



Registration of a Charge

Company name: **THE DOROTHEA LAKES LTD**

Company number: **02623354**



X7FUPTX7

Received for Electronic Filing: **04/10/2018**

Details of Charge

Date of creation: **27/09/2018**

Charge code: **0262 3354 0003**

Persons entitled: **MARK BILLINGHAM
ALAN CHATHAM**

Brief description: **FIXED CHARGES OVER ALL LAND AND INTELLECTUAL PROPERTY
OWNED BY THE COMPANY AT ANY TIME**

Contains fixed charge(s).

Contains floating 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:

KATE CLARKE



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2623354

Charge code: 0262 3354 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th September 2018 and created by THE DOROTHEA LAKES LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th October 2018 .

Given at Companies House, Cardiff on 8th October 2018

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: 27 September 2018

- (1) THE COMPANIES LISTED IN SCHEDULE 1 as the Chargors
- (2) MARK BILLINGHAM and ALAN CHATHAM as the Secured Party
-

Debenture and Guarantee

We certify this document as a true copy of the original

Eversheds Sutherland (International)
LLP

Date: 1 October 2018

EVERSHEDS SUTHERLAND (INTERNATIONAL) LLP

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This Deed is made on

27 September

2018 between:

- (1) **THE COMPANIES DETAILED IN SCHEDULE 1** together the "Chargors" and each a "Chargor"; and
- (2) **MARK BILLINGHAM** of The Manor House, Yielding Tree, Broome Nr Stourbridge, West Midlands DY9 0EG and **ALAN CHATHAM** of Yardley House, Yardley Gobion, Northampton, Northamptonshire NN12 7UF (together the "Secured Party").

1. INTERPRETATION

1.1 Definitions

In this Deed:

"Assigned Asset" means any assets expressed to be assigned under Clause 4.3 (*Assignment*).

"Associated Benefits" means, in respect of any asset:

- (a) all monies including (where relevant) all rent, dividends, distributions, profits, compensation, damages, income or interest paid or payable relating to that asset; and
- (b) all Authorisations, rights, benefits, claims or property at any time relating to that asset.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"Book Debts" means, in relation to any Chargor, all book and other debts, revenues and monetary claims of or owing to, or other amounts recoverable or receivable by, that Chargor and any rights or claims of that Chargor in respect of such debts, revenues and monetary claims.

"Business Day" means a day, other than a Saturday or a Sunday, on which banks are open for general business in London.

"Charged Account" means each account listed in Part III of Schedule 2 (*Details of Charged Property*).

"Charged Property" means the assets of each Chargor which from time to time are, or are expressed to be, the subject of any Security created by this Deed.

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

"Event of Default" means any event or circumstance specified as such in Schedule 4 (*Events of default*).

"Finance Document" means each of the Loan Agreement and this Deed.

"Floating Charge Asset" means, at any time, any Charged Property which, at that time, is the subject of the floating charge created by this Deed.

"Insolvency Act" means the Insolvency Act 1986.

"Insurances" means all contracts or policies of insurance of whatever nature.

"Intellectual Property" means (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights,

inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and (b) the benefit of all applications and rights to use such assets of a Chargor (which may now or in the future subsist).

"Investments" means:

- (a) the Specified Shares; and
- (a) all other stocks, shares, bonds, securities or investments.

"Lease" means any lease, underlease, tenancy, licence or other right of occupation to which the Charged Property is from time to time subject together with any related guarantee or other security for the performance of the lessee's obligations

"Loan Agreement" means the loan agreement dated on or about the date of this Deed and entered into between Dorothea Pumped Hydro Limited (company number 10749341) and (2) the Secured Party.

"LPA" means the Law of Property Act 1925.

"Party" means a party to this Deed.

"Real Property" means:

- (a) all estates or interests in any freehold or leasehold property;
- (b) any buildings, fixtures, fittings, fixed plant or machinery at any time situated on or forming part of that property;
- (c) all easements, rights, agreements and other benefits in respect of that property; and
- (d) the benefit of any covenants for title given or entered into by any predecessor in title of a Chargor in respect of that property.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by a Chargor under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

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

"Specified Shares" means any shares specified in Part II of Schedule 2 (*Details of Charged Property*).

"Third Parties Act" means the Contracts (Rights of Third Parties) Act 1999.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Deed to:

- 1.2.1.1 any asset includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;

- 1.2.1.2 a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated or replaced from time to time;
- 1.2.1.3 an account is a reference to that account as re-designated, re-numbered, substituted or replaced from time to time;
- 1.2.1.4 the "**Secured Party**", the "**Company**" and the "**Chargor**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents;
- 1.2.1.5 "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.1.6 a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
- 1.2.1.7 a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulator or other authority or organisation;
- 1.2.1.8 a provision of law is a reference to that provision as amended or re-enacted; and
- 1.2.1.9 a time of day is reference to London time.
- 1.2.2 Where this Deed includes the words "**including**", "**in particular**" or "**or otherwise**" (or similar words or phrases), the intention is to state examples and not to be exhaustive.
- 1.2.3 References to any Security "**created by this Deed**" are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Deed.
- 1.2.4 An Event of Default is "**continuing**" if it has not been remedied or waived.
- 1.2.5 Section, Clause and Schedule headings are for ease of reference only.

1.3 **Incorporation of other terms**

The terms of the other Finance Documents and of any other agreement or document between any of the parties to this Deed are incorporated into this Deed to the extent required to comply with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 **Third party rights**

- 1.4.1 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed.
- 1.4.2 Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

2. GUARANTEE

2.1 Guarantee

Each Chargor irrevocably and unconditionally jointly and severally:

2.1.1 guarantees to the Secured Party punctual performance by each Chargor of the Secured Obligations; and

2.1.2 undertakes with the Secured Party that whenever a Secured Party does not pay any amount arising out of the Secured Obligations, when due, that Chargor shall immediately on demand pay that amount as if it was the principal obligor.

2.2 Continuing guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Chargor pursuant to the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

3. COVENANT TO PAY

Each Chargor, as principal debtor and not just as surety, covenants with the Secured Party to pay or discharge the Secured Obligations in the manner provided for in the Finance Documents.

4. GRANT OF SECURITY

4.1 Mortgage

Each Chargor charges by way of first legal mortgage:

4.1.1 all its Real Property described opposite its name in Part I of Schedule 2 (*Details of Charged Property*); and

4.1.2 all its other Real Property owned by it as at the date of this Deed.

4.2 Fixed charges

Each Chargor charges by way of first fixed charge:

4.2.1 to the extent not effectively mortgaged under Clause 4.1 (*Mortgage*), all its Real Property as at the date of this Deed;

4.2.2 all its Real Property acquired by it after the date of this Deed;

4.2.3 all its plant and machinery, vehicles, computers and other equipment, excluding stock in trade, to the extent not otherwise effectively mortgaged or charged under this Deed;

4.2.4 all its Specified Shares;

4.2.5 its Investments (other than its Specified Shares charged under Clause 4.2.4)

4.2.6 all its:

4.2.6.1 Charged Accounts; and

4.2.6.2 other accounts,

in each case maintained with the Secured Party and all monies (including interest) at any time standing to the credit of such account;

- 4.2.7 all its Book Debts;
- 4.2.8 all its Intellectual Property;
- 4.2.9 all its goodwill and uncalled capital;
- 4.2.10 all rights, benefits and interests under each agreement to which it is party that is not an Assigned Asset and any agreement in, under or to which it has any rights by virtue of the Third Parties Act;
- 4.2.11 to the extent that any Assigned Asset is incapable for any reason of being assigned or is not effectively assigned in each case under Clause 4.3 (*Assignment*), each Assigned Asset; and
- 4.2.12 save to the extent assigned under Clause 4.3 (*Assignment*), all Associated Benefits relating to any of the Charged Property.

4.3 Assignment

Each Chargor assigns by way of security all its accounts maintained with any bank, financial institution or other person (other than the Secured Party) including all monies (including interest) at any time standing to the credit of such account together with all Associated Benefits relating to such Assigned Asset.

4.4 Floating charge

- 4.4.1 Each Chargor charges by way of floating charge all its assets and undertaking not at any time effectively mortgaged, charged or assigned under this Deed or any other Finance Document.
- 4.4.2 Paragraph 14 of Schedule B1 of the Insolvency Act applies to any Security created by this Deed.

4.5 General

All Security created by this Deed:

- 4.5.1 is created in favour of the Secured Party;
- 4.5.2 unless specifically stated otherwise, is created over the present and future assets of the relevant Chargor to the extent of its rights, title and interest in, under and to such assets at any time; and
- 4.5.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4.6 Continuing security

The Security created by this Deed is continuing security for the payment and discharge of the Secured Obligations. The provisions of this Deed will apply at all times:

- 4.6.1 regardless of the date on which any of the Secured Obligations were incurred;
- 4.6.2 notwithstanding any intermediate payment or discharge; and
- 4.6.3 in respect of the full amount of the Secured Obligations at the relevant time even if the amount of the Secured Obligations had previously been less than that amount or had been nil at any time.

5. CONVERSION OF FLOATING CHARGE

5.1 Conversion by notice

The Secured Party may, by notice to a Chargor, crystallise and convert the floating charge created by that Chargor under this Deed into a fixed charge over any or all of that Chargor's Floating Charge Assets if:

- 5.1.1 an Event of Default occurs which is continuing;
- 5.1.2 the Secured Party becomes aware of any intention or proposal to appoint a liquidator, administrative receiver, receiver, administrator or other similar officer in respect of that Chargor or any of its assets; or
- 5.1.3 the Secured Party considers that any Floating Charge Asset is in danger of being seized, or sold under any legal process, or such assets are otherwise in jeopardy.

5.2 Automatic conversion

- 5.2.1 A floating charge created by any Chargor under this Deed will automatically crystallise and convert into fixed charges over the relevant Floating Charge Assets if a liquidator, administrative receiver, receiver, administrator or other similar officer is appointed in respect of that Chargor or any of its assets.
- 5.2.2 No floating charge created under this Deed will automatically crystallise and convert into a fixed charge solely by reason of a moratorium being obtained under section 1A or Schedule A1 of the Insolvency Act (or anything being done with a view to obtaining a moratorium).

6. UNDERTAKINGS

6.1 Negative pledge and restriction on dealing

- 6.1.1 No Chargor may create or permit to subsist any Security over any of its assets.
- 6.1.2 No Chargor may:
 - 6.1.2.1 sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by another Chargor;
 - 6.1.2.2 sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - 6.1.2.3 enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - 6.1.2.4 enter into any other preferential arrangement having a similar effect,

In circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

6.2 Notice of charge or assignment

Each Chargor shall serve notice of each charge or assignment created under this Deed in respect of each of its accounts charged under Clause 4.2.6 (*Fixed Charges*) or assigned under Clause 4.3, by sending a notice substantially in the form of Part I of

Schedule 3 (*Notices*) in the case of any account in respect of which the Secured Party does not have sole signing rights to the person with whom that account is held, in each case on the date of this Deed (in the case of any account existing on the date of this Deed) and on the date of opening any other account (in the case of any account opened after the date of this Deed).

6.3 Acknowledgement of notice of security

Each Chargor shall use all reasonable endeavours to procure that each notice served by it under Clause 6.2 (*Notice of charge or assignment*) is acknowledged by the recipient in the form attached to such notice:

6.3.1 In the case of any notice served on the date of this Deed, on or before the Closing Date; and

6.3.2 In the case of all other notices, within 5 Business Days of service of the notice.

6.4 Charged Property

Each Chargor shall, promptly upon request by the Secured Party at any time:

6.4.1 deposit with the Secured Party all documents of title or other evidence of ownership, together with such deeds, certificates and documents as the Secured Party may require, relating to its Charged Property;

6.4.2 affix to and maintain on such of its plant, machinery, fixtures, fittings, vehicles or other equipment as the Secured Party may require a clearly legible identification plate stating that the asset has been charged to the Secured Party, in a form acceptable to the Secured Party; and

6.4.3 provide the Secured Party with all information it may reasonably request in relation to its Charged Property.

6.5 Real Property Restriction

Each Chargor shall ensure that a restriction in the following terms is entered on the register of the title of its Real Property at the Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE OF DEBENTURE] in favour of [SECURED PARTY] referred to in the charges register, or its conveyancer,"

together with, where applicable, notice of any obligation on the Secured Party to make further advances under the terms of the Finance Documents. Each Chargor shall pay, when due and payable, all fees, costs and expenses incurred in connection with such applications.

6.6 Leases

In addition to clause 6.1.2.1 no Chargor may:-

6.6.1 grant any Lease;

6.6.2 terminate (whether by surrender, forfeiture or otherwise) any Lease;

6.6.3 vary any terms of or waive any rights it has under any Lease; or

6.6.4 agree to any change of use under, or any rent reviews or any concession or reduction of rent in respect of, any Lease; or

6.6.5 consent to any assignment or sub-letting of any lessee's interest (or any assignment of a sub-tenant's interest) under any Lease,

without the Secured Party's prior consent and may not enter into any agreement to do so.

6.7 Investments

6.7.1 No Chargor may:

6.7.1.1 take or permit the taking of any action which may adversely affect the value of its Investments, or prejudice the interests of the Secured Party under any Finance Document, or result in the rights attaching to the Investments being altered or diluted; or

6.7.1.2 except where the Secured Party so requires or permits, nominate another person to enjoy or exercise any of its rights in relation to any of its Investments.

6.7.2 Subject to Clause 6.7.1 (*Investments*) and provided that no Event of Default is continuing, each Chargor may:

6.7.2.1 receive and retain all dividends or other income paid or payable in respect of its Investments; and

6.7.2.2 exercise all voting and other rights attaching to its Investments,

provided that it does so for a purpose not inconsistent with any Finance Document.

6.7.3 While any Event of Default is continuing, each Chargor shall:

6.7.3.1 hold any dividends or other income received in respect of the Investments on trust for the Secured Party and pay such amounts into a separate account or otherwise as the Secured Party may direct; and

6.7.3.2 exercise all voting and other rights attaching to the Investments as the Secured Party may direct.

6.7.4 The Secured Party may, at any time, perfect the Security over any of the Investments created by this Deed. On request, each Chargor shall execute any relevant instruments of transfer and will procure that they are immediately registered in the statutory registers of the relevant company and that share certificates in the name of the Secured Party and its nominee(s) in respect of such Investments are delivered to the Secured Party as soon as reasonably practicable.

6.7.5 At any time when any of the Investments are registered in the name of the Secured Party or its nominee:

6.7.5.1 while no Event of Default is continuing, the Secured Party shall account to the relevant Chargor for any dividends or other income received in respect of the Investments and, subject to Clause 6.7.1 (*Investments*), shall exercise all voting and other rights attaching to the relevant Investments as such Chargor may direct, provided that such directions would not cause the Secured Party to be in breach of any other agreement or obligation or give rise to any liability on the part of the Secured Party; and

6.7.5.2 while any Event of Default is continuing, the Secured Party may retain any dividends or other income and apply the same in

accordance with the terms of the Finance Documents, and exercise or refrain from exercising such voting or other rights attaching to the relevant Investments as it thinks fit.

- 6.7.6 The Secured Party shall have no duty to ensure that any dividends or other amounts are paid or received or to take any action in connection with any distribution rights in respect of any of the Investments.

6.8 Book Debts

Each Chargor shall:

- 6.8.1 promptly collect each Book Debt when due for payment;
- 6.8.2 promptly take and pursue all action necessary to recover any Book Debt which is not paid when due in accordance, if applicable, with any instructions from the Secured Party; and
- 6.8.3 not agree to waive or settle any Book Debt for less than par value, other than with the prior written consent of the Secured Party.

6.9 Intellectual Property

Promptly following the request of the Secured Party, each Chargor shall procure that an entry is made in each relevant public register of its Intellectual Property to record the existence of this Deed and the restrictions imposed by it.

6.10 Further assurance

Each Chargor shall promptly take all such actions, including executing all such documents, notices and instructions in such form as the Secured Party may reasonably require:

- 6.10.1 to create, perfect, protect and (if necessary) maintain the Security created or intended to be created over any of its assets under this Deed or for the exercise of any rights, powers and remedies of the Secured Party provided by or under this Deed or by law or regulation;
- 6.10.2 to confer on the Secured Party security interests in or over any of its assets located in any jurisdiction other than England and Wales equivalent or similar to the Security created or intended to be created by this Deed; and
- 6.10.3 to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this Deed.

6.11 Power to remedy

If any Chargor fails to comply with any of its obligations under this Deed, the Secured Party (or its nominee) may (at the Chargor's expense) take such action as is necessary to protect any assets against the consequences of such Chargor's non-compliance and to ensure compliance with such obligations. The Secured Party is not obliged to perform any obligation of a Chargor nor to take any action which it may be entitled to take under this Deed.

6.12 Power of attorney

- 6.12.1 As security for the performance of its obligations under this Deed, each Chargor irrevocably and severally appoints the Secured Party, each Receiver and each delegate to be its attorney, with full power of substitution.
- 6.12.2 Upon the occurrence of an Event of Default the attorney may, in the name of the relevant Chargor and on its behalf and at its expense, do anything which that Chargor is obliged to do under any Finance Document to which it is a

party but has failed to do or which the Secured Party, Receiver or Delegate may in their absolute discretion consider appropriate in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Charged Property under or otherwise for the purposes of any Finance Document, or any law or regulation.

- 6.12.3 Each Chargor ratifies and confirms anything done by any attorney under this Clause 6.12 (*Power to remedy*). Each Chargor agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses incurred by the attorney as a result of or in connection with anything lawfully done by it under or in connection with this power of attorney.

7. RIGHTS OF ENFORCEMENT

7.1 Secured Obligations deemed payable

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to be due and payable on the date of this Deed.

7.2 When Security enforceable

The Security created by this Deed is enforceable at any time while an Event of Default is continuing.

7.3 Enforcement powers

At any time (a) when the Security created by this Deed is enforceable or (b) following a request by any Chargor, the Secured Party may, without further notice:

- 7.3.1 appropriate, realise or transfer, including to itself or to any person, all or any part of the Charged Property;
- 7.3.2 appoint one or more persons to be a Receiver of all or any part of the Charged Property;
- 7.3.3 appoint an administrator of any Chargor;
- 7.3.4 exercise any of the powers, authorities and discretions conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed; and
- 7.3.5 take such further action as it sees fit to enforce all or any part of the Security created by this Deed.

7.4 Rights in relation to a Receiver

The Secured Party may remove any Receiver appointed under this Deed, appoint another person as Receiver or appoint additional Receivers. Each Receiver will be deemed to be the agent of the Chargor who alone will be responsible for the acts and defaults of the Receiver and for any liabilities incurred by the Receiver. The Secured Party may fix the remuneration of a Receiver which will be payable by the relevant Chargor and form part of the Secured Obligations.

7.5 Redemption of prior Security

Where there is any Security created over any of the Charged Property which ranks in priority to the Security created by this Deed and:

- 7.5.1 the Security created by this Deed becomes enforceable; and
- 7.5.2 the holder of such other Security takes any steps to enforce that Security,

the Secured Party or any Receiver may, at its sole discretion and at the cost and expense of the relevant Chargor, redeem, take a transfer of and repay the indebtedness secured by such other Security. All amounts paid by the Secured Party or a Receiver under this Clause will form part of the Secured Obligations.

7.6 Appropriation of payments

Any appropriation by the Secured Party or a Receiver under this Deed will override any appropriation by the Chargor.

7.7 Financial collateral

7.7.1 To the extent that any of the assets mortgaged, charged or assigned under this Deed constitute "financial collateral" and this Deed constitutes a "financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003) (the "**FC Regulations**") the Secured Party will have the right at any time when such Security is enforceable to appropriate all or any part of that financial collateral in such manner as it sees fit in or towards the satisfaction of the Secured Obligations.

7.7.2 Where any financial collateral is appropriated, its value shall be:

7.7.2.1 In the case of cash, its face value at the time of the appropriation;

7.7.2.2 If the financial collateral is listed or traded on a recognised exchange, the value at which it could have been sold on that exchange at the time of appropriation; and

7.7.2.3 In any other case, the amount reasonably determined by the Secured Party by such process as it may select, including independent valuation,

and the Chargors agree that the method of valuation provided for in this Clause 7.7.2 is commercially reasonable for the purposes of the FC Regulations.

7.8 Demands

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

8. POWERS OF A RECEIVER

8.1 General powers

Any Receiver will have:

8.1.1 the rights, powers, privileges and immunities conferred on receivers, receivers and managers and mortgagees in possession under the LPA;

8.1.2 the rights, powers, privileges and immunities conferred on administrative receivers (whether or not that Receiver is an administrative receiver) under Schedule 1 of the Insolvency Act; and

8.1.3 all other rights, powers, privileges and immunities conferred by law or regulation on receivers, receivers and managers, mortgagees in possession and administrative receivers.

8.2 Specific powers

The rights, powers and remedies provided in this Deed are in addition to any rights powers and remedies under law or regulation. Any Receiver will have the following additional powers:

- 8.2.1 the power to do or omit to do anything which the relevant Chargor could do or omit to do in relation to the Charged Property which is the subject of the appointment;
- 8.2.2 the power to do all other acts and things which the Receiver may consider desirable or necessary for realising any of the Charged Property or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law or regulation; and
- 8.2.3 the power to use the relevant Chargor's name for all the above purposes.

8.3 Variation of statutory powers

The following statutory provisions do not apply to this Deed or any Security created by this Deed:

- 8.3.1 the restriction on the consolidation of mortgages in section 93 of the LPA;
- 8.3.2 the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 of the LPA;
- 8.3.3 the conditions to the exercise of a power of sale in section 103 of the LPA;
- 8.3.4 the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) of the LPA; and
- 8.3.5 the restrictions on the appointment of a receiver in section 109(1) of the LPA and the provisions regarding a receiver's remuneration in section 109(6) of the LPA.

9. APPLICATION OF PROCEEDS

9.1 Order of priority

All amounts received by the Secured Party or a Receiver in connection with the enforcement of the Security created under this Deed will be applied, to the extent permitted by applicable law, in the following order of priority:

- 9.1.1 In discharging any costs and expenses incurred by the Secured Party, any Receiver or any Delegate under or in connection with this Deed or any of the Finance Documents;
- 9.1.2 In or towards discharging the Secured Obligations; and
- 9.1.3 In payment of the surplus (if any) to the relevant Chargor or other person entitled to it.

9.2 Release of Charged Property

If the Secured Party is satisfied that all the Secured Obligations have, subject to Clauses 12.1 (*Reinstatement*) and 12.2 (*Avoidable payments*), been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Obligations terminated, the Secured Party will, at the request and cost of the relevant Chargor, execute such documents and take such steps as may be necessary to release the Charged Property from the Security created by this Deed.

10. PROTECTION OF THIRD PARTIES

10.1 No buyer from, or other person dealing with the Secured Party or a Receiver will be concerned to enquire whether:

10.1.1 any money remains due under the Finance Documents;

10.1.2 any power which the Secured Party or Receiver is purporting to exercise has arisen or become exercisable; or

10.1.3 the Secured Party or any Receiver is validly appointed and acting within its powers in accordance with this Deed.

10.2 The receipt of the Secured Party or any Receiver will be an absolute and conclusive discharge to a purchaser of the Charged Property who will have no obligation to enquire how any monies are applied.

11. PROTECTION OF SECURED PARTY

11.1 No liability as mortgagee in possession

Neither the Secured Party nor any Receiver will be liable to account to any Chargor as mortgagee in possession by reason of entering into possession of any of the Charged Property, or for any cost, loss or liability on realisation, nor for any default or omission for which a mortgagee in possession might be liable.

11.2 Tacking

The Security created by this Deed is intended to secure any further advances which the Secured Party is obliged to make under the Finance Documents.

11.3 Secured Party discretion

No Chargor has any right to control or restrict the Secured Party's exercise of any of its rights, powers or discretions under this Deed.

12. SAVING PROVISIONS

12.1 Reinstatement

If, at any time, there has been a release, settlement or discharge of any of the Chargor's obligations under this Deed and, as a consequence of any insolvency (or analogous) proceedings or for any other reason:

12.1.1 any payment made to any person in respect of any of the Secured Obligations is required to be repaid; and

12.1.2 any Security (or other right) held by the Secured Party in respect of any of the Secured Obligations (whether under this Deed or otherwise) is declared void, is set aside or is otherwise affected,

then the relevant Chargor's obligations under this Deed will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Secured Party's other rights under this Deed) the Secured Party will be entitled to recover from such Chargor the value which the Secured Party has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

12.2 Avoidable payments

If the Secured Party, acting reasonably, considers that any amount paid by any Chargor in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason then for the purposes of this Deed such amount will not be considered to have been irrevocably paid.

12.3 Waiver of defences

The obligations of each Chargor under this Deed and the Security created under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed or the Security created under this Deed (without limitation and whether or not known to it or the Secured Party) including:

- 12.3.1 any time, waiver or consent granted to, or composition with, any Chargor or other person;
- 12.3.2 the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 12.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor or 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;
- 12.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;
- 12.3.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- 12.3.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- 12.3.7 any insolvency or similar proceedings.

12.4 Chargor Intent

Without prejudice to the generality of Clause 12.3 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security created under this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

12.5 Immediate recourse

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

12.6 Appropriations

Until all amounts which may be or become payable by the Chargors under or in connection with the Finance Documents have been irrevocably paid in full, the Secured Party (or any trustee or agent on its behalf) may:

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

12.7 Deferral of Chargors' rights

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

- 12.7.1 to be indemnified by a Chargor;
- 12.7.2 to claim any contribution from any other Chargor or guarantor of a Chargor's obligations under the Finance Documents;
- 12.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Party under the Finance Documents or of any other guarantee or security taken by the Secured Party pursuant to, or in connection with, the Finance Documents;
- 12.7.4 to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity;
- 12.7.5 to exercise any right of set-off against any Chargor; and/or
- 12.7.6 to claim or prove as a creditor of any Chargor in competition with the Secured Party.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Party by the Chargors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Party and shall promptly pay or transfer the same to the Secured Party or as the Secured Party may direct for application in accordance with Clause 9.1 (*Order of Priority*).

13. CHANGES TO THE PARTIES

13.1 Assignment by a Chargor

A Chargor may not assign any of its rights or transfer any of its rights or obligations under this Deed unless the prior written consent of the Secured Party has been obtained.

13.2 Assignment by Secured Party

The Secured Party may not assign, transfer or novate any of its rights or obligations under this Deed unless the prior written consent of the Company has been obtained.

14. COMMUNICATIONS

14.1 **Addresses** - The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed are:

14.1.1 in the case of the Company and the Secured Party those given for each of them, respectively, in the signature pages of this Deed; and

14.1.2 in the case of each Receiver and each Delegate, those notified in writing to the Secured Party by such Receiver or Delegate as soon as practicable after its respective appointment,

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

14.2 **Delivery**

14.2.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective (a) if by way of fax, when received in legible form, or (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address, and, in any case, if a particular department or officer is specified as part of its address details provided under Clause 14.1 (*Addresses*), if addressed to that department or officer.

14.2.2 Any communication or document to be made or delivered to the Secured Party will be effective only when actually received by the Secured Party and then only if it is expressly marked for the attention of the department or officer identified in accordance with the Clause 14.1 (*Addresses*).

14.3 **Notification of address and fax number** - Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 14.1 (*Addresses*) or changing its own address or fax number, the Secured Party shall notify the Company.

14.4 **Communications in writing** - Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

14.5 **English language**

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

14.5.2 All other documents provided under or in connection with this Deed must be in English or, if not in English, and if so required by this Deed, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

15. **COUNTERPARTS**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

16. **GOVERNING LAW**

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

17. JURISDICTION

- 17.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").
- 17.2 The parties to this Deed agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Deed will argue to the contrary.
- 17.3 Clause 17.1 is for the benefit of the Secured Party only. As a result, the Secured Party will not be prevented from taking proceedings relating to a Dispute in any other court with jurisdiction. To the extent allowed by law, the Secured Party may take concurrent proceedings in any number of jurisdictions.

This Deed is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

The Chargors

Company Name	Company number	Jurisdiction
DOROTHEA PUMPED HYDRO LIMITED	10749341	England and Wales
PENYGROES HOLDINGS LIMITED	07925113	England and Wales
THE DOROTHEA LAKES LIMITED	02623354	England and Wales

SCHEDULE 2

Details of Charged Property

Part I

Real Property

Registered Land		
Name of Chargor	Address/description of the Real Property	Title Number

Part II

Shares

Name of Chargor	Name of company whose shares are held	Company number of company whose shares are held	Number and class of shares
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Part III

Bank accounts

Name of Chargor	Name or designation of bank account	Account number	Name of institution and branch at which account held
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SCHEDULE 3

Notices

Part I

Form of notice relating to assigned accounts (Secured Party does not have sole signing rights)

To: [NAME AND ADDRESS OF ACCOUNT HOLDING INSTITUTION] (the "Account Bank")

Dated: [DATE]

Dear Sirs,

Notice of Security

1. We give you notice that, under a debenture dated [DATE] we have [charged/assigned by way of a security] to [SECURED PARTY] (the "Secured Party") all our present and future rights, title and interest in, under and to each account listed below (each an "Account") including all monies (including interest) at any time standing to the credit of such Accounts.

Name of designation of bank account	Account number	Name of institution and branch at which account held
-------------------------------------	----------------	--

2. We may continue to operate each Account unless and until the Secured Party notifies you in writing to the contrary. With effect from the date of such notification, we may not withdraw any further monies from any Account without the prior written consent of the Secured Party to each withdrawal.
3. We therefore irrevocably and unconditionally authorise and instruct you:
 - 3.1 with effect from the date of this notice, to disclose to the Secured Party such information relating to us and each Account as the Secured Party may from time to time reasonably request, including granting the Secured Party access to our online account details and providing copies of all statements, in electronic or paper form; and
 - 3.2 with effect from the date of the notification described in paragraph 2 above:
 - 3.2.1 to hold all monies from time to time standing to the credit of each Account to the order of the Secured Party and accordingly to pay all or any part of those monies to the Secured Party (or as it may direct) promptly following receipt of written instructions from the Secured Party;
 - 3.2.2 to accept any instructions from the Secured Party to change the signatories on the relevant account mandates to persons specified by the Secured Party.
4. This notice and any authority and instructions it contains may only be revoked or amended with the prior written consent of the Secured Party.
5. This notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

6. Please confirm your agreement to the above by signing the enclosed copy of this notice and returning it to the Secured Party (with a copy to us).

Yours faithfully,

.....
for and on behalf of
[CHARGOR]

[To be included on copy notice:]

To: [NAME, ADDRESS AND DEPARTMENT OF SECURED PARTY]

Copy to: [NAME AND ADDRESS OF CHARGOR]

Dated: [DATE]

Dear Sirs

Acknowledgement of notice of security

We acknowledge receipt of the above notice. Terms defined in the notice apply to this acknowledgement. We confirm that we:

1. have not received notice of any other assignment of or charge over any Account and will promptly notify you if we receive any such notice in the future;
2. will comply with the terms of the notice; and
3. will not claim or exercise any right of set-off, counterclaim, lien or right to combine accounts or any other similar right in relation to the monies standing to the credit of any Account.

Yours faithfully,

.....
for and on behalf of
[ACCOUNT BANK]

SCHEDULE 4

Events of default


Each of the events and circumstances set out in this Schedule 4 is an Event of Default:

1. a Chargor fails to pay the Secured Obligations when they fall due;
2. a Chargor fails to comply with, or it becomes unlawful to any extent for a Chargor to perform, any of its obligations under the Finance Documents;
3. any person other than the Secured Party rescinds or repudiates this Deed or purports to do so or shows an intention to do so;
4. there is an event of default (however such event is described) under any other Security over or affecting the Charged Property or any other assets of a Chargor or steps are taken to enforce any such Security;
5. a Chargor is unable or admits inability to pay its debts as they fall due (or is deemed or declared to be unable to pay its debts under any applicable law) or the value of the assets of a Chargor is less than its liabilities (taking into account contingent and prospective liabilities);
6. In respect of a Chargor, any of the following occurs or any person takes or threatens to take any steps which in the reasonable opinion of the Secured Party might give rise to:
 - 6.1 any suspension or re-scheduling of its payments, a moratorium of any of its indebtedness, its dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), or the making of any composition, compromise, assignment or arrangement with any of its creditors; or
 - 6.2 the appointment of an administrator, liquidator, administrative receiver, receiver or receiver and manager or any similar officer in respect of it or any of its assets, or, in any case, an analogous procedure in any jurisdiction (but this paragraph 6.2 does not apply to any winding-up petition which is proved to the satisfaction of the Secured Party to be an abuse of process or to have no real prospect of success and which is, in any event, discharged within seven days of its presentation and before it is advertised); or
7. a Chargor asks the Secured Party to appoint a Receiver; or
8. any part of any Charged Property is compulsorily purchased or the applicable local authority makes an order for the compulsory purchase of all or any part of any Charged Property.

EXECUTION OF DEBENTURE

The Chargers

Executed as a deed by
DOROTHEA PUMPED HYDRO LIMITED
acting by one director in the presence of:

Witness signature: 


Witness name: *R. Herdon*
EVERSHEDS SUTHERLAND
Witness address: (INTERNATIONAL) LLP
115 COLMORE ROW
BIRMINGHAM B3 3AL

Executed as a deed by
PENYGROES HOLDINGS LIMITED
acting by one director in the presence of:

Witness signature: 

Witness name: *R. Herdon*
EVERSHEDS SUTHERLAND
Witness address: (INTERNATIONAL) LLP
115 COLMORE ROW
BIRMINGHAM B3 3AL

Executed as a deed by
THE DOROTHEA LAKES LIMITED
acting by one director in the presence of:

Witness signature: 

Witness name: *R. Herdon*
EVERSHEDS SUTHERLAND
Witness address: (INTERNATIONAL) LLP
115 COLMORE ROW
BIRMINGHAM B3 3AL

Director

Name: *Paul Cairns*

Communications to be delivered to:

Address: *c/o Suzanne Johnson*
Church House
High Street
St Asaph

Fax number: *01772 060*

Attention: *Paul Cairns and Mark Allingham*

Director

Name: *Paul Cairns*

Communications to be delivered to:

Address: *1st floor Bridge House*
25 Fiddlebridge Lane
Hatfield

Fax number: *Hertfordshire*

Attention: *ALIO OSP*
Paul Cairns

Director

Name: *Paul Cairns*

Communications to be delivered to:

Address: *1st floor Bridge House*
25 Fiddlebridge Lane
Hatfield

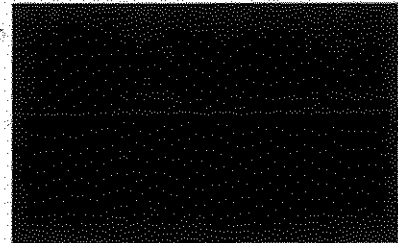
Fax number: *Hertfordshire*

Attention: *ALIO OSP*
Paul Cairns

The Secured Party

Signed as a deed by
MARK BILLINGHAM
in the presence of:

)
)
)



Signature of individual

Witness Signature:

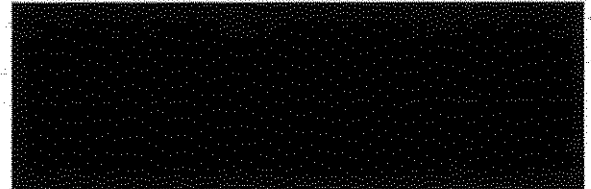


Witness Name: *R. Herdon*

Witness Address: EVERSHEDES SUTHERLAND
(INTERNATIONAL) LLP
115 COLMORE ROW

Signed as a deed by
ALAN CHATHAM
in the presence of:

)
)
)



Signature of individual

Witness Signature:



Witness Name: *R. Herdon*
EVERSHEDES SUTHERLAND

Witness Address: (INTERNATIONAL) LLP
115 COLMORE ROW
BIRMINGHAM B3 3AL