

MR01

Particulars of a charge

191050/23

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A fee is be payable with this form  
Please see 'How to pay' on page 2

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument.

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where the charge is  
instrument. Use form MR08

THURSDAY



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14/09/2017

#74

COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.



You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1

Company details

Company number

0 3 7 0 4 0 3 1

Company name in full

Macquarie Capital (Europe) Limited

For official use

→ **Filling in this form**

Please complete in typescript or in bold black capitals.

All fields are mandatory unless specified or indicated by \*

2

Charge creation date

Charge creation date

d 3 d 0 m 0 m 8 y 2 y 0 y 1 y 7

3

Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees entitled to the charge.

Name

Standard Chartered Bank in its capacity as security agent for the Finance Parties (as defined in the

Name

accompanying copy instrument)

Name

Name

If there are more than four names, please supply any four of these names then tick the statement below.

☐ I confirm that there are more than four persons, security agents or trustees entitled to the charge.



MR01

Particulars of a charge

4

**Brief description**

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

Not applicable

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

**Other charge or fixed security**

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ Yes

☐ No

✓

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ Yes Continue

☐ No Go to **Section 7**

✓

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

**Negative Pledge**

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☐ Yes

☒ No

✓

8

**Trustee statement ①**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

① This statement may be filed after the registration of the charge (use form MR06).

9

**Signature**

Please sign the form here.

Signature

Signature

X *Simmons & Simmons LLP*  
*CJR 14/09/17*

X

This form must be signed by a person with an interest in the charge.



# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Amanda Gardam (044799-00332)

Company name Simmons & Simmons LLP

Address CityPoint

One Ropemaker Street

Post town London

County/Region

Postcode E C 2 Y 9 S S

Country United Kingdom

DX DX Box No 12 Chancery Lane London

Telephone 020 7825 4815



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☒ The company name and number match the information held on the public Register.
- ☒ You have included a certified copy of the instrument with this form.
- ☒ You have entered the date on which the charge was created.
- ☒ You have shown the names of persons entitled to the charge.
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☒ You have given a description in Section 4, if appropriate.
- ☒ You have signed the form.
- ☒ You have enclosed the correct fee.
- ☒ Please do not send the original instrument; it must be a certified copy.



### Important information

**Please note that all information on this form will appear on the public record.**



### How to pay

**A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House.'



### Where to send

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:**

#### For companies registered in England and Wales:

The Registrar of Companies, Companies House, Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

#### For companies registered in Scotland:

The Registrar of Companies, Companies House, Fourth floor, Edinburgh Quay 2, 139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

#### For companies registered in Northern Ireland:

The Registrar of Companies, Companies House, Second Floor, The Linenhall, 32-38 Linenhall Street, Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**



DX



FILE COPY

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3704031

Charge code: 0370 4031 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th August 2017 and created by MACQUARIE CAPITAL (EUROPE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th September 2017.

Given at Companies House, Cardiff on 23rd September 2017



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES





Dated 30 August 2017

## Security Deed

Parties

**Macquarie Capital (Europe) Limited**

**Macquarie Commodities Trading SA**

**Macquarie Commodities Trading US, LLC**

**Macquarie Commodities Trading (Singapore) Pte. Limited**

**Macquarie Commodities Trading Bahamas Ltd**

**Macquarie Commodities Trading Australia Pty Limited, US permanent establishment**

each a Grantor

**Standard Chartered Bank**

as Security Agent

WE CERTIFY THAT THIS COPY INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.	
Simmons & Simmons LLP	
Signed (firm name)	
CJR	14/09/17
Initials of Signatory	Dated (DDMMYY)



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**Deed** dated 30 August 2017

**Parties**

**Macquarie Capital (Europe) Limited** a private limited company incorporated in England and Wales (Company No. 03704031) with registered office at Ropemaker Place, 28 Ropemaker Street, London, EC2Y 9HD, United Kingdom

**Macquarie Commodities Trading SA** a company incorporated in Switzerland with registered office at c/o L&S Trust Services SA, route de Chêne 30A, 1207 Geneva

**Macquarie Commodities Trading US, LLC** a limited liability corporation incorporated in the United States of America with registered office at c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808, United States of America

**Macquarie Commodities Trading (Singapore) Pte. Limited** a company incorporated in Singapore with UEN 201711753C and having its registered office at 10 Marina Boulevard, #17-01 Marina Bay Financial Centre, Singapore 018983

**Macquarie Commodities Trading Bahamas Ltd**, an international business company incorporated and existing under the laws of the Commonwealth of The Bahamas with registered office at H & J Corporate Services Ltd., Ocean Centre, Montagu Foreshore, East Bay Street, Nassau, New Providence, Bahamas

**Macquarie Commodities Trading Australia Pty Limited**, US permanent establishment, a company incorporated in Australia with ACN 620 092 435 with its place of business at Level 1, 9320 Excelsior Boulevard, Hopkins, Minnesota 55343, United States of America,

(each a **Grantor**)

**Standard Chartered Bank** in its capacity as security agent for the Finance Parties of Agency & Trust Operations, UK & Europe, 1 Basinghall Avenue, 5/F, London, EC2V 5DD

(**Security Agent**)

**It is agreed**

**Interpretation**

**1 Definitions and interpretation**

**1.1 Definitions**

In this Deed:

- (1) **Administrative Receiver** means one or more administrative receivers appointed, or to be appointed, under this Deed;



- (2) **Assigned Assets** means those assets which are from time to time the subject of clause 3(2);
- (3) **Charged Assets** means the Fixed Charge Assets and the Floating Charge Assets;
- (4) **Default Rate** means the rate specified in clause 11.3 of the Facilities Agreement;
- (5) **Documentary Rights** means the present and future Rights of a Grantor from time to time under or with respect to:
  - (a) Commodity Hedging Contracts;
  - (b) Eligible Accounts Receivables;
  - (c) proceeds under Insurance Policies (but excluding any of its other rights under those Insurance Policies);
  - (d) Documents Relating to Title; and
  - (e) any analogous assets owned by a Grantor (other than MCEL) which do not meet the eligibility criteria to qualify as Commodity Hedging Contracts, Eligible Accounts Receivables, proceeds under Insurance Policies and Documents Relating to Title,

including, without limitation, all debts (and other proceeds, including letter of credit proceeds) and all other receivables and moneys, claims, returns of premium, awards, benefits and amounts payable by way of damages and judgments that are, or may at any time become, due and owing to that Grantor under or in connection with any such Commodity Hedging Contract, Eligible Accounts Receivables, Insurance Policy or Document Relating to Title,
- (6) **Inventory** means Eligible Inventory owned by a Grantor and all other inventory owned by a Grantor (other than MCEL) from time to time;
- (7) **Enforcement Time** means any time after the occurrence of an Event of Default which is continuing;
- (8) **Facilities Agreement** means the document entitled "Facilities agreement for US\$1,100,000,000 syndicated revolving omnibus facilities" dated on or about the date hereof between, among others, Macquarie Commodities Trading SA, Macquarie Commodities Trading US, LLC, Macquarie Commodities Trading Australia Pty Limited, US permanent establishment, Macquarie Commodities Trading Bahamas Limited, and Macquarie Commodities Trading (Singapore) Pte. Limited as guarantors (the **Guarantors**), the Guarantors and Macquarie Capital (Europe) Limited as borrowers, ABN AMRO Bank N.V., HSBC Bank Australia Limited, Lloyds Bank plc, Standard Chartered Bank, Singapore Branch and Sumitomo Mitsui Banking Corporation Europe Limited as mandated lead arrangers, ABN AMRO Bank N.V. as facility agent, the financial institutions listed in part 2 of schedule 1 of that document as original lenders and the Security Agent as security agent;
- (9) **Fixed Charge Assets** means those assets which are from time to time the subject of clause 3(3), 3(5) and 3(6);
- (10) **Floating Charge Assets** means those assets which are from time to time the subject of clause 3(4);



- (11) **Insolvency Event** means any event described in clause 24.5 (*Insolvency - Obligor*) or clause 24.7 (*Insolvency proceedings - Obligor*) of the Facilities Agreement;
- (12) **Insolvency Legislation** means:
- (a) the Insolvency Act 1986 and secondary legislation made under it; and
  - (b) any other primary or secondary legislation in England from time to time relating to insolvency or reorganisation;
- (13) **Insurance Policy** means an insurance policy over Eligible Inventory obtained and maintained by a Grantor in accordance with clause 23.14 of the Facilities Agreement;
- (14) **Maximum Amount** has the meaning given to it in Clause 9(1) (*Swiss limitation*);
- (15) **Obligations**, in relation to a person, means all present and future obligations or liabilities of any kind of that person from time to time, whether they are:
- (a) to pay money or to perform (or not to perform) any other act;
  - (b) express or implied;
  - (c) present, future or contingent;
  - (d) joint or several;
  - (e) incurred as a principal or surety or in any other manner; or
  - (f) originally owing to the person claiming performance or acquired by that person from someone else;
- (16) **Officer**, in relation to a person, means any officer, employee or agent of that person;
- (17) **Receiver** an Administrative Receiver or a Specific Receiver;
- (18) **Right** means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary;
- (19) **Secured Obligations** has the meaning given to it in the Facilities Agreement;
- (20) **Specific Receiver** means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver;
- (21) **Storage Contract** means a storage contract relating to an Acceptable Storage Facility to which a Grantor is a party which is designated as a Storage Contract by such Grantor and the Security Agent;
- (22) **Swiss Grantor** means Macquarie Commodities Trading SA;
- (23) **Swiss Restricted Obligations** has the meaning given to it in Clause 9(1) (*Swiss limitation*); and
- (24) **Third Parties Act** means the Contracts (Rights of Third Parties) Act 1999;



## **1.2 Interpretation**

Clause 1.2 (*Construction*) of the Facilities Agreement applies as if incorporated into this Deed and in any notice given under or connection with this Deed as if all references in that clause to the Facilities Agreement are a reference to this Deed or the notice.

## **1.3 Facilities Agreement definitions**

Terms and expressions defined in the Facilities Agreement apply in this Deed unless that term or expression is defined in this Deed or the context indicates otherwise.

## **1.4 Parties and third parties**

- (1) The rights expressly conferred on each of the Finance Parties, each Receiver and each Officer of the Security Agent or a Receiver under this Deed are enforceable by each of them under the Third Parties Act.
- (2) No other term of this Deed is enforceable under the Third Parties Act by anyone who is not a party to this Deed.
- (3) The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting:
  - (a) the Rights of the Finance Parties under this Deed without their consent; or
  - (b) the Rights of a Receiver or of an Officer of the Security Agent or a Receiver under this Deed without its consent, but only to the extent that such Receiver or Officer has notified the Security Agent that it intends to enforce that clause at the time of the termination or variation.
- (4) Where this Deed imposes an obligation on a Grantor to do something if required or requested by the Security Agent, it will do so as soon as practicable after it becomes aware of the requirement or request.
- (5) This Deed may be executed in counterparts this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.
- (6) It is intended that this document takes effect as a deed even though the Security Agent may only execute it under hand.

# **Security**

## **2 Payment of Secured Obligations**

- (1) Each Grantor (other than Macquarie Capital (Europe) Limited) will pay or otherwise discharge all Secured Obligations in accordance with the Finance Documents.
- (2) Macquarie Capital (Europe) Limited will pay or otherwise discharge the Secured Obligations owed by it in accordance with the Finance Documents.

## **3 Assignment and Charges**

- (1) The assignment and charges contained in this clause 3:
  - (a) are given to the Security Agent as trustee for the Finance Parties;



- (b) secure the payment and discharge of the Secured Obligations; and
  - (c) are given with full title guarantee.
- (2) Each Grantor assigns absolutely all of the Documentary Rights which it now has and all of the Documentary Rights which it obtains at any time in the future and in any Rights accruing to, derived from or otherwise connected with them excluding, for the avoidance of doubt, all Intellectual Property.
- (3) Each Grantor charges, by way of first fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in the Brokerage Accounts and all balances now or in the future standing to the credit of or accrued or accruing on those accounts excluding, for the avoidance of doubt, all Intellectual Property.
- (4) Each Grantor charges, by way of first floating charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in:
  - (a) the Documentary Rights (to the extent not effectively assigned pursuant to clause 3(2));
  - (b) the Brokerage Accounts (to the extent not effectively charged pursuant to clause 3(3));
  - (c) the Inventory;
  - (d) the Storage Contracts, and
  - (e) for all Grantors (other than MCEL), all its other present and future assets, excluding, for the avoidance of doubt, all Intellectual Property.
- (5) The Security Agent may convert all or part of the floating charge created by the Grantors under clause 3(4) into a fixed charge by giving notice to that effect to the relevant Grantor and specifying the identity of the assets concerned. This may be done on one or more occasion, but only during an Enforcement Time.
- (6) Notwithstanding clause 3(5) if:
  - (a) a Grantor creates or permits to subsist any Security (other than Permitted Security) on, over or with respect to any of the Charged Assets subject to the floating charge, or attempts to do so, or
  - (b) any person carries out, or attempts to carry out, any enforcement or process (including any distress, execution, taking of possession, forfeiture or sequestration) against any of the Charged Assets subject to the floating charge,

the floating charge over the Charged Assets the subject of such Security, enforcement or process shall be deemed to have been automatically converted into a fixed charge, without any notice from the Security Agent to the relevant Grantor, immediately before such event occurs.
- (7) The Security Agent may at any time by notice in writing to the relevant Grantor convert, with immediate effect, any fixed charge referred to in clause 3(5) or 3(6) into a floating charge as regards any property or assets specified in the notice.



## **4 Set-off**

- (1) A Finance Party may set off any matured Secured Obligations due from a Grantor (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to such Grantor, regardless of the place of payment, booking branch or currency of either obligation.
- (2) If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of trading for the purpose of the set-off.
- (3) These Rights are in addition to the Security conferred on the Security Agent under this Deed.

## **5 Perfection**

### **5.1 General action**

- (1) Each Grantor will, at its own expense create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, an asset registry or otherwise), deposit all such documents and do all such other things as the Security Agent may require from time to time in order to:
  - (a) ensure that the Security Agent has an effective:
    - (i) assignment by way of security over the Assigned Assets, subject only to the Permitted Security as the Security Agent has agreed should rank in priority; and
    - (ii) first-ranking fixed charge over the Fixed Charge Assets and an effective first-ranking floating charge over the Floating Charge Assets, subject only to the Permitted Security,save that prior to an Enforcement Time, the relevant Grantor shall not be required to give notice or obtain acknowledgement from any counterparty to an Eligible Accounts Receivable provided it has complied with clause 5.3 below in respect to that Eligible Accounts Receivable; and
  - (b) during an Enforcement Time, facilitate the enforcement of the Security created under this Deed, the realisation of the Assigned Assets, the realisation of the Charged Assets or the exercise of any Rights held by the Security Agent or any Receiver under or in connection with this Deed.
- (2) The scope of clause 5.1(1) is not limited by the specific provisions of the rest of this clause 5 or by any other provision of this Deed.

### **5.2 Storage Facility Tripartite Agreement in respect of Storage Contracts**

If:

- (1) a Grantor has a Right in respect of a Storage Contract on or before the date of the Facilities Agreement, it will procure the third party counterparty to that Storage Contract enter into a Storage Facility Tripartite Agreement in relation to that Storage Contract within ninety (90) days of the first Utilisation Date under the Facilities Agreement; and



- (2) a Grantor acquires a Right after the date of the Facilities Agreement in respect of a storage contract with a storage facility designated as an Acceptable Storage Facility pursuant to clause 40.6 of the Facilities Agreement, it will procure the third party counterparty to that Storage Contract enter into a Storage Facility Tripartite Agreement in relation to that Storage Contract within ninety (90) days of its designation as an Acceptable Storage Facility.

### **5.3 Notice in respect of Eligible Accounts Receivables**

Each Grantor will include, in any commercial invoices relating to its Eligible Accounts Receivables (with the exception of invoices drawn under letters of credit that preclude such text), the following legend:

"The rights and receivables of this invoice have been secured (including by way of assignment) in favour of Standard Chartered Bank acting as security agent for certain lenders under a facilities agreement dated [●] 2017 as amended from time to time. All payments under this invoice should be paid directly to the following account no. [●] maintained by us with Standard Chartered Bank"

### **5.4 Subsequent security**

If a Finance Party receives notice that any Security has been created over the Assigned Assets or the Charged Assets, that Finance Party will be treated as if it had immediately opened a new account for the relevant Grantor, and all payments received by that Finance Party from such Grantor will be treated as if they had been credited to the new account and will not reduce the amount then due from such Grantor to that Finance Party.

### **5.5 Financial Collateral**

The parties to this Deed designate those Charged Assets and Assigned Assets which constitute financial collateral to be under the control of the Security Agent, whether they are the subject of a fixed charge or of a floating charge under this Deed.

## **Enforcement**

## **6 Enforcement**

### **6.1 Time for enforcement**

The Security Agent may immediately enforce this Deed at any time which is an Enforcement Time in any manner it sees fit or as directed by the Secured Parties in accordance with the terms of the Facilities Agreement.

### **6.2 Methods of enforcement**

- (1) The Security Agent may enforce this Deed by:
- (a) appointing a Specific Receiver of assets of a Grantor ;
  - (b) if permitted to do so by the Insolvency Legislation, appointing an Administrative Receiver of a Grantor;
  - (c) receiving the benefit of or selling the Assigned Assets and the Charged Assets, giving notice to any person in relation to the Assigned Assets and the Charged Assets or in any other way it may decide; or



- (d) taking any other analogous action it may decide in any jurisdiction other than England.
- (2) To the extent that the Security created under this Deed arises under a security financial collateral arrangement, the Security Agent shall have the right, at the Enforcement Time to appropriate those Assigned Assets or Charged Assets which consist of financial collateral. On receipt of that notice by the Grantor, the Security Agent will automatically become the absolute owner of that financial collateral, and the Grantor will have no further interest in it. The value of the financial collateral will, as soon as practicable after it has been established, be applied in discharge of the equivalent amount of the Secured Obligations in accordance with clause 7 (*Application of proceeds*). For this purpose, the Security Agent will value the financial collateral as follows:
  - (a) in the case of cash, by reference to its face value received by the Security Agent; and
  - (b) in the case of credit claims, by reference to the amount actually recovered by the Security Agent.

Expressions defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 will have the same meanings in this clause 6.

- (3) A Receiver must be appointed by an instrument in writing, and otherwise in accordance with the Insolvency Legislation.
- (4) The appointment of a Receiver may be made subject to such limitations as are specified by the Security Agent in the appointment.
- (5) If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Security Agent may specify to the contrary in the appointment.
- (6) The Security Agent may remove or replace any Receiver.

### 6.3 Powers on enforcement

- (1) An Administrative Receiver will have the following powers in respect of the Assigned Assets:
  - (a) the powers given to him by the Insolvency Legislation;
  - (b) the powers given to a mortgagee or a receiver by the Law of Property Act 1925, but without the restrictions contained in section 103 of that Act; and
  - (c) the power to do, or omit to do, on behalf of a Grantor, anything which that Grantor itself could have done, or omitted to do, if the Assigned Assets were not the subject of Security and the relevant Grantor were not in insolvency proceedings.
- (2) A Specific Receiver will have the same powers as an Administrative Receiver in respect of the assets over which he is appointed.
- (3) The Security Agent will, if it enforces this Deed itself, have the same powers as an Administrative Receiver in respect of the assets which are the subject of the enforcement.



- (4) Except to the extent provided by law, none of the powers described in this clause 6 will be affected by an Insolvency Event in relation to a Grantor.

#### 6.4 Status and remuneration of Receiver

- (1) A Receiver of a Grantor will be the agent of that Grantor until such Grantor goes into liquidation. He will have no authority to act as agent for the Security Trustee, even in the liquidation of the Grantor.
- (2) The Security Agent may from time to time determine the remuneration of any Receiver.

#### 6.5 Third parties

A person dealing with the Security Agent or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:

- (1) those persons have the power to do those things which they are purporting to do; and
- (2) they are exercising their powers properly.

### 7 Application of proceeds

All money received by the Security Agent or a Receiver under or in connection with the Finance Documents (whether during, or before, enforcement of this Deed) will be held by the Security Agent on trust to apply them at any time as the Security Agent (in its discretion) sees fit in the order provided in clause 30.47 of the Facilities Agreement.

### 8 Contingencies

If all or any part of the Security created under this Deed is enforced at a time when no amount is due under the Finance Documents but any such amount may or will become due, the Security Agent or the Receiver may pay the proceeds of any recoveries effected by it into a suspense account.

### 9 Swiss limitation

- (1) Notwithstanding any provisions contained in this Deed and any and all other Finance Documents, if and to the extent that the Swiss Grantor becomes liable under this Deed and/or any and all other Finance Documents for, or with respect to, obligations of any other Obligor (other than the fully owned direct or indirect subsidiaries of the Swiss Grantor) and if complying with such obligations would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Grantor or would otherwise be restricted under then applicable Swiss law and practice then applicable (the "**Swiss Restricted Obligations**"), then,
  - (i) the aggregate liability of the Swiss Grantor; and
  - (ii) the aggregate use of proceeds from the enforcement of any Security granted by the Swiss Grantor under any Finance Documents,



for Swiss Restricted Obligations shall not exceed the amount of the Swiss Grantor's freely disposable equity at the time it becomes liable in accordance with Swiss law (the "**Maximum Amount**").

- (2) Subject to then applicable Swiss law, the Maximum Amount shall represent the total shareholder equity less the total of:
  - (i) the aggregate share capital;
  - (ii) the statutory reserves (including reserves for its own shares and revaluations), to the extent such reserves cannot be transferred into unrestricted, distributable reserves; and
  - (iii) any freely disposable equity that has to be blocked for any loans, guarantee or security granted by the Swiss Grantor to a direct or indirect shareholder or a direct or indirect subsidiary of such direct or indirect shareholder (save for the Security and/or guarantee granted under the Facilities Agreement).
- (3) If the enforcement of the obligations of the Swiss Grantor under this Deed or any other Finance Document would be limited due to the effects referred to in this clause 9, the Swiss Grantor shall further, to the extent permitted by applicable law and Swiss accounting standards and upon reasonable request by the Facility Agent, (i) write up or sell any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of sale, however, only if such assets are not necessary for the Swiss Grantor's business (*nicht betriebsnotwendig/non necessaires à l'entreprise*) and (ii) reduce its share capital to the minimum allowed under then applicable law, provided that such steps are permitted under the Finance Documents.
- (4) The Maximum Amount shall be determined on the basis of an audited annual or interim balance sheet of the Swiss Grantor and in accordance with then applicable Swiss law. Such limitation shall not free the Swiss Grantor from its obligations in excess of the freely disposable equity, but merely postpone the performance date therefor until such times as performance is again permitted notwithstanding such limitation.
- (5) The Swiss Grantor shall, and any shareholder of the Swiss Grantor which is a party to a Finance Document shall procure that the Swiss Grantor will, take and cause to be taken all and any other action as soon as reasonably practicable but in any event within 60 Business Days from the request of the Facility Agent – including, without limitation, (i) the provision of an audited interim balance sheet, (ii) the provision of a confirmation from the auditors of the Swiss Grantor that a payment of the Swiss Grantor under the Finance Documents in an amount corresponding to the Maximum Amount is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, (iii) the passing of any shareholders' resolutions to approve any payment or other performance under this Deed or any Finance Documents and (iv) the obtaining of any confirmations which may be required as a matter of Swiss mandatory law in force at the time the Swiss Grantor is required to make a payment or perform other obligations under this Deed or any Finance Documents in order to allow a prompt payment, a prompt use of proceeds from security as well as the performance of other obligations under the Finance Documents with a minimum of limitations.
- (6) If so required under applicable law (including double tax treaties) at the time the Swiss Grantor is required to make a payment in respect of Swiss Restricted Obligations under this Deed or any other Finance Document, the Swiss Grantor:
  - (i) shall use its best efforts to ensure that such payments can be made without deduction of Swiss Withholding Tax, or with deduction of Swiss



Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

- (ii) shall deduct the Swiss Withholding Tax (subject to double tax treaties) at the rate (being currently 35% of the date hereof) as is in force at that time from any payment under this Deed or the Finance Documents deemed to be a constructive dividend if the notification procedure pursuant to paragraph (i) above does not apply or shall deduct the Swiss Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to paragraph (a) applies for a part of the Swiss Withholding Tax only; and shall pay within the time allowed any such deducted Swiss Withholding Tax to the Swiss Federal Tax Administration; and
  - (iii) shall notify and provide evidence to the Facility Agent that such notification or, as the case may be, the Swiss Withholding Tax has been paid to the Swiss Federal Tax Administration.
- (7) The Swiss Grantor shall as soon as possible after the deduction of the Swiss Withholding Tax (i) ensure that any person which is, as a result of a payment under this Deed or any other Finance Documents, entitled to a full or partial refund of the Swiss Withholding Tax, is in a position to apply for such refund under any applicable law (including double tax treaties) and (ii) in case it has received any refund of the Swiss Withholding Tax, pay such refund to the Facility Agent upon receipt thereof.
- (8) The limitation set out in this clause 9 shall only apply to the extent it is a requirement under applicable law at the time the Swiss Grantor is required to perform Swiss Restricted Obligations under this Deed or the Finance Documents.

## **10 General undertakings**

- (1) Each Grantor will take all steps as are reasonably necessary to preserve the value of its Charged Assets and its Assigned Assets.
- (2) Each Grantor will notify the Security Agent as soon as it becomes aware of any matter which would reasonably be expected to have an adverse effect on the Rights of the Security Agent under this Deed. Those matters include a claim by any person to an interest in a Charged Asset or an Assigned Asset.
- (3) Each Grantor will provide to the Security Agent:
  - (a) such information about the Charged Assets and the Assigned Assets;
  - (b) such information about the extent to which it has complied with its obligations under this Deed; and
  - (c) copies of such documents which create, evidence or relate to its Charged Assets and its Assigned Assets,

as the Security Agent may from time to time reasonably request.

- (4) If a Grantor does not comply with its obligations under this Deed, the Security Agent may do so on such Grantor's behalf on such basis as the Security Agent may reasonably decide. That Grantor will indemnify the Security Agent on demand against the amount certified by the Security Agent to be the cost, loss or liability suffered by it as a result of doing so.



- (5) If an Event of Default occurs and is continuing, each Grantor shall on demand from the Security Agent:
  - (a) indorse in favour of the Security Agent and deliver to the Security Agent all original bills of lading and any other title documents in relation to any Charged Assets as the Security Agent may require; and
  - (b) *direct all operators of Acceptable Storage Facilities to accept instructions from the Security Agent in relation to the Charged Assets.*
- (6) The entering into and performance by each Grantor of its obligations under this Deed is for its commercial benefit and in its commercial interest.

## **Miscellaneous**

### **11 Duration of the security**

- (1) The Obligations of each Grantor under the Finance Documents and the Security created under this Deed will continue until the Secured Obligations have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.
- (2) If any payment by a Grantor or any other security provider or any release given by the Security Agent (whether in respect of the Secured Obligations or any security for them or otherwise) is avoided or reduced as a result of insolvency or any similar event:
  - (a) the liability of each Grantor under this Deed will continue as if the payment, release, avoidance or reduction had not occurred; and
  - (b) the Security Agent will be entitled to recover the value or amount of that security or payment from each Grantor, as if the payment, release, avoidance or reduction had not occurred.

### **12 Expenses, liability and indemnity**

Without limiting the obligations of the Grantors under clause 17 of the Facilities Agreement:

- (1) *each Grantor jointly and severally shall promptly on demand indemnify the Security Agent, each Receiver and Delegate (and each of their respective officers, agents and employees) against any cost, loss or liability reasonably incurred by any of them as a result of acting as Security Agent, Receiver or Delegate under this Deed or which otherwise relates to any of the Assigned Assets or the Charged Assets (otherwise, in each case, than by reason of the relevant Security Agent's, Officer's, Receiver's or Delegate's fraud, gross negligence or wilful misconduct); and*
- (1) the Security Agent and every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Assigned Assets or the Charged Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in clause 12(1) and shall have a lien on the Assigned Assets or the Charged Assets and the proceeds of the enforcement of the Assigned or the Charged Assets for all moneys payable to it.



## **13 Payments**

- (1) All payments by a Grantor under this Deed will be made in full, without any set-off or other deduction.
- (2) If any tax or other sum must be deducted from any amount payable by a Grantor under this Deed, the Grantor concerned will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.
- (3) All amounts payable by a Grantor under this Deed are exclusive of VAT. Each Grantor will, in addition, pay any applicable VAT on those amounts.
- (4) If a Grantor fails to make a payment to a person under this Deed, it will pay interest to that person on the amount concerned at the Default Rate from the date it should have made the payment until the date of payment (after, as well as before, judgment).
- (5) No payment by a Grantor (whether under a court order or otherwise) will discharge the Obligation of that Grantor unless and until the Finance Parties have received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Finance Parties will have a separate cause of action against the Grantor for the shortfall.
- (6) Any certification or determination by the Security Agent of an amount payable by a Grantor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

## **14 Remedies**

- (1) The Rights created by this Deed are in addition to any other Rights of the Finance Parties against the Grantors or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.
- (2) No failure by a Finance Party to exercise any Right under this Deed will operate as a waiver of that Right. Nor will a single or partial exercise of a Right by a Finance Party preclude its further exercise.
- (3) If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.

## **15 Power of attorney**

- (1) Each Grantor, by way of security, irrevocably appoints each of the Security Agent and any Receiver severally to be its attorney to do anything:
  - (a) which the Grantor is obliged to do (but has not done within the require time period permitted for performance) under this Deed; and
  - (b) at any time which is an Enforcement Time, which the attorney may require to exercise any of the Rights conferred on it by this Deed or by law.



- (2) Each Grantor will indemnify the Security Agent on demand against the amount certified by the Security Agent to be the cost, loss, or liability suffered by the Security Agent when acting as an attorney (otherwise, in each case, than by reason of the Security Agent's fraud, gross negligence or wilful misconduct).

## **16 The Security Agent**

- (1) The Security Agent may be replaced by a successor in accordance with the Facilities Agreement.
- (2) On the date of its appointment, the successor Security Agent will assume all the Rights and Obligations of the retiring Security Agent. However, this does not apply to any Obligations of the retiring Security Agent which arise out of its acts or omissions as Security Agent before the appointment of the successor, in respect of which the retiring Security Agent will continue to have the Obligations imposed by, and the Rights contained in, this Deed and the Facilities Agreement.

## **17 Notices**

Any notice or other communication to a party to this Deed must be given in accordance with clause 35 (*Notices*) of the Facilities Agreement.

## **18 Grantor intent**

Each Grantor 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 any purposes and any fees, costs and/or expenses associated with any of the foregoing.

## **19 Immediate recourse**

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

## **20 Separate and independent obligations**

- (1) Subject to clause (2) below, the Security created by each Grantor by or in connection with any Finance Document is separate from and independent of the Security created or intended to be created by any other Grantor by or in connection with any Finance Document.
- (2) Any reference in this Deed to a "Grantor" in relation to any Charged Asset is, if that Grantor holds any right, title or interest in that Charged Asset jointly with any other Grantor, a reference to those Grantors jointly.

## **21 Law and jurisdiction**

- (1) This Deed and any non-contractual obligations connected with it are governed by English law.



- (2) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).
- (3) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that they will not argue to the contrary.
- (4) Clause 21(2) is for the benefit of the Security Agent only. As a result, the Security Agent will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.
- (5) Without prejudice to any other mode of service allowed under any relevant law, each Grantor (other than Macquarie Capital (Europe) Limited):
  - (a) irrevocably appoints Macquarie Capital (Europe) Limited as its agent for service of process in relation to any proceedings before the courts of England in connection with this Deed; and
  - (b) agrees that failure by a process agent to notify the Grantors of the process will not invalidate the proceedings concerned.

**This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed.**

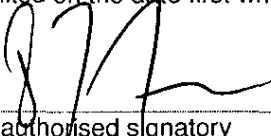


## SIGNATORIES

### The Grantors

#### Macquarie Capital (Europe) Limited

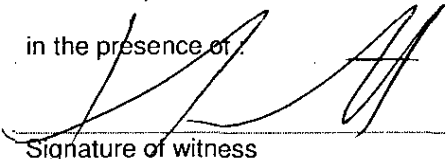
IN WITNESS of which David Fass and Fred Foo, in exercise of the power conferred on them by a power of attorney dated 29 June 2017, have executed this deed on behalf of Macquarie Capital (Europe) Limited on the date first written above:

  
Signature of authorised signatory

DAVID FASS  
Name of authorised signatory (BLOCK LETTERS)


DIRECTOR  
Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

  
Signature of witness

Helen Everitt  
Name of witness (BLOCK LETTERS)

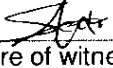
MACQUARIE, 28 ROPEMAKER ST, EC2Y 9HD  
Address of witness

  
Signature of authorised signatory

Frederick Foo  
Name of authorised signatory (BLOCK LETTERS)  
Associate Director

Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

  
Signature of witness

SEETA MARIA  
Name of witness (BLOCK LETTERS)

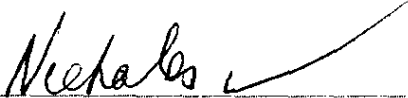
MACQUARIE, 28 ROPEMAKER ST, EC2Y 9HD  
Address of witness



Executed as a deed for and on behalf of

**Macquarie Commodities Trading SA**

by:



Signature of authorised signatory

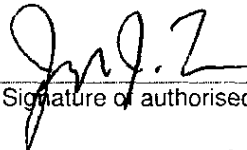
**NICHOLAS O'KANE**

Name of authorised signatory (BLOCK LETTERS)

*Attorney*

~~AUTHORIZED SIGNATORY~~

Capacity of authorised signatory (BLOCK LETTERS)



Signature of authorised signatory

**JOSEPH FORBES**

Name of authorised signatory (BLOCK LETTERS)

*Attorney*

~~AUTHORIZED SIGNATORY~~

Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

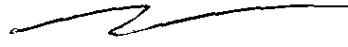


Signature of witness

**NEAL BAKARE**

Name of witness (BLOCK LETTERS)

in the presence of:



Signature of witness

**NEAL BAKARE**

Name of witness (BLOCK LETTERS)

**1041 ROSEPOINT ST, HOUSTON TX**  
Address of witness (BLOCK LETTERS) **77018**

**1041 ROSEPOINT ST, HOUSTON TX**  
Address of witness (BLOCK LETTERS) **77018**



Executed as a deed for and on behalf of

**Macquarie Commodities Trading US, LLC**

by:



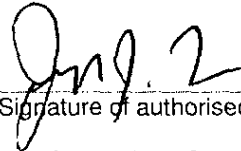
Signature of authorised signatory

Nicholas O'Kane

Name of authorised signatory (BLOCK LETTERS)

Attorney

Capacity of authorised signatory (BLOCK LETTERS)



Signature of authorised signatory


Joseph Forbes

Name of authorised signatory (BLOCK LETTERS)

Attorney

Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:



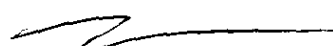
Signature of witness

Neal Bakore

Name of witness (BLOCK LETTERS)

1041 Rosepoint St. Houston TX 77018  
Address of witness (BLOCK LETTERS)

in the presence of:



Signature of witness

Neal Bakore

Name of witness (BLOCK LETTERS)

1041 Rosepoint St, Houston TX 77018  
Address of witness (BLOCK LETTERS)



**Macquarie Commodities Trading (Singapore) Pte. Limited**

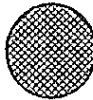
EXECUTED as a DEED )  
for and on behalf of )  
MACQUARIE COMMODITIES TRADING )  
(SINGAPORE) PTE. LIMITED, by )



*Nicholas O'Kane*

(Attorney)

Name: NICHOLAS O'KANE



*Joseph Forbes*

(Attorney)

Name: JOSEPH FORBES



Executed as a deed for and on behalf of

**Macquarie Commodities Trading Bahamas Ltd**

by:

  
\_\_\_\_\_  
Signature of authorised signatory

Nicholas O'Kane  
\_\_\_\_\_  
Name of authorised signatory (BLOCK LETTERS)

Attorney  
\_\_\_\_\_  
Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

  
\_\_\_\_\_  
Signature of witness

Neal Bakare  
\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

1041 Rosepoint St, Houston TX 77018  
\_\_\_\_\_  
Address of witness (BLOCK LETTERS)

  
\_\_\_\_\_  
Signature of authorised signatory

Joseph Forbes  
\_\_\_\_\_  
Name of authorised signatory (BLOCK LETTERS)

Attorney  
\_\_\_\_\_  
Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

  
\_\_\_\_\_  
Signature of witness

Neal Bakare  
\_\_\_\_\_  
Name of witness (BLOCK LETTERS)


1041 Rosepoint St, Houston TX 77018  
\_\_\_\_\_  
Address of witness (BLOCK LETTERS)



Executed as a deed for and on behalf of

**Macquarie Commodities Trading Australia Pty Limited, US permanent establishment**

by:

  
\_\_\_\_\_  
Signature of authorised signatory *Attorney*

Nicholas O'Kane

\_\_\_\_\_  
Name of authorised signatory (BLOCK LETTERS)

*Attorney*

\_\_\_\_\_  
Capacity of authorised signatory (BLOCK LETTERS)

  
\_\_\_\_\_  
Signature of authorised signatory *Attorney*

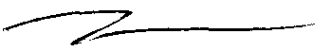
Joseph Forbes

\_\_\_\_\_  
Name of authorised signatory (BLOCK LETTERS)

*Attorney*

\_\_\_\_\_  
Capacity of authorised signatory (BLOCK LETTERS)

in the presence of:

  
\_\_\_\_\_  
Signature of witness


Neal Barkare

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

1041 Rosepoint St, Houston TX 77018

\_\_\_\_\_  
Address of witness (BLOCK LETTERS)

in the presence of:

  
\_\_\_\_\_  
Signature of witness

Neal Barkare

\_\_\_\_\_  
Name of witness (BLOCK LETTERS)

1041 Rosepoint St, Houston TX 77018

\_\_\_\_\_  
Address of witness (BLOCK LETTERS)



**The Security Agent**

**STANDARD CHARTERED BANK**

by:

**Paul Thompson**  
**Global Head of Transaction Management Group**  
**Standard Chartered Bank**

)

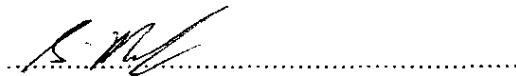
)

)



Authorised signatory

in the presence of:



Name of witness: **SCOTT MASON**

Address: Standard Chartered Bank  
Basinghall Avenue  
London EC2V 5DD