

MR01

Particulars of a charge

048735/221x17

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **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 there is no
instrument Use form MR08

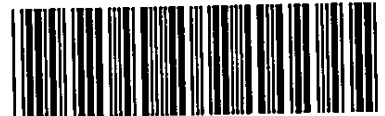
For further information, please
refer to our guidance at
www.companieshouse.gov.uk

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

MONDAY



A35T7QDU

A13

14/04/2014

#147

COMPANIES HOUSE

1 Company details

Company number 0 4 8 5 1 1 7 2

Company name in full Bibby Offshore Limited

22 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 1 m 0 3 y 2 0 y 1 4

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 (the "Security Trustee")

Name

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	Description	Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security	Continuation page Please use a continuation page if you need to enter more details
Description			

5	Fixed charge or fixed security	Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
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6	Floating charge	Is the instrument expressed to contain a floating charge? Please tick the appropriate box <input type="checkbox"/> Yes Continue <input checked="" type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input type="checkbox"/> Yes	
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7	Negative Pledge	Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
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Particulars of a charge

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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 Wentson, Farley & Williams LP X

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

MR01

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name	Emily King/Meryl Rowlands
Company name	Watson, Farley & Williams LLP
Address	15 Appold Street
Post town	
County/Region	London
Postcode	E C 2 A 2 H B
Country	United Kingdom
DX	
Telephone	+44 20 7814 8000



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 £13 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.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

MR01 - continuation page

Particulars of a charge

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Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Description



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4851172

Charge code: 0485 1172 0022

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st March 2014 and created by BIBBY OFFSHORE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th April 2014

Given at Companies House, Cardiff on 23rd April 2014



Companies House



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

P

We hereby certify this document to be a true copy of the original.

Watson, Farley & Williams LLP

Watson, Farley & Williams LLP
15 Appold Street
London EC2A 2HB
United Kingdom

9/4/14

Execution version

Date **31 MARCH** 2014

BIBBY OFFSHORE LIMITED
(as Shareholder)

-and-

STANDARD CHARTERED BANK
(as Security Trustee)

THIRD PRIORITY MORTGAGE OVER SHARES

in respect of two shares of £1 each in Huskisson Shipping Limited

Watson, Farley & Williams
Asia Practice

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THIS MORTGAGE OF SHARES is made on **31 MARCH**

2014

BETWEEN.

- (1) **BIBBY OFFSHORE LIMITED**, a company incorporated in England with registered number 04851172, whose registered office is at 105 Duke Street, Liverpool, L1 5JQ, United Kingdom (the "**Shareholder**"), and
- (2) **STANDARD CHARTERED BANK**, acting through its office at 5th Floor, Basinghall Avenue, London EC2V 5DD (the "**Security Trustee**", which expression includes its successors and assigns)

BACKGROUND

- (A) By a loan agreement dated 13 April 2010 (as amended pursuant to an amendment and restatement agreement dated 26 March 2012) and made between (i) Huskisson Shipping Limited, Rumford Tankers Limited and Bibby North Star Limited as borrowers (the "**Borrowers**"), (ii) the banks and financial institutions listed in schedule 1 thereto as lenders (the "**Lenders**"), (iii) the banks and financial institutions listed in schedule 2 thereto as swap banks (the "**Swap Banks**") and (iv) Standard Chartered Bank as agent and (v) the Security Trustee as security trustee (the "**Original Loan Agreement**"), the Lenders agreed to make available to the Borrowers a facility of up to £36,000,000
- (B) By a loan agreement dated 26 March 2012 (as amended pursuant to a supplemental letter dated **31 MARCH** 2014) and made between (i) Huskisson Shipping Limited, Rumford Tankers Limited and Bibby North Star Limited as borrowers (the "**Polaris Borrowers**"), (ii) the banks and financial institutions listed in schedule 1 thereto as lenders (the "**Polaris Lenders**"), (iii) the banks and financial institutions listed in schedule 2 thereto as swap banks (the "**Polaris Swap Banks**"), (iv) Standard Chartered Bank as agent and (v) Standard Chartered Bank as security trustee (the "**Polaris Security Trustee**") (the "**Polaris Loan Agreement**"), the Polaris Lenders agreed to make available to the Polaris Borrowers a facility of up to £53,000,000 (the "**Polaris Loan**")
- (C) By a further amendment to the Original Loan Agreement pursuant to an amending and restating agreement dated **31 MARCH** 2014 and made between (i) the Borrowers, (ii) the Lenders, (iii) the Swap Banks, and (iv) the Security Trustee (the "**Second Amending and Restating Agreement**"), the Lenders agreed, *inter alia*, to increase the Total Commitments under the Original Loan Agreement by way of an additional tranche, to an amount not exceeding £62,000,000 (the "**Loan**")
- (D) By the Agency and Trust Deed entered into pursuant to the Loan Agreement, it was agreed that the Security Trustee would hold the Trust Property (as defined therein) on trust for the Lenders and the Swap Banks
- (E) By master agreements (each on the 2002 ISDA Multicurrency Crossborder form) made or to be made between Bibby North Star Limited and any Swap Bank, it is or shall be agreed that the relevant Swap Bank shall enter into interest rate swap transactions with Bibby North Star Limited from time to time to hedge Bibby North Star Limited's exposure in relation to part of the Loan to interest rate fluctuations
- (F) By master agreements (each on the 2002 ISDA Multicurrency Crossborder form) made or to be made between the Polaris Owner and any Polaris Swap Bank, it is or shall be agreed that the relevant Polaris Swap Bank shall enter into interest rate swap transactions with the Polaris Owner from time to time to hedge the Polaris Owner's exposure in relation to part of the Polaris Loan to interest rate fluctuations
- (G) In accordance with the terms of the Original Loan Agreement, the Shareholder granted a

mortgage over the Assigned Assets in favour of the Security Trustee dated 13 April 2010 (the **"First Priority Share Security Deed"**)

- (H) In accordance with the terms of the Polaris Loan Agreement, the Shareholder granted a mortgage over the Assigned Assets in favour of the Polaris Security Trustee dated 26 March 2012 (the **"Second Priority Share Security Deed"**)
- (I) It is one of the conditions precedent to the availability of the additional tranche under the Loan Agreement that the Shareholder enter into this Deed as security for the Secured Liabilities
- (J) This Deed supplements the Loan Agreement and is one of the Third Priority Share Security Deeds referred to in the Loan Agreement

IT IS AGREED as follows

1 DEFINITIONS

- 1.1 Defined expressions.** Words and expressions defined in the Loan Agreement shall have the same meanings when used in this Deed (including the Recitals) unless the context otherwise requires

1.2 Definitions In this Deed

"Assigned Assets" means all of the Shareholder's legal and equitable rights in and to the Shares assigned to the Security Trustee pursuant to this Deed,

"Company" means Huskisson Shipping Limited, a company incorporated in England with registered number 03012293 whose registered office is at 105 Duke Street, Liverpool, L1 5JQ, United Kingdom,

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee or any Receiver,

"Derivative Assets" means all dividends, interest and other moneys paid or payable after the date of this Deed on all or any of the Shares and all rights accruing at any time to or in respect of all or any of the Shares (including, without limitation any warrants issued with the Shares, put and call options, pre-emption rights and any proceeds of sale or other realisation of all or any part of the Shares),

"Enforcement Notice" means a notice in writing from the Security Trustee to the Shareholder served at any time after the occurrence of an Event of Default which is continuing stating that the Security Trustee is exercising, or is about to exercise, all or any of its rights and powers under this Deed,

"First Priority Share Security Discharge Date" means the date on which the Security Trustee releases the Shareholder from all of its obligations under the First Priority Share Security Deed,

"Loan Agreement" means the Original Loan Agreement as amended and restated by the Second Amending and Restating Agreement,

"Master Agreements" means any Master Agreement referred to in Recital (E) and includes the Schedules thereto,

"Original Shares" means all the shares details of which are specified in Schedule 1,

"Payment" means, in respect of any Secured Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Secured Liabilities (or other liabilities or obligations),

"Polaris Owner" has the meaning given to the term "Owner" in the Polaris Loan Agreement,

"Second Priority Account Security Discharge Date" means the date on which the Polaris Security Trustee releases the Shareholder from all its obligations under the Second Priority Share Security Deed,

"Security Assets" means the Shares, the Assigned Assets and, subject to Clause 7 1(c), the Derivative Assets which are or may become the subject of this Deed,

"Secured Liabilities" means all liabilities which the Borrowers, the Security Parties or any of them have, at the date of this Deed or at any later time or times, under or in connection with any Finance Document or any Master Agreement or any judgment relating to any Finance Document or any Master Agreement, and for this purpose, there shall be disregarded any total or partial discharge of these liabilities, or variation of their terms, which is effected by, or in connection with, any bankruptcy, liquidation, arrangement or other procedure under the insolvency laws of any country, and

"Shares" means

- (a) the Original Shares, and
- (b) all other shares in the Company from time to time owned in any capacity by the Shareholder during the Security Period,

(and includes all stocks, shares and other securities offered or accruing at any time by way of redemption, bonus, rights, preference or otherwise to the Shareholder in respect of all or any of the Shares or offered in substitution or exchange for all or any of the Shares)

1 3 Application of construction and interpretation provisions of the Loan Agreement. Clauses 1 2 to 1 6 of the Loan Agreement apply, with any necessary modifications, to this Deed

1 4 Construction of certain terms. In this Deed references to

- (a) **"all its rights" and "all of the Shareholder's rights"** means, unless the context otherwise requires
 - (i) the benefit of all covenants, undertakings, representations, warranties and indemnities,
 - (ii) all powers and remedies of enforcement and/or protection,
 - (iii) all rights to receive payment of all amounts assured or payable (or to become payable) and all rights to take such steps as are required to cause payment to become due and payable, and
 - (iv) all causes and rights of action,

in each case in respect of the relevant asset forming part of the Security Assets

- (b) **"full title guarantee"** shall be construed in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 but so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 in respect of the Security Interests created or intended to be created under this Deed do not include

- (i) the words "other than any charges, encumbrances or rights which that person does and could not reasonably be expected to know about" in section 3(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994, and
- (ii) section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994,
- (c) a reference to the "**Security Assets**" includes the proceeds of sale of such Security Assets, and
- (d) references to, or to a provision of, a Finance Document (including the Loan Agreement) or a Master Agreement are references to it as amended or supplemented, whether before the date of this Deed or otherwise, and references to the Secured Liabilities shall be construed accordingly

1.5 Perpetuity period The trusts constituted by this Deed are governed by English law and the perpetuity period under the rule against perpetuities, if applicable to this Deed, shall be the period of one hundred and twenty five years from the date of this Deed

2 GUARANTEE

2.1 Guarantee. The Shareholder unconditionally and irrevocably

- (a) guarantees the due payment of all amounts payable by the Borrowers under or in connection with the Loan Agreement and every other Finance Document and every Master Agreement, and
- (b) undertakes to pay to the Security Trustee on the Security Trustee's demand, any such amount which is not paid by the Borrowers when payable

2.2 No Limit on number of demands. The Security Trustee may serve more than one demand under Clause 2 1

2.3 Covenant to pay expenses etc The Shareholder shall pay all expenses which are stated in this Deed to be payable by the Shareholder to, or recoverable from the Shareholder by, the Security Trustee (or in respect of which the Shareholder agrees in this Deed to indemnify the Security Trustee) at the times and in the manner specified in this Deed

2.4 Covenant to pay default interest The Shareholder shall pay interest on any expenses referred to in Clause 2 3 from the date on which the relevant expense is paid or incurred by the Security Trustee (as well after as before judgment)

- (a) at the rate described in clause 7 2 of the Loan Agreement,
- (b) compounded in accordance with clause 7 6 of the Loan Agreement, and
- (c) on demand

2.5 Pro Tanto satisfaction Every payment which the Borrowers make in accordance with the Loan Agreement in respect of which there is a corresponding liability under this Clause 2 shall pro tanto satisfy that liability

3 GENERAL SECURITY PROVISIONS

3.1 Security Interests

- (a) Each Security Interest created by this Deed is
 - (i) created in favour of the Security Trustee on trust for the Creditor Parties,

- (ii) created over the present and future Security Assets,
- (iii) security for the payment or discharge of the Secured Liabilities,
- (iv) subject to the terms of the First Priority Share Security Deed prior to the First Priority Share Security Discharge Date and the Second Priority Share Security Deed prior to the Second Priority Share Security Discharge Date, made with full title guarantee, and
- (v) until the First Priority Share Security Discharge Date and the Second Priority Share Security Discharge Date, a third ranking Security Interest over the Assigned Property, and after the First Priority Share Security Discharge Date but prior to the Second Priority Share Security Discharge Date a second ranking Security Interest over the Assigned Property and after the Second Priority Share Security Discharge Date, a first ranking Security Interest over the Assigned Property

3.2 Principal and independent debtor The Shareholder shall be liable under this Deed as a principal and independent debtor and accordingly it shall not have, as regards this Deed, any of the rights or defences of a surety

3.3 Separate and independent Security Interests Each asset intended to be comprised within the Security Assets shall be the subject of a separate Security Interest and each Security Interest created in respect of such asset by Clauses 4.1(a), 4.1(b) and 4.1(c) is a separate and independent Security interest and if any one of them is to be construed and categorised as a floating charge, that construction and categorisation shall not result in the others being so construed or categorised

3.4 Ineffective Security Interests. If, for any reason, any purported mortgage, assignment or charge by way of security of any of the Security Assets is found to be ineffective, the Shareholder will hold the benefit of the Security Assets and any, subject to clause 17.1 of the Loan Agreement, sums received in respect of the Security Assets on trust for the Security Trustee during the Security Period and will

- (a) account to the Security Trustee for or otherwise apply all such sums as the Security Trustee may direct,
- (b) at its own cost exercise any rights it may have in respect of the Security Assets at the direction of the Security Trustee, and
- (c) at its own cost take such action and execute such documents in connection with the foregoing as the Security Trustee may in its sole discretion require

3.5 Continuing security. This Deed shall remain in force until the end of the Security Period as a continuing security for the payment, discharge and performance of all the Secured Liabilities and, in particular

- (a) neither the obligations of the Shareholder under this Deed nor the Security Interests created by this Deed shall be satisfied by any intermediate payment or discharge of the Secured Liabilities whether in whole or in part,
- (b) neither the obligations of the Shareholder under this Deed nor the Security Interests created by this Deed nor the rights, powers and discretions of the Security Trustee or the Creditor Parties under this Deed, are capable of being extinguished, limited or otherwise adversely affected other than by an express term in a document signed by or on behalf of the Security Trustee or the affected Creditor Party,
- (c) no

- (i) failure or delay by or on behalf of the Security Trustee to enforce or exercise the Security Interests created by this Deed,
- (ii) failure or delay by or on behalf of the Security Trustee to enforce or exercise a right of the Security Trustee under this Deed, and/or
- (iii) act, course of conduct, acquiescence or failure to act (or to prevent the Shareholder from taking certain action),

which is inconsistent with any Security Interest or the Security Trustee's rights under this Deed or with such a Security Interest being a fixed security shall preclude or estop the Security Trustee (either permanently or temporarily) from enforcing or exercising such Security Interests or rights or result in a Security Interest expressed to be a fixed security taking effect as a floating security, and

- (d) this Deed shall be additional to, and shall not in any way impair or be impaired by
 - (i) any other Security Interest whether in relation to assets of the Shareholder or that of a third party, or
 - (ii) any other right of recourse as against the Shareholder or any third party,

which the Security Trustee or any other Creditor Party now or subsequently has in respect of any of the Secured Liabilities

3.6 Trust of proceeds. Subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, the Shareholder shall at all times during the continuance of this Deed hold all monetary proceeds whether in the nature of capital or income received by it as a result of getting in, collecting, selling or otherwise disposing of any item of the Security Assets (other than to the extent that such Security Assets are covered by a floating charge created by this Deed) (and any cheques, warrants, drafts or other instruments representing any of those proceeds) upon trust for the Security Trustee to be paid over to the Security Trustee and applied in the manner set out in Clause 14

3.7 Subordination of rights of Shareholder. All rights which the Shareholder at any time has (whether in respect of this Deed or any other transaction) against any Borrower, any other Security Party or their respective assets shall be fully subordinated to the rights of the Creditor Parties under the Finance Documents and the Master Agreements, and in particular, the Shareholder shall not

- (a) claim, or in a bankruptcy of any Borrower or any other Security Party prove for, any amount payable to the Shareholder by the Borrower concerned or any other Security Party, whether in respect of this Deed or any other transaction,
- (b) take or enforce any Security Interest for any such amount,
- (c) claim to set-off any such amount against any amount payable by the Shareholder to any Shareholder or any other Security Party, or
- (d) claim any subrogation or other right in respect of any Finance Document or any Master Agreement or any sum received or recovered by any Creditor Party under a Finance Document or a Master Agreement

3.8 No obligations imposed on Security Trustee. The Shareholder shall remain liable to perform all obligations connected with the Security Assets and the Security Trustee shall not, in any circumstances, have or incur any obligation or liability of any kind in connection with the Security Assets

3 9 Release. Upon expiry of the Security Period but subject to Clause 3 10 and Clause 11 4, the Security Trustee shall, at the request and expense of the Shareholder, release the Security Interests created by this Deed and re-assign (without any warranty, representation, covenant or other recourse) to the Shareholder such rights, if any, as the Security Trustee then has to, or in connection with the Security Assets and the Security Trustee shall also return to the Shareholder any items delivered to the Security Trustee pursuant to this Deed (or in the case of the share certificates, their equivalent in respect of type, nominal value, description and amount)

3.10 Retention of Security Interests. If the Agent, the Security Trustee, a Lender or a Swap Bank considers there to be a significant risk that any amount paid or credited to any Creditor Party under a Finance Document or a Master Agreement is capable of being avoided or otherwise set aside (including as a result of any discharge, non-provability, unenforceability or non allowance of any amounts in any insolvency or other proceedings), that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Liabilities have been irrevocably paid. Without prejudice to the generality of the foregoing, any settlement or discharge under this Deed between the Security Trustee or any other Creditor Party and the Shareholder shall be conditional upon no security or payment to the Security Trustee or any other Creditor Party by the Shareholder or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise

4 CREATION OF SECURITY INTEREST

4 1 Mortgages, assignments and charges By way of security for the Secured Liabilities and, prior to the First Priority Share Security Discharge Date and the Second Priority Share Security Discharge Date, subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, the Shareholder hereby charges in favour of the Security Trustee along with all its rights in respect of each asset and so as to include any proceeds following the disposal or transfer of such assets or the Shareholder's interest in such assets

(a) by way of third equitable mortgage provided that

- (i) after the First Priority Share Security Discharge Date, but prior to the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created a second equitable mortgage, and
- (ii) after the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created a first equitable mortgage pursuant to this Deed,

the Security Assets,

(b) to the extent not mortgaged pursuant to Clause 4 1(a), by way of absolute assignment, with third priority provided that

- (i) after the First Priority Share Security Discharge Date, but prior to the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created an absolute assignment with second priority, and
- (ii) after the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created an absolute assignment with first priority,

the Security Assets subject to a proviso for re-assignment on redemption in favour of the Security Trustee, and

(c) to the extent not effectively mortgaged pursuant to Clause 4 1(a) or assigned pursuant to Clause 4 1(b), by way of third fixed charge provided that

- (i) after the First Priority Share Security Discharge Date, but prior to the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created a second fixed charge, and
- (ii) after the Second Priority Share Security Discharge Date, the Shareholder shall be deemed to have created a first fixed charge,

the Security Assets including all the Security Assets acquired by it in the future

5 FINANCIAL COLLATERAL

5.1 Financial Collateral. To the extent that the Security Assets constitute “financial collateral” and this Deed and the obligations of the Shareholder under this Deed constitute a “security financial collateral arrangement” (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003 No 3226) the Security Trustee shall have the right to appropriate all or any part of such financial collateral in or towards the satisfaction of the Secured Liabilities. For this purpose, the value of such financial collateral so appropriated shall be such amount as the Security Trustee so determines having taken into account advice obtained from an independent investment or accountancy firm of national standing selected by it

6 PERFECTING THE SECURITY

6.1 Security Assets

- (a) The Shareholder shall deliver, or procure there to be delivered, to the Security Trustee immediately upon the Second Priority Share Security Discharge Date
 - (i) all share certificates in respect of the Original Shares (unless such share certificates are held by third parties acceptable to the Security Trustee and who have undertaken directly with the Security Trustee to hold the same to the order of the Security Trustee),
 - (ii) undated stock transfer forms in respect of the Original Shares duly executed by the Shareholder
- (b) the Shareholder will deliver, or procure there to be delivered, to the Security Trustee immediately upon (subject to Clause 6.2) issue of any further Shares to it or, if such issuance of shares occurs prior to the Second Priority Security Discharge Date, immediately upon the Second Priority Share Security Discharge Date
 - (i) all share certificates in respect of those further Shares,
 - (ii) undated stock transfer forms in respect of such further Shares

6.2 No alteration in share capital The Shareholder will procure that there shall be

- (a) no issue of any further Shares (unless such shares are issued to the Shareholder and are made subject to the terms of this Deed immediately upon the issue thereof in a manner satisfactory to the Security Trustee and the terms of Clause 6.1(b) are complied with), and
 - (b) no appointment of any further director or secretary of the Company,
- in each case, without the prior consent in writing of the Security Trustee

7 DEALINGS WITH SHARES

7.1 Exercise of voting rights etc Unless and until an Event of Default has occurred and is continuing (and notwithstanding any registration of Security Assets in the name of the Security Trustee (or its nominee) pursuant to Clause 7.4)

- (a) the Shareholder shall be entitled to exercise all voting and/or consensual powers pertaining to the Security Assets or any part of them for all purposes not prejudicial to the Security Interests created by this Deed nor otherwise inconsistent with the terms of this Deed and the Finance Documents, for the avoidance of doubt, the Shareholder shall not (without the prior written consent of the Security Trustee) be entitled to exercise any such powers to effect any amendment or revocation of the Company's constitutional documents,
- (b) the Security Trustee shall not exercise any of the powers of enforcement referred to in Clause 12 and shall not complete, put into effect or utilise any of the items delivered to the Security Trustee pursuant to Clause 6.1, and
- (c) subject to Clause 7.2 and to the extent permitted by the Finance Documents, the Shareholder shall be entitled to receive directly or, as the case may be, through payment over by the Security Trustee (or the nominee of the Security Trustee) and retain any Derivative Assets accruing on or in respect of the Shares which, once received, shall be promptly paid to the Shareholder (or as it may direct) and which, once received by the Shareholder, shall (for the avoidance of doubt) cease to be part of the Security Assets

7.2 No obligation on the Security Trustee in relation to Derivative Assets The Security Trustee shall not have any duty to ensure that any Derivative Assets receivable in respect of the Shares are duly and punctually paid, received or collected as and when they become due and payable or to ensure that the correct amounts (if any) are paid or received on or in respect of the Security Assets or to ensure the taking up of any (or any offer of any) Shares or Derivative Assets accruing or offered at any time by way of redemption, bonus, rights, preference, or otherwise on or in respect of, any of the Security Assets

7.3 Payment of calls and discharge of other obligations by the Shareholder The Shareholder shall be liable to pay all calls or other payments and to discharge all other obligations and meet all liabilities, which may become due for performance or payment in respect of any of the Security Assets (including, without limitation, in respect of any Shares registered in the name of the Security Trustee (or the nominee of the Security Trustee) pursuant to Clause 7.4)

7.4 Registration of Security Assets in name of the Security Trustee Subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, the Shareholder hereby authorises the Security Trustee to arrange at any time and from time to time (after the occurrence of and during the continuance of an Event of Default) for the Security Assets owned by it or any part thereof to be registered in the name of the Security Trustee (or its nominee) and held, as so registered, subject to the terms of this Deed

7.5 Negative pledge; disposal of assets The Shareholder shall not

- (a) either conditionally or unconditionally, create or attempt to create or suffer or permit to subsist any Security Interest (other than Permitted Security Interests) over any of the Security Assets in favour of any person other than the Security Trustee, or
- (b) sell, assign, transfer or otherwise dispose of any of the Security Assets

8 FURTHER ASSURANCES

8.1 Acts and documents. The Shareholder shall promptly (and by any date specified by the Security Trustee (acting reasonably)), at its own cost, do all such acts and/or execute and

- deliver all such documents (including assignments, transfers, mortgages, conveyances, charges, powers of attorney, notices, instructions, proxies and other documents) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may require in favour of the Security Trustee, Receiver, Delegate or any other nominee(s))
- (a) to validly and effectively create, perfect, protect and maintain the Security Interests created or intended to be created under or evidenced by this Deed with the priority which is created or intended to be created under or evidenced by this Deed,
 - (b) for the exercise of any rights, powers and remedies of the Security Trustee or the Creditor Parties provided by or pursuant to this Deed or by law,
 - (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests created or intended to be created under or evidenced by this Deed
- 8.2 Registration etc.** The Shareholder shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interests conferred or intended to be conferred on the Security Trustee or the Creditor Parties by or pursuant to this Deed
- 8.3 Additional corporate action.** At the same time as the Shareholder delivers to the Security Trustee any document executed under Clause 8, the Shareholder shall also deliver to the Security Trustee a certificate signed by the Shareholder's director and secretary which shall
- (a) set out the text of a resolution of the Shareholder's directors specifically authorising the execution of the document specified by the Security Trustee, and
 - (b) state that either the resolution was duly passed at a meeting of the directors validly convened and held throughout which a quorum of directors entitled to vote on the resolution was present or that the resolution has been signed by all the directors and is valid under the Shareholder's articles of association or other constitutional documents
- 9 REPRESENTATIONS AND WARRANTIES**
- 9.1 General.** The Shareholder represents and warrants to the Security Trustee as follows
- 9.2 Status.** The Shareholder is duly incorporated and validly existing under the laws of England
- 9.3 Corporate power.** The Shareholder has the corporate capacity, and has taken all corporate action and obtained all consents necessary for it
- (a) to execute this Deed and the other Finance Documents to which it is a party, and
 - (b) to make all the payments contemplated by, and to comply with, this Deed and the other Finance Documents to which it is a party
- 9.4 Admissibility in evidence.** The Shareholder has obtained all consents necessary to make this Deed and the other Finance Documents to which it is a party admissible in evidence in England and Wales
- 9.5 Consents in force.** All the consents referred to in Clause 9.3 remain in force and nothing has occurred which makes any of them liable to revocation
- 9.6 Title to Security Assets.** The Shareholder is the sole legal and beneficial owner of all of the Security Assets, free of any Security Interest (other than a Permitted Security Interest)

- 9.7 No restrictions on right to assign** The Shareholder has the right, without requiring the concurrence, consent or authority of any person, to create, in respect of all the Security Assets, the Security Interests which Clause 4 purports to create
- 9.8 Legal validity, effective Security Interests.** This Deed and the other Finance Documents to which it is a party
- (a) constitute the Shareholder's legal, valid and binding obligations enforceable against the Shareholder in accordance with their respective terms, and
 - (b) create legal, valid and binding Security Interests enforceable in accordance with its terms over all the assets to which their, by their terms, relate,
- subject to any relevant insolvency laws affecting creditors' rights generally
- 9.9 No third party Security Interests** Without limiting the generality of Clause 9.8
- (a) the Shareholder has the right to create all the Security Interests which this Deed purports to create, and
 - (b) no third party has any Security Interest (except for Permitted Security Interests) or any other interest, right or claim over, in or in relation to the Security Assets or to any asset to which any such Security Interest, by its terms, relates
- 9.10 No conflicts.** The execution by the Shareholder of this Deed and the other Finance Documents to which it is a party and its compliance with this Deed and the other Finance Documents to which it is a party will not involve or lead to a contravention of
- (a) any law or regulation, or
 - (b) the constitutional documents of the Shareholder, or
 - (c) any contractual or other obligation or restriction which is binding on the Shareholder or any of its assets
- 9.11 No withholding taxes.** All payments which the Shareholder is liable to make under this Deed and the other Finance Documents to which it is a party may be made without deduction or withholding for or on account of any tax payable under any law of any Pertinent Jurisdiction
- 9.12 No default.** No Event of Default or Potential Event of Default has occurred
- 9.13 No litigation.** No legal or administrative action involving the Shareholder has been commenced or taken or, to the Shareholder's knowledge, is likely to be commenced or taken
- 9.14 Pari Passu** The payment obligations of the Shareholder under this Deed and the other Finance Documents to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally
- 9.15 Governing law and enforcement** The choice of English law as the governing law of this Deed and the other Finance Documents to which it is a party will be recognised and enforced against the Shareholder. Any judgment obtained in England in relation to this Deed and the other Finance Documents to which it is a party will be recognised and enforced against the Shareholder
- 9.16 No filing or stamp taxes** It is not necessary for

- (a) this Deed and the other Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority in any Pertinent Jurisdiction, or
- (b) any stamp, registration or similar tax be paid in any Pertinent Jurisdiction in respect of this Deed and the other Finance Documents to which it is a party or the transactions contemplated by this Deed and the other Finance Documents to which it is a party, or
- (c) any notice be given or any other step be taken,

save for such filings and recordings as are referred to in this Deed and the other Finance Documents

9.17 Contents of Finance Documents. The Shareholder is fully familiar with, and agrees to all the provisions of, the Finance Documents to which it is not a party

9.18 Repetition. Each of the representations and warranties in this Clause 9 are deemed to be made by the Shareholder by reference to the circumstances then existing on the date of the Drawdown Notice, on the Drawdown Date and (save for the representations and warranties contained in Clause 9 11 and 9 13 which shall be deemed to be repeated on the first day of the first Interest Period) on the first day of each Interest Period

10 COVENANTS BY THE SHAREHOLDER

10.1 General The Shareholder shall comply with all the undertakings contained in the Finance Documents to which it is a party until the end of the Security Period

11 PRESERVATION OF SECURITY

11.1 Security Trustee's right to protect or maintain security. Subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, the Security Trustee may take any action which it thinks fit for the purpose of protecting or maintaining the Security Interests created by this Deed

11.2 Power to remedy. Without limiting the generality of Clause 11 1, if the Shareholder fails to discharge any liability or to perform any of its obligations under, or to comply with any term of, the Finance Documents or with respect to any item of the Security Assets, the Security Trustee or any Delegate may, without prejudice to any other rights of the Security Trustee hereunder or otherwise under the Finance Documents take any action which the Security Trustee may consider to be necessary or desirable so as to discharge any such liability, perform any such obligation or comply with any such term

11.3 Payment of calls, etc. Without limiting the generality of Clause 11 1, if the Shareholder fails to comply with Clause 7 3, the Security Trustee may if it thinks fit pay the calls or other payments, discharge the obligations and meet the liabilities of the Shareholder under Clause 7 3 Any sums so paid by the Security Trustee shall be repayable by the Shareholder to the Security Trustee on demand and pending such repayment shall constitute part of the Secured Liabilities

11.4 Reinstatement If any discharge, release or arrangement (whether in respect of the obligations of the Company or any security for those obligations or otherwise) is made by the Security Trustee in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, or is capable of being avoided or restored in the opinion of the Security Trustee, acting reasonably, then the liability of the Shareholder under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred

12 ENFORCEABILITY AND SECURITY TRUSTEE'S POWERS

12.1 Right to enforce security Subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, if

- (a) an Event of Default occurs and is continuing (and irrespective of whether a notice has been served under clause 19.2 of the Loan Agreement and without the necessity for the Security Trustee to serve any notice or take any other action nor for any court order in any jurisdiction to the effect that an Event of Default has occurred and/ or is continuing or that the security constituted by this Deed has become enforceable)
 - (i) the Security Interests created by this Deed shall immediately become enforceable for all purposes,
 - (ii) the Security Trustee shall be entitled at any time or times to exercise the powers set out in Clause 7.4, this Clause 12 and in any other Finance Document without first appointing a Receiver and irrespective of any appointment, and
 - (iii) the Security Trustee shall be entitled at any time or times
 - (A) to exercise the powers possessed by it as the holder of any Security Interests over or in respect of any item of the Security Assets conferred by the law of any country or territory in which any item of the Security Assets is physically present or deemed to be sited, the courts of which have or claim any jurisdiction in respect of the Shareholder or any item of the Security Assets, and
 - (B) without limiting the scope of the Security Trustee's powers under subparagraph (A) above, to exercise the powers possessed by it as a creditor or as a person with a Security Interest in any item of the Security Assets conferred by English law,

provided that the Security Trustee agrees with the Shareholder not to exercise such powers before serving an Enforcement Notice

12.2 Secured Liabilities. For the purpose of all powers implied by law only, the Secured Liabilities are deemed to have become due and payable on the date of this Deed

12.3 Power to appoint Receiver. Subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, the Security Trustee shall have the power at any time after the Security Interests created by this Deed have become enforceable, to appoint any one or more persons to be a Receiver of all or any part of the Security Assets as may be specified or described in the appointment

12.4 Security Trustee's specific powers. The statutory power of sale and the other statutory powers conferred on mortgagees by section 101 of the Law of Property Act 1925 or otherwise by law, as varied and extended by this Deed, shall arise on the date of this Deed and, subject to the terms of the First Priority Share Security Deed and the Second Priority Share Security Deed, on the occurrence of an Event of Default which is continuing, the Security Trustee shall be entitled then or at any later times or times without further notice

- (a) to exercise the power of sale and other powers conferred by section 101 of the Law of Property Act, 1925 as varied or amended by this Deed,
- (b) to exercise solely and exclusively all voting and/or consensual powers pertaining to the Shares or any of them and to exercise such powers in such manner as the Security Trustee may think fit,

- (c) to receive and retain all Derivative Assets accruing on or in respect of the Shares or any thereof, such Derivative Assets to be held by the Security Trustee, until applied in the manner described in Clause 14, as additional security pledged or otherwise secured under and subject to the terms of this Deed and any such Derivative Assets received by the Shareholder after such time shall be held in trust by the Shareholder for the Security Trustee and paid or transferred to the Security Trustee on demand,
- (d) to sell the Shares or any part thereof at such place and in such manner and at such price or prices as the Security Trustee may deem fit, and upon any such sale the Security Trustee shall have the right to deliver, assign and transfer to each purchaser thereof the Shares so sold,
- (e) to collect, recover and give a good discharge for any moneys or claims forming part of, or arising in relation to, any Security Assets and to permit any brokers through whom collection or recovery is effected to charge the usual brokerage therefor,
- (f) to take over or commence or defend (if necessary using the name of the Shareholder) any claims or proceedings relating to, or affecting, any Security Assets which the Security Trustee may think fit and to abandon, release or settle in any way such claims or proceedings, and
- (g) generally, to enter into any transaction or arrangement of any kind and to do anything in relation to any Security Assets which the Security Trustee may think fit

12 5 Security Trustee's general powers

- (a) Without prejudice to any other provision of this Deed, the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by law on mortgagees and receivers including without limitation under section 42 of the Insolvency Act 1986 and schedule 1 to that Act
- (b) Any restrictions or conditions imposed by law on the Security Trustee and/or any Receiver are hereby disapplied to the fullest extent permitted by law including, without limitation, restrictions and/or conditions imposed regarding
 - (i) consolidation of mortgages under section 93 of the Law of Property Act 1925,
 - (ii) the power of sale under section 103 of the Law of Property Act 1925,
 - (iii) provisions regarding the application of proceeds under sections 105, 107(2), 109(6) and 109(8) of the Law of Property Act 1925, and
 - (iv) the right of a mortgagee to appoint a Receiver under s109(1) of the Law of Property Act 1925,

save that, for as long as such action is prohibited under the Insolvency Act 2000 or otherwise at law, the Security Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under the Insolvency Act 2000 except with the leave of the court

12 6 Supplementary provisions regarding Receivers. The following shall have effect as regards any Receiver appointed under this Clause 12

- (a) the appointment shall be by deed or, at the Security Trustee's option, by a document signed by any of its officers, and an appointment in respect of some only of the Security Assets may later be extended to all or some of the other Security Assets,

- (b) to the fullest extent permitted by law, a Receiver shall be the Shareholder's agent, and the Shareholder shall be responsible, to the exclusion of any liability on the part of the Security Trustee and the other Creditor Parties, for his remuneration, contracts, engagements, liabilities, acts, omissions, losses and defaults,
 - (c) neither the Security Trustee nor any Creditor Party shall be liable to the Shareholder or any third party for any liabilities or losses incurred by the Shareholder or a third party as a result of the appointment of a Receiver,
 - (d) the remuneration of a Receiver and the other terms of his appointment shall be fixed and may be revised by the Security Trustee who shall not be bound by the maximum rate of remuneration imposed by s109(6) of the Law of Property Act 1925 or otherwise by law,
 - (e) the Receiver shall have all the rights, powers, privileges and immunities conferred upon and exercisable by the Security Trustee under this Deed and the Finance Documents generally (excluding the power to appoint a receiver or an administrator), subject to any express restrictions or conditions set out in the Finance Documents generally and the specific terms of his appointment,
 - (f) the Shareholder irrevocably and by way of security appoints every Receiver its attorney on its behalf and in its name or otherwise to execute or sign any document and do any act or thing which that Receiver considers necessary or desirable with a view to or in connection with any exercise or proposed exercise of any of his powers,
 - (g) in the case of joint Receivers, any of their rights, powers and discretions may be exercised by any one or more of them, unless their appointment specifically states to the contrary,
 - (h) in the event that a Receiver is not an administrative receiver, the Security Trustee may remove him, with or without appointing another Receiver, and such a removal may be effected by a document signed by any of the Security Trustee's officers,
 - (i) the Security Trustee may appoint a Receiver to replace a Receiver who has resigned or for any other reason ceased to hold office,
 - (j) a Receiver shall be entitled to retain out of any money received by him such amounts in respect of his expenses (or to cover estimated future expenses) as he may from time to time agree with the Security Trustee,
 - (k) the Security Trustee and any Receiver shall not be obliged to account to the Shareholder or to any other person for anything other than its own actual receipts to the extent that monies received by the Security Trustee or Receiver have not yet been distributed or paid to the person entitled,
 - (l) in the event of any conflict between the powers of the Security Trustee, Receiver and/or Delegate under this Deed and the provisions of the Law of Property Act 1925, the Insolvency Act 1986, the Insolvency Act 2000 and any other relevant legislation, the provisions of this Deed shall take priority to the fullest extent permitted by law, and
 - (m) to the fullest extent permitted by law, the rights, powers and discretions awarded to the Security Trustee and/or any Receiver under this Deed shall not be affected by any insolvency or dissolution proceedings (including without limitation), any receivership (whether administrative or not), administration, provisional liquidation, liquidation, dissolution, or arrangement (of any kind) affecting the Shareholder and/or its assets
- 12.7 No obligation to check payments** Neither the Security Trustee nor any Receiver nor any Delegate shall be obliged to check the nature or sufficiency of any payment received by it or him under this Deed

12 8 Exclusion of liability

- (a) Without limiting paragraph (b) below, none of the Security Trustee, any Receiver, any Delegate nor any officer, employee or agent of any of the Security Trustee, any Receiver or any Delegate will be liable for any losses (including, without limitation, for any shortfall which arises on the enforcement or realisation of the Security Interests created by the Finance Documents) to any person or have any liability for any action taken by it or not taken by it at any time under, in connection with or in relation to, any Finance Document or the transactions contemplated by the Finance Documents (both before and after execution of the relevant Finance Document) whether in accordance with an instruction from the Agent or otherwise unless directly caused by its gross negligence or wilful misconduct
- (b) No Party (other than the Security Trustee, that Receiver or that Delegate) may take any proceedings against any officer, employee or agent of the Security Trustee, a Receiver or a Delegate in respect of any claim it might have against the Security Trustee, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent at any time under, in connection with, or in relation to any Finance Document or the transactions contemplated by the Finance Documents (both before and after execution of the Finance Documents) and a Receiver, Delegate or officer, employee or agent of the Security Trustee, a Receiver or a Delegate may rely on this Clause subject to Clause 17 11 and the provisions of the Third Parties Rights Act

13 INDEMNITY

13 1 Shareholder's indemnity Without prejudice to the provisions of any other Finance Document, the Shareholder shall on demand pay and promptly indemnify the Security Trustee and every Receiver and Delegate and any officer, employee or agent of such persons against any cost, loss or liability (together with any applicable VAT) incurred by any of them

- (a) in relation to or as a result of
 - (i) the taking, holding, protection or enforcement of the Security Interests created or intended to be created by the Finance Documents,
 - (ii) the exercise of any of the rights, powers, discretions and remedies or the failure to exercise any rights, powers, discretions and remedies as vested in the Security Trustee, each Receiver and each Delegate by the Finance Documents or otherwise at law, or
 - (iii) any default by any Security Party in the performance of any of the obligations expressed to be assumed by it in the Finance Documents (including without limitation, any action by the Shareholder which vitiates, reduces the value of, or is otherwise prejudicial to, the security created or intended to be created by this Deed),
- (b) which otherwise relates to any Security Interest created by any of the Finance Documents or the performance of the terms of this Deed

13 2 Indemnity out of Security Assets. Without prejudice to Clause 13 1 and to any indemnity given to the Security Trustee, any Receiver and any Delegate (i) under any provision of a Finance Document or (ii) otherwise at law, in either case entitling the Security Trustee, any Receiver and any Delegate to an indemnity in respect of and/or reimbursement of, any costs, losses or liabilities incurred or suffered by it in connection with a Finance Document, the Security Trustee, any Receiver and any Delegate may, in priority to any payment to the Creditor Parties, indemnify itself out of the Security Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnities in its favour and shall have a lien on the assets which are the subject of any Security Interests created, or intended to be created by,

the Security Documents and the proceeds of the enforcement of the Security Interests created by the Security Documents for all monies payable to it

13.3 Costs of preservation of rights, enforcement etc The Shareholder shall, within three Business Days of demand, pay to the Security Trustee the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document and the Security Interests created under the Finance Documents and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security Interests created under the Finance Documents or enforcing these rights

13.4 Fees and expenses payable under the Loan Agreement. Clause 13.3 is without prejudice to the Shareholder's liabilities in respect of the Company's obligations under clause 20 of the Loan Agreement and under similar provisions of other Finance Documents

14 APPLICATION OF MONEYS

14.1 Application. All sums received by the Security Trustee or by a Receiver or Delegate after the Security Interests created by this Deed have become enforceable shall, subject to any claims ranking in priority to the Security Interests created by this Deed, be held by the Security Trustee or the Receiver or Delegate upon trust in the first place to pay or discharge any expenses or liabilities (including any interest) which have been paid or incurred by the Security Trustee or Receiver or Delegate in or in connection with the exercise of their respective powers and to pay the balance over to the Agent for application in accordance with clause 17.1 of the Loan Agreement

15 POWER OF ATTORNEY

15.1 Appointment For the purpose of securing the Security Trustee's interest in the Security Assets and the due and punctual performance of its obligations to the Security Trustee under this Deed and every other Finance Document and/or Master Agreement, the Shareholder irrevocably and by way of security appoints (with full power of substitution) the Security Trustee as its attorney, on its behalf and in its name or otherwise, to execute or sign any document and do any act or thing which the Shareholder is obliged or could be required to do under any Finance Document or which the Security Trustee is empowered to do under the terms of this Deed and the other Finance Documents. This power of attorney may be used either (a) if a Borrower or the Shareholder has been requested in writing to execute a document by the Security Trustee or to do an act or thing and has failed to do so within 2 Business Days of such request or (b) following an Event of Default which is continuing

15.2 Ratification of actions of attorney For the avoidance of doubt and without limiting the generality of Clause 15.1, it is confirmed that the Shareholder authorises the Security Trustee to execute on behalf of the Shareholder a document by which the Shareholder ratifies any transaction or action which the Security Trustee and/or Receiver and/or Delegate has purported to enter into or to take and which the Security Trustee considers was or might have been outside its or his powers or otherwise invalid

15.3 Delegation.

(a) Each of the Security Trustee, any Receiver and any Delegate may act in relation to a Finance Document through its personnel and may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Finance Documents

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Trustee, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Creditor Parties and it shall not be bound to supervise, or be in any way responsible for any loss

incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate

16 PROTECTION OF THIRD PARTIES

16.1 No duty to enquire. No person dealing with the Security Trustee or any other Creditor Party shall be concerned to enquire

- (a) whether the Secured Liabilities have become payable and if any monies remain due under the Finance Documents or any Master Agreement,
- (b) whether the rights conferred by or pursuant to any Finance Document or any Master Agreement are exercisable or have been properly exercised,
- (c) whether any laws, directions, restrictions, consents and/or, regulations affecting the rights of the Security Trustee or any Creditor Party have been obtained or complied with, or
- (d) as to the application of any monies received by the Security Trustee

16.2 Protection of purchasers. All the protections for purchasers contained in sections 104 and 107 of the Law of Property Act 1925, section 42(3) of the Insolvency Act 1986 or in any other applicable law or regulation shall apply to any person purchasing from or dealing with the Security Trustee or any other Creditor Party

16.3 Redemption of prior mortgages At any time after the Security Interests created by this Deed have become enforceable, the Security Trustee may

- (a) redeem any prior Security Interest against any part of the Security Assets, and/or
- (b) use its best endeavours to procure the transfer of that Security Interest to itself, and/or
- (c) settle the accounts of any prior mortgagee, chargee or encumbrancer and any accounts so settled will be, in the absence of manifest error, conclusive and binding on the Shareholder, and/or
- (d) claim the costs and expenses incurred by it in connection with any such redemption and/or transfer including the payment of any principal or interest, which costs and expenses shall be payable by the Shareholder to the Security Trustee immediately upon demand

17 SUPPLEMENTAL

17.1 No requirement to commence other proceedings Neither the Security Trustee nor any other Creditor Party will need to commence any proceedings under, or enforce any Security Interest created by the other Finance Documents or the Master Agreements before commencing proceedings under, or enforcing any Security Interest created by this Deed

17.2 Conclusive evidence of certain matters As against the Shareholder

- (a) any judgment or order of a court in England in connection with the Finance Documents or any Master Agreement, and
- (b) any statement or admission of any Borrower in connection with the Finance Documents or any Master Agreement,

shall be binding and conclusive as to all matters of fact and law to which it relates

- 17.3 Discretion.** The Security Trustee and any Creditor Party may exercise all and any of the rights conferred on them by this Deed and the Finance Documents generally as it, he or they deem fit and without reference to the Shareholder (save where expressly stated)
- 17.4 No restriction on other rights** Nothing in this Deed shall be taken to exclude or restrict any power, right, discretion or remedy which the Security Trustee or any other Creditor Party may at any time have under
- (a) any other Finance Documents, or
 - (b) the law of any country or territory the courts of which have or claim any jurisdiction in respect of the Shareholder or any of its assets
- 17.5 Exercise of other rights** The Security Trustee may exercise any right under this Deed before it or any other Creditor Party has exercised any right referred to in Clause 17.4(a) or 17.4(b)
- 17.6 Immediate recourse.** The Shareholder waives any right it may have of first requiring any Creditor 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 the Shareholder under this Deed. This waiver applies irrespective of any law or provision of a Finance Document to the contrary
- 17.7 Appropriations.** Until all the Secured Liabilities have been irrevocably paid in full and all facilities which might give rise to Secured Liabilities have been terminated, each Creditor Party (or any trustee or agent on its behalf) may
- (a) refrain from applying or enforcing any other monies, security or rights held or received by that Creditor 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 the Shareholder shall not be entitled to the benefit of the same, and
 - (b) hold in an interest bearing suspense account any monies received from the Shareholder or on account of the Shareholder's liability under this Deed
- 17.8 Deferral of Shareholder's rights.** Until all the Secured Liabilities have been irrevocably paid in full and all facilities which might give rise to Secured Liabilities have terminated and unless the Security Trustee otherwise directs, the Shareholder will not exercise any rights which it may have by reason of performance by it or a claim being made upon it in respect of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed
- (a) to be indemnified by the Company,
 - (b) to claim any contribution from any third party providing security for, or any guarantor of, the Company's obligations under the Finance Documents, and/or
 - (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Creditor Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Creditor Party,
 - (d) to bring legal or other proceedings for an order requiring the Company to make any payment, or perform any obligation, in respect of which the Shareholder has given an undertaking under Clause 2,
 - (e) to exercise any right of set-off against the Company, and/or

- (f) to claim or prove as a creditor of the Company in competition with any Creditor Party

If the Shareholder 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 Creditor Parties by the Company under or in connection with the Finance Documents to be repaid in full on trust for the Creditor Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with Clause 14

- 17.9 Waiver of rights and defences.** Without limiting the generality of Clause 3.2, the Shareholder shall neither be discharged by, nor have any claim against any Creditor Party in respect of

- (a) any amendment or supplement being made to the Finance Documents or any Master Agreement,
- (b) any arrangement or concession (including a rescheduling or acceptance of partial payments) relating to, or affecting, the Finance Documents or any Master Agreement,
- (c) any release or loss (even though negligent) of any right or Security Interest created by the Finance Documents,
- (d) any failure (even though negligent) promptly or properly to exercise or enforce any such right or Security Interest, including a failure to realise for its full market value an asset covered by such a Security Interest, or
- (e) any other Finance Document or any Master Agreement or any Security Interest now being or later becoming void, unenforceable, illegal or invalid or otherwise defective for any reason, including a neglect to register it

- 17.10 Certificates and determinations** Any certificate or determination by the Security Trustee under the terms of this Deed is conclusive evidence of the matters to which it relates

- 17.11 Third party rights.** Other than the parties for whom the Security Trustee acts as trustee, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed

- 17.12 No impairment.** If, at any time after the date of this Deed, any provision of this Deed is not binding on or enforceable in accordance with its terms against the Shareholder, neither the binding nature nor the enforceability of that provision or any other provision of this Deed will be impaired as against the Security Trustee or any other Creditor Party

- 17.13 Invalidity of Loan Agreement.** In the event of

- (a) the Loan Agreement now being or later becoming, with immediate or retrospective effect, void, illegal, unenforceable or otherwise invalid for any reason whatsoever, whether of a similar kind or not, or
- (b) (without limiting the scope of paragraph (a)), a bankruptcy of any Borrower, the introduction of any law or any other matter resulting in any Borrower being discharged from liability under the Loan Agreement, or the Loan Agreement ceasing to operate (for example, by interest ceasing to accrue),

this Deed shall cover any amount which would have been or become payable under or in connection with the Loan Agreement if the Loan Agreement had been and remained entirely valid, legal and enforceable, or the Borrower concerned had not suffered bankruptcy, or any combination of such events or circumstances, as the case may be, and the Borrower concerned had remained fully liable under it for liabilities whether invalidly incurred or validly

incurred but subsequently retrospectively invalidated, and references in this Deed to amounts payable by the Borrower concerned under or in connection with the Loan Agreement shall include references to any amount which would have so been or become payable as aforesaid

17.14 Invalidity of Finance Documents and Master Agreements. Clause 17.14 also applies to each of the other Finance Documents and the Master Agreements to which any Borrower or any other Security Party is a party

17.15 Transfer by the Security Trustee The Security Trustee may transfer its rights under or in connection with this Deed to the same extent as it may transfer its rights under the Loan Agreement and other Finance Documents

18 PAYMENTS

18.1 Demands Any demand for payment made by any Creditor Party of all or any Secured Liabilities due at the date of such demand under the Finance Documents shall be valid and effective even if the demand contains no statement or an incomplete statement of the relevant Secured Liabilities, and such due Secured Liabilities shall not cease to become due only by reason of the demand containing no or an incomplete statement of what those Secured Liabilities are

18.2 Continuation of accounts. Upon

- (a) a Creditor Party receiving notice (either actual or otherwise) of any subsequent Security Interest affecting the Security Assets and/or the proceeds of sale of the Security Assets, or
- (b) the presentation of a petition or the passing of a resolution in relation to the winding up of the Shareholder,

any Creditor Party may open a new account in the name of the Shareholder with that Creditor Party (whether or not it permits any existing account to continue) and if that Creditor Party does not open such new account, it shall nevertheless be treated as if it had done so when the relevant event occurred and no moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the amount recoverable by that Creditor Party under any Finance Document

19 CHANGES TO THE PARTIES

19.1 Shareholder. The Shareholder may not

- (a) assign any of its rights or transfer any of its rights or obligations under this Deed, or
- (b) enter into any merger, de-merger or other reorganisation, or carry out any other act, as a result of which any of its rights, liabilities or obligations would vest in, or pass to, another person

19.2 The Security Trustee The Security Trustee may assign any of its rights or transfer any of its rights or obligations under this Deed in accordance with the Agency and Trust Deed and the other Finance Documents to which it is a party

19.3 Rights of assignee In respect of any breach of a warranty, undertaking, condition or other provision of this Deed, or any misrepresentation made in, or in connection with, this Deed, a direct or indirect assignee of any of the Security Trustee's rights or interests under, or by virtue of, this Deed shall be entitled to recover damages by reference to the loss incurred by that assignee as a result of the breach or misrepresentation irrespective of whether the Security Trustee would have incurred a loss of that kind or amount

20 INCORPORATION OF FINANCE DOCUMENT PROVISIONS

20.1 Incorporation of specific provisions Without prejudice to Clause 20.2, the following provisions of the Loan Agreement apply to this Deed as if they were expressly incorporated herein with any necessary modifications

clause 21.3, miscellaneous indemnities,

clause 21.4, currency indemnity,

clause 22, no set-off or tax deduction,

clause 25, set-off,

clause 27, variations and waivers, and

clause 30, supplemental

20.2 Incorporation of general provisions. Any provision of the Loan Agreement which, by its terms, applies or relates to the Finance Documents generally shall be deemed incorporated herein with any necessary amendments

20.3 Conflict In the event of any ambiguity or conflict between any provision of the Loan Agreement as incorporated by Clauses 20.1 and 20.2 into this Deed, the provision of the Loan Agreement as incorporated shall prevail

20.4 Notices Clause 28 of the Loan Agreement applies to this Deed as if it were expressly incorporated herein with any necessary modifications, except that notices shall be sent to the Shareholder at

Atmosphere One,
Prospect Road,
Westhill, Aberdeenshire
AB32 6FJ, Scotland

Fax No +44 (0) 1224 284444

Attn Company Secretary

or to such other address as the Shareholder may notify the Security Trustee and the Agent

21 LAW AND JURISDICTION

21.1 English law. This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law

21.2 Exclusive English jurisdiction. Subject to Clause 21.3, the courts of England have exclusive jurisdiction to settle any Dispute

21.3 Choice of forum for the exclusive benefit of the Security Trustee Clause 21.2 is for the exclusive benefit of the Security Trustee which reserves the right

(a) to commence proceedings in relation to any Dispute in the courts of any country other than England and which have or claim jurisdiction to that Dispute, and

(b) to commence such proceedings in the courts of any such country or countries concurrently with or in addition to proceedings in England or without commencing proceedings in England

- 21.4 Proceedings by Shareholder** The Shareholder shall not commence any proceedings in any country other than England in relation to a Dispute
- 21.5 Creditor Parties' rights unaffected** Nothing in this Clause 21 shall exclude or limit any right which any Creditor Party may have (whether under the law of any country, an international convention or otherwise) with regard to the bringing of proceedings, the service of process, the recognition or enforcement of a judgment or any similar or related matter in any jurisdiction
- 21.6 Meaning of "proceedings"** In this Clause 21, "**proceedings**" means proceedings of any kind, including an application for a provisional or protective measure and a "**Dispute**" means any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed) or any non-contractual obligation arising out of or in connection with this Deed

THIS DEED has been duly executed by or on behalf of the parties and has, on the date stated at the beginning of this Deed, been delivered as a Deed

EXECUTION PAGE**SHAREHOLDER**

EXECUTED AND DELIVERED AS A DEED
by BIBBY OFFSHORE LIMITED
acting by PHILIPPA SHARRATT
expressly authorised in accordance with
the laws of the England
by virtue of a power of attorney granted
by BIBBY OFFSHORE LIMITED
on

such execution being witnessed by

Meryl Rowlands
Trainee Solicitor
London EC2A 2HB

Signature of witness

nr

SECURITY TRUSTEE

EXECUTED AND DELIVERED AS A DEED
by **STANDARD CHARTERED BANK**
acting by
such execution being witnessed by

such execution being witnessed by

Meryl Rowlands
Trainee Solicitor
London EC2A 2HB

Signature of witness

[Handwritten signature]

[Handwritten signature]

Paul Thompson
Director, Agency of Europe
Standard Chartered Bank

SCHEDULE 1

ORIGINAL SHARES

Name of the Company		Company Number	Issued Share Capital	Any identification marks
Huskisson Limited	Shipping	03612293	2 of £1 each	Share Certificate No 3