The Assignor covenants with the Bank that it shall on demand of the Bank discharge the Secured Liabilities when they fall due for payment.

2.2 Interest on Demands

If the Assignor fails to pay when due any amount payable by it, it must immediately on demand by the Bank pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment. Interest on an overdue amount shall be calculated by reference to successive interest periods (as selected by the Bank in its discretion) and at the Default Rate. Any interest that is not paid on its due date will be capitalised and compound interest at the Default Rate will be charged on it at the end of the applicable interest period (but will remain immediately payable). "Default Rate" means the rate determined by the Bank to be 7% per annum above its Cost of Funds.

3. ASSIGNMENT AND CHARGE

3.1 Assignment

The Assignor assigns and agrees to assign absolutely with full title guarantee, subject to Permitted Security, to the Bank as a continuing security for the payment and discharge of the Secured Liabilities all the Assignor's right, title and interest from time to time in and to each of the Contracts that the Bank may notify to the Assignor from time to time, together with all Related Rights.

3.2 Charge

The Assignor charges with full title guarantee, subject to Permitted Security, to the Bank as a continuing security for the payment and discharge of the Secured Liabilities by way of first fixed charge all the Assignor's right, title and interest from time to time in and to the receivables or proceeds under each of the Contracts not notified to the Assignor by the Bank under Clause 3.1 (*Assignment*) above.

4. FURTHER ASSURANCE

4.1 Perfection of Security

The Assignor shall, immediately following the Bank's written request, in respect of any Contract assigned under Clause 3.1 (*Assignment*), deliver to the Bank a Notice of Assignment duly executed by, or on behalf of, the Assignor in respect of each Contract and shall use reasonable endeavours to ensure that each notice is acknowledged by the relevant counterparty, issuing bank or other party within five days of the date of such notice in terms set out in part 2 of the Schedule.

4.2 Further Assurance: General

The Assignor shall promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices, delivery orders and other documents and instructions) as the Bank may reasonably specify (and in such form as the Bank may reasonably require in favour of the Bank or its nominee(s)):

- (A) to perfect the security created or intended to be created in respect of the Assigned Assets (which may include the execution by the Assignor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Assigned Assets) or for the exercise of the Collateral Rights;
- (B) to confer on the Bank security over any property and assets of the Assignor located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to this Assignment Agreement; and/or

(C) to facilitate the realisation of the Assigned Assets.

5. NEGATIVE PLEDGE AND DISPOSALS

5.1 Negative Pledge

The Assignor undertakes that it shall not, at any time during the subsistence of this Assignment Agreement, create or permit to subsist any Security over all or any part of the Assigned Assets other than Permitted Security and Security given in favour of the Bank and other Security (if any) expressly permitted pursuant to the Facility Agreement.

5.2 No Disposal of Interests

The Assignor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Assignment Agreement, except as may be agreed with the Bank:

- (A) dispose of (or execute any conveyance, transfer, lease, declaration of trust or assignment of, or other right to use or acquire) all or any part of the Assigned Assets; or
- (B) create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Assigned Assets (for the avoidance of doubt, excepting any Permitted Security).

6. ENFORCEMENT OF SECURITY

6.1 Enforcement

Upon or at any time after the occurrence of an Enforcement Event, the security created by or pursuant to this Assignment Agreement is immediately enforceable and the Bank may, without notice to the Assignor or prior authorisation from any court, in its absolute discretion:

- (A) enforce all or any part of that security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Assigned Assets;
- (B) take-over or institute (if necessary using the name of the Assignor) all such proceedings in connection with the Assigned Assets as the Bank in its absolute discretion thinks fit;
- (C) appropriate all or any part of the Assigned Assets in or towards payment, discharge or satisfaction of all or any part of the Secured Liabilities;
- (D) collect, recover, compromise and give a good discharge for any and all moneys or claims for moneys then outstanding or thereafter arising under any Contract and take any action, make any demand, and exercise any rights available to the Assignor under any Contract; and/or
- (E) whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Assignment Agreement) on mortgagees and by this Assignment Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

6.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Assignment Agreement or to the exercise by the Bank of its right to consolidate all or any of the security created by or pursuant to this Assignment Agreement with any other security in existence at any time or to its power of sale, which powers may be exercised by the Bank without notice to the Assignor on or at any time after the occurrence of an Enforcement Event.

6.3 Application of Proceeds

All monies received or recovered by the Bank or any Receiver pursuant to this Assignment Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Bank (notwithstanding any purported appropriation by the Assignor) in satisfaction of the Secured Liabilities.

6.4 No Liability as Mortgagee in Possession

Neither the Bank nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Assigned Assets or be liable for any loss upon realisation or for any neglect, default or omission (except for gross negligence or wilful misconduct as finally judicially determined by a court of competent jurisdiction) in connection with the Assigned Assets to which a mortgagee or mortgagee in possession might otherwise be liable.

6.5 Extension of Powers

The power of sale or other disposal conferred on the Bank and on any Receiver by this Assignment Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Assignment Agreement.

7. APPOINTMENT OF RECEIVER

7.1 Appointment and Removal

After the occurrence of an Enforcement Event, the Bank may by deed or otherwise (acting through an authorised officer of the Bank), without prior notice to the Assignor:

- (A) appoint one or more persons to be a Receiver of the whole or any part of the Assigned Assets;
- (B) appoint two or more Receivers of separate parts of the Assigned Assets;
- (C) remove (so far as it is lawfully able) any Receiver so appointed;
- (D) appoint another person(s) as an additional or replacement Receiver(s); or
- (E) appoint one or more persons to be an administrator of the Assignor.

7.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 7.1 (*Appointment and Removal*) shall be:

- (A) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (B) for all purposes deemed to be the agent of the Assignor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Bank; and
- (C) entitled to remuneration for his services at a rate to be fixed by the Bank from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

7.3 Statutory Powers of Appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Bank under the Law of Property Act 1925 (as extended by this Assignment Agreement) or otherwise and such powers shall remain exercisable from time to time by the Bank in respect of any part of the Assigned Assets.

8. POWERS OF RECEIVER

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Assignor) have and be entitled to exercise, in relation to the Assigned Assets (and any assets of the Assignor which, when got in, would be Assigned Assets) in respect of which he was appointed, and as varied and extended by the provisions of this Assignment Agreement (in the name of or on behalf of the Assignor or in his own name and, in each case, at the cost of the Assignor):

- (A) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (B) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (C) all the powers and rights of an absolute owner and power to do or omit to do anything which the Assignor itself could do or omit to do; and
- (D) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Assignor) which seem to the Receiver to be incidental or conducive to (1) any of the functions, powers, authorities or discretions conferred on or vested in him or (2) the exercise of the Collateral Rights (including realisation of all or any part of the Assigned Assets) or (3) bringing to his hands any assets of the Assignor forming part of, or which when got in would be, Assigned Assets.

9. CERTAIN PROTECTION FOR THE BANK

9.1 No Liability or Obligation

- (A) The Bank shall not be obliged to make any enquiry as to the nature or sufficiency of any payment received under this Assignment Agreement or to make any claim or take any other action to collect any receivables or to enforce any rights of benefits to

which the Bank may at any time be entitled under this Assignment Agreement.

- (B) The Bank shall not be under any obligation or liability whatsoever in the event of any failure by the Assignor to perform any of its obligations under any Contract and the Assignor shall, notwithstanding this Assignment Agreement, remain liable to perform all its obligations under each Contract.
- (C) In the event of any circumstances whereby further performance of any Contract becomes impossible or is otherwise frustrated, moneys paid to the Bank shall not be recoverable from it.

9.2 Indemnity

The Assignor hereby agrees to indemnify the Bank on demand against all losses, actions, claims, expenses, demands and liabilities of whatever nature now or hereafter incurred by or made against the Bank (in each case, except by reason of the Bank's gross negligence or wilful misconduct as finally judicially determined by a court of competent jurisdiction) for anything done or omitted in the exercise or purported exercise of the powers contained in this Assignment Agreement or occasioned by any breach by the Assignor of any of its obligations hereunder.

10. PROTECTION OF PURCHASERS

10.1 Consideration

The receipt of the Bank or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Assigned Assets or making any acquisition, the Bank or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

10.2 Protection of Purchasers

No purchaser or other person dealing with the Bank or any Receiver shall be bound to inquire whether the right of the Bank or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Bank or such Receiver in such dealings.

11. POWER OF ATTORNEY

11.1 Appointment and Powers

The Assignor by way of security irrevocably appoints the Bank and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (A) carrying out any obligation imposed on the Assignor by this Assignment Agreement or any other agreement binding on the Assignor to which the Bank is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Assigned Assets); and
- (B) enabling the Bank and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this

Assignment Agreement or by law (including, after the occurrence of an Enforcement Event, the exercise of any right of a legal or beneficial owner of the Assigned Assets).

11.2 Ratification

The Assignor shall ratify and confirm all things done and all documents executed by any attorney appointed under Clause 11.1 (*Appointment and Powers*) in the exercise or purported exercise of all or any of his powers.

12. EFFECTIVENESS OF SECURITY

12.1 Continuing Security

- (A) The security created by or pursuant to this Assignment Agreement shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Bank.
- (B) No part of the security from time to time intended to be constituted by this Assignment Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Liabilities.

12.2 Cumulative Rights

The security created by or pursuant to this Assignment Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Bank or any Bank may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Bank over the whole or any part of the Assigned Assets shall merge into the security constituted by this Assignment Agreement.

12.3 No Prejudice

The security created by or pursuant to this Assignment Agreement and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Assignor or any other person, or the Bank or by any variation of the terms of the trust upon which the Bank holds the security or by any other thing which might otherwise prejudice that security or any Collateral Right.

12.4 Remedies and Waivers

No failure on the part of the Bank to exercise, or any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right, nor shall any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

12.5 No Liability

None of the Bank, its nominee(s) or any Receiver shall be liable to any person by reason of (1) taking any action permitted by this Assignment Agreement or (2) any neglect or default in connection with the Assigned Assets or (3) taking possession of or realising all or any part of the Assigned Assets, in each of the preceding cases, except for gross negligence or wilful misconduct as finally judicially determined by a court of competent jurisdiction.

12.6 Partial Invalidity

If, at any time, any provision of this Assignment Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Assignment Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this Assignment Agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

12.7 Immediate Recourse

The Assignor waives any right it may have of first requiring the Bank to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Assignor under this Assignment Agreement. This waiver applies irrespective of any law or any provision of this Assignment Agreement to the contrary.

12.8 Waiver of Defences

The obligations of the Assignor under this Assignment Agreement will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Assignment Agreement (without limitation and whether or not known to it or the Bank) including:

- (A) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (B) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of any Obligor;
- (C) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- (E) any amendment (however fundamental) or replacement of a Finance Document or any other document or security or of the Secured Liabilities;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security or of the Secured Liabilities; or
- (G) any insolvency or similar proceedings.

12.9 Deferral of Rights

Until such time as the Secured Liabilities have been discharged in full, the Assignor will not exercise any rights which it may have by reason of performance by it of its obligations under this Assignment Agreement:

- (A) to be indemnified by any Obligor;

- (B) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents or any other document or arrangement; and/or
- (C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bank under the Finance Documents or any other document, guarantee or security taken pursuant to, or in connection with, this Assignment Agreement by the Bank.

13. RELEASE OF SECURITY

13.1 Redemption of Security

Subject to Clause 13.3 (*Discharge Conditional*), below, upon the Secured Liabilities being discharged in full and the Bank not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Assignor or any other person under any of the Finance Documents, the Bank shall, at the request of the Assignor, release and cancel the security constituted by this Assignment Agreement and procure the reassignment to the Assignor of the property and assets assigned to the Bank pursuant to this Assignment Agreement, in each case subject to Clause 13.2 (*Avoidance of Payments*) and without recourse to, or any representation or warranty by, the Bank or any of its nominees.

13.2 Avoidance of Payments

If the Bank considers that any amount paid or credited to the Bank is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Assignor under this Assignment Agreement and the security constituted by this Assignment Agreement shall continue and such amount shall not be considered to have been irrevocably paid.

13.3 Discharge Conditional

Any settlement or discharge between the Assignor and any Bank shall be conditional upon no security or payment to that Bank by the Assignor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Bank under this Assignment Agreement) that Bank shall be entitled to recover from the Assignor the value which that Bank has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

14. SET-OFF

The Assignor authorises the Bank (but the Bank shall not be obliged to exercise such right), after the occurrence of an Enforcement Event, to set off against the Secured Liabilities any amount or other obligation (contingent or otherwise) owing by the Bank to the Assignor and apply any credit balance to which the Assignor is entitled on any account with the Bank in accordance with Clause 6.3 (*Application of Proceeds*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

15. SUBSEQUENT SECURITY INTERESTS

If the Bank at any time receives or is deemed to have received notice of any subsequent security affecting all or any part of the Assigned Assets or any assignment or transfer of the Assigned Assets which is prohibited by the terms of this Assignment Agreement or any other document, all payments thereafter by or on behalf of the Assignor to the Bank shall be treated

as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Liabilities as at the time when the Bank received such notice.

16. ASSIGNMENT

- (A) The Bank may assign and transfer all or any of its rights and obligations under this Assignment Agreement. The Bank shall be entitled to disclose such information concerning the Assignor and this Assignment Agreement as the Bank considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.
- (B) The Assignor may not assign or transfer all or any of its rights or obligations under this Assignment Agreement.

17. DISCRETION AND DELEGATION

17.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Assignment Agreement by the Bank or any Receiver may, subject to the terms and conditions of the Facility Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

17.2 Delegation

Each of the Bank and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Assignment Agreement (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Bank or the Receiver itself.

18. CURRENCY CONVERSION

For the purpose of or pending the discharge of any of the Secured Liabilities the Bank may convert any money received, recovered or realised or subject to application by it under this Assignment Agreement from one currency to another, as the Bank thinks fit; and any such conversion shall be effected at the Bank's spot rate of exchange for the time being for obtaining such other currency with the first currency.

19. GOVERNING LAW

This Assignment Agreement and any non-contractual rights arising out of it are governed by English law.

20. ENFORCEMENT

20.1 Jurisdiction

- (A) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Assignment Agreement (including a dispute regarding the existence, validity or termination of this Assignment Agreement or the consequences of its nullity) (a "**Dispute**").
- (B) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

- (C) This Clause 20.1 is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

20.2 Waiver of Immunity

- (A) To the extent that the Assignor may now or hereafter be entitled, in any jurisdiction in which proceedings may at any time be commenced with respect to this Assignment Agreement, to claim for itself or in respect of any of its present or future assets any immunity (sovereign or otherwise) from suit, jurisdiction of any court, attachment prior to judgment, attachment in aid of execution of a judgment, execution of a judgment or from set-off, banker's lien, counterclaim or any other legal process or remedy with respect to its obligations under this Assignment Agreement and/or to the extent that in any such jurisdiction there may be attributed to the Assignor, any such immunity (whether or not claimed), the Assignor to the fullest extent permitted by applicable law irrevocably agrees not to claim, and hereby to the fullest extent permitted by applicable law waives, any such immunity.
- (B) The Assignor consents generally in respect of any proceedings to the giving of any relief or the issue of any process in connection with such proceedings including the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such proceedings.

THIS ASSIGNMENT AGREEMENT has been entered into on the date stated at the beginning and has been executed as a deed by the Assignor and is delivered by it on the date specified above.

SCHEDULE

Part 1 Form of Notice of Assignment

To: [Buyer] [Issuing Bank]

From: [Assignor] [British Arab Commercial Bank plc]

Date

Dear Sirs

Assignment of [Contract] dated [***] (the "Contract")

1. We hereby give you notice that by an assignment agreement dated [***] (the "Assignment Agreement") [***] (the "Assignor") assigned to British Arab Commercial Bank plc of 8-10 Mansion House Place, London EC4N 8BJ (the "Bank") by way of security and by way of first priority legal assignment and with full title guarantee all its rights, title and interest in [Contract] (the "Document[s]").
2. We hereby request that, upon receipt of this notice, you sign and return the attached acknowledgement to the Bank and the Assignor.
3. Without prejudice to the foregoing it is confirmed that:
 - (A) notwithstanding the Assignment Agreement, you may continue to treat the Assignor as entitled to exercise and enforce all rights, discretions and remedies under or in respect of the Document[s] unless and until you are notified by or on behalf of the Bank that the security created by the Assignment Agreement has become enforceable;
 - (B) upon receiving such notification, you shall thereafter treat the Bank as the only person entitled to exercise and enforce all such rights, discretions and remedies; and
 - (C) notwithstanding the Assignment Agreement or any such notification, the Assignor shall remain liable to observe and perform all of the obligations and liabilities expressed to be assumed by us under or pursuant to the Document[s] and the Bank is not liable to observe or perform any of such obligations or liabilities nor is the Bank liable for any consequences of any failure to observe or perform any of the same.
4. We hereby irrevocably instruct you to pay, until you are notified in writing by us to the contrary, all amounts payable to the Assignor with respect to the Document[s] to the Assignor's account at the Bank No. [***] designated [***] or to such other account or accounts and/or bank or banks as may from time to time be notified to you by the Bank.
5. Except as provided in this Notice, you may continue to deal with the Assignor for all purposes in relation to the Document[s] until such time as you receive written notice from the Bank advising you otherwise. Thereafter, the Bank may exercise all of the Assignor's rights and powers under the Document[s], including, without limitation, the right to direct the handling and delivery of products held by you at the date of such notice and at any time thereafter.

6. You may disclose to the Bank such information as the Bank may request in relation to the Assignor's dealings with you under the Document[s] and you may supply the Bank with such documents and such information as the Assignor would be entitled to thereunder.
7. The authorities and instructions set out in this Notice cannot be revoked or varied by the Assignor.
8. No amendment or modification or extension of time for payment or release of security or cancellation or termination of the Document[s] shall be effective without the express written consent of the Bank.
9. **Action by you**

Please sign and return the enclosed copy of this Notice in order to:

- (1) acknowledge receipt of this Notice; and
- (2) record your agreement to, and confirmation of, the matters set out in the Acknowledgement of Notice.

The duly signed copy should be sent to:

British Arab Commercial Bank plc
8-10 Mansion House Place
London EC4N 8BJ

Attention: Commodity Finance
Fax No: +44 (0) 207 648 7774

10. This notice (and any non-contractual obligations arising from or in connection with it) shall be governed by and construed in accordance with English law.

Yours faithfully,
For and on behalf of

[British Arab Commercial Bank plc]¹
[insert name of the Assignor]

Name:

Title:

¹ Delete as appropriate

SCHEDULE

Part 2

Form of Acknowledgement Notice of Assignment

[LETTERHEAD OF BUYER/ISSUING BANK]

To: British Arab Commercial Bank plc
8-10 Mansion House Place
London EC4N 8BJ

(the "Bank")

Cc: The Assignor

Date

Dear Sirs,

Assignment of [Contract] (the "Contract")

1. We hereby acknowledge receipt of the Notice of Assignment [***] from yourselves notifying us that pursuant to a Assignment Agreement dated [***] (the "Assignment Agreement") [***] (the "Assignor") has assigned to you by way of security and by way of first priority legal assignment and with full title guarantee of all of the Assignor's rights, title and interest in and to the Document[s] (as defined in the Notice of Assignment Agreement).
2. We hereby confirm that we agree to and accept the terms on which such assignment is made as set out in the Assignment Agreement and that:
 - (a) The Document[s] is in full force and effect and no amendments, modifications or variations have been made to it, or waiver agreed in respect of it, from and after the dates on which it was signed;
 - (b) as at today's date, the Assignor is not in default of or with respect to the Document[s];
 - (c) we will give you notice of any breach of the Document[s] as soon as we become aware of the same;
 - (d) we have not, as at today's date, received:
 - (i) any other notice of assignment or encumbrance in respect of any of the Assignor's rights, title or interest in or to the Document[s]; or
 - (ii) any notice that any third party (other than you) has or will have any right or interest whatsoever in or has made or will be making any claim or demand or taking any action whatsoever in respect of any of the Assignor's rights, title or interest in or to the Document[s], and we will notify you upon our receiving any such notice or otherwise becoming aware of such circumstances;
 - (e) [we do not, as at the date hereof, have any claims or demands, rights of counter-claim, rights of set-off or any other equities against the Assignor or any of the Assignor's rights, title or interest in or to the Document[s];]

- (f) we will continue to treat the Assignor as entitled to exercise and enforce all rights, discretions and remedies under or in respect of the Document[s] unless and until we are notified by you or on your behalf that the security created by the Assignment Agreement has become enforceable;
 - (g) upon receiving such notification, we will thereafter treat you as the only person entitled to exercise and enforce all such rights, discretions and remedies and shall act in accordance with any instructions that you give to us;
 - (h) you are not liable to observe or perform any of the obligations and liabilities expressed to be assumed by the Assignor under or pursuant to the Document[s] nor will you be liable for any consequences of any failure to observe or perform any of the same;
 - (i) [for so long that we remain under any obligation under the Document[s] we will not terminate the Document[s] or concur in the termination, amendment, modification or waiver of, the Document[s] without your prior written consent;] and
 - (j) [if any event occurs which would permit us to exercise any right against the Assignor to cancel, terminate, repudiate or surrender the Document[s] we will (i) promptly upon becoming aware of it, give you written notice of the same; (ii) not to take steps to exercise such right within 60 days' notice; and (iii) accept for the purposes of the Document[s] your performance of obligations falling due under the Document[s] within a 60 day period as adequate remedy of the breach or other event giving rise to such right. We will accept and execute any novation of the Contract in favour of an alternative party to the Assignor for deliveries of [relevant goods or produce] under the Document[s].
3. We hereby irrevocably and unconditionally agree that we will pay any sums due from us to the Assignor under or pursuant to the Document[s] without set-off or deduction to the credit of the Assignor's account [] at the Bank designated [] or to such other account at such other bank or financial institution as the Bank may from time to time in writing so direct.

This letter shall be governed by, and construed in accordance with, the laws of England.

Yours faithfully,

For and on behalf of

[Name of entity]

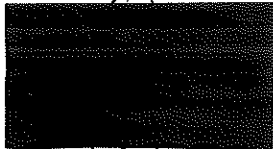
Name: [***]

Title: [***]

EXECUTED as a deed on behalf of
STEMCOR DISTRIBUTION LIMITED
by


Director, Mr. Julian Verden

Witnessed by:



✓ FAYYAZ RABBANI
SECURITY OFFICER

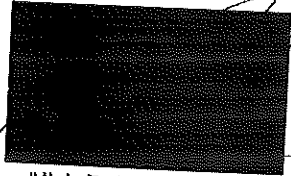
SIGNED by

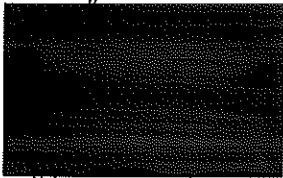
WARD SECURITY, 12 APOLO ST, LONDON EC2A 2AW

BRITISH ARAB COMMERCIAL BANK PLC

By:

Title:


Nick Robson
Director
Commodity Finance


✓ JOHN PENN
HEAD OF PRODUCTS