



Registration of a Charge

Company name: **ELGIN ENERGY HOLDINGS LIMITED**

Company number: **07181686**



X9Y0IDKG

Received for Electronic Filing: **10/02/2021**

Details of Charge

Date of creation: **04/02/2021**

Charge code: **0718 1686 0003**

Persons entitled: **QUEST CAPITAL NOMINEES LIMITED**

Brief description: **ALL THE RIGHT, TITLE AND INTEREST OF ELGIN ENERGY HOLDINGS LIMITED IN THE SHARE CAPITAL OF FOCAP 2020 LIMITED (COMPANY NUMBER 12875453).**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **WATTEY KEMNAY FOR AND ON BEHALF OF MKB LAW**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7181686

Charge code: 0718 1686 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th February 2021 and created by ELGIN ENERGY HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th February 2021 .

Given at Companies House, Cardiff on 11th February 2021

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

4th February

2021

Between

(1) ELGIN ENERGY HOLDINGS LIMITED

AND

(2) QUEST CAPITAL NOMINEES LIMITED

**SHARE CHARGE TO SECURE UP TO £4,235,000 12% REDEEMABLE SECURED LOAN NOTES 2024 ISSUED BY FASTNET
SOLAR 2020 LIMITED**



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THIS THIRD-PARTY CHARGE OVER SHARES is made on 4th February 2021

PARTIES

- (1) **Elgin Energy Holdings Limited** incorporated in England and Wales under number 07181686 whose registered office is at 9 North Audley Street, London, England, W1K 6ZD, (**Elgin**)
- (2) **Quest Capital Nominees Limited** incorporated in Ireland under number 587570 whose registered office is at 9 Fitzwilliam Square Dublin 2 (the **Lender**)

BACKGROUND

- (A) The Issuer has made the Loan Note Instrument.
- (B) The Issuer has issued the Loan Notes to the Lender pursuant to the Loan Note Instrument.
- (C) Elgin owns the Securities.
- (D) As security for the payment and discharge of all obligations of the Issuer to the Lender under the Loan Note Instrument, Elgin has agreed to provide the Lender with a charge over the Securities on the terms more particularly set out herein.
- (E) For the avoidance of doubt this Charge is not a qualifying floating charge and does not confer a right to appoint an Administrator.

THIS DEED witnesses

1 INTERPRETATION

1.1 In this Charge, unless the context otherwise requires:

Administrator	means an administrator appointed under the Insolvency Act 1986;
Debentures	has the meaning given to that expression by the Subscription Agreement;
Default Event	has the meaning given to that expression by the Loan Note Instrument;
Encumbrance	means any mortgage, charge, pledge, lien, hypothecation or other security interest of any kind, and any right of set-off, assignment, trust, flawed asset or other agreement or arrangement whatsoever for the purpose of providing security or having a similar effect to the provision of security, other than liens arising by operation of law in the ordinary course of Elgin's business;
Finance Document	the Loan Note Instrument and this Charge;
FOCAP	means FOCAP 2020 Limited, incorporated in England and Wales under number 12875453 whose registered office is at 9 North Audley Street, London, England, W1K 6ZD;

Issuer	Fastnet Solar 2020 Limited, incorporated in England and Wales under number 12878999 whose registered office is at 9 North Audley Street, London, England, W1K 6ZD;
Loan Note Instrument	the Loan Note Instrument made by the Issuer for £4,235,000 12% Redeemable Secured Loan Notes 2024 dated in or about the date of this Charge;
Loan Notes	the £4,235,000 loan notes from time to time issued by the Issuer to the Lender (which have not been redeemed) pursuant to the Loan Note Instrument;
Receiver	means any receiver appointed under this Charge, and, where more than one receiver has been appointed, each of them;
Related Rights	means any: <ul style="list-style-type: none"> (a) dividend, interest or other distribution paid or payable in relation to any of the Securities; (b) right, money or property accruing, offered or issued at any time in relation to any of the Securities by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise;
Secured Liabilities	all present and future obligations and liabilities of the Issuer to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or pursuant to the Loan Notes or this Deed together with all accrued unpaid interest on the Loan Notes;
Securities	means all the right title and interest of Elgin in the share capital of FOCAP;
Security Period	the period starting on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding;
Subscription Agreement	the subscription and shareholders' agreement dated on or about the date of this Charge made between inter alios Elgin, the Issuer, the Lender and FOCAP pursuant to which (amongst other things) the Issuer agreed to issue Loan Notes; and
Transaction Documents	this Charge, the Debentures, the Loan Note Instrument, the Subscription Agreement, the articles of association of FOCAP, the Issuer and each of the subsidiaries of the Issuer, plus any other document, contract, deed or agreement entered into in connection with the matters contemplated in the Subscription Agreement.

1.2 In this Charge unless the context otherwise requires:

- 1.2.1 the singular includes the plural and vice versa, and reference to any gender includes the other genders;
- 1.2.2 references to persons include bodies corporate, associations, partnerships, organisations, states, state agencies and any other entity, whether or not having separate legal personality;
- 1.2.3 words and phrases defined in the Companies Act 2006 have the same meanings in this Agreement but the word **company** includes any body corporate, and for the purposes of the definition of **subsidiary** in Section 1159 one company (A) shall be treated as being a member of another (B) if any shares in B are held by a subsidiary of A, by any person acting on behalf of A or a subsidiary of A, or by a person holding by way of security provided by A or a subsidiary of A;
- 1.2.4 references to **clauses** are to clauses or sub-clauses of this Charge, references to a **Schedule** are to a schedule to this Charge and references within a Schedule to **paragraphs** are to paragraphs or sub-paragraphs of that Schedule;
- 1.2.5 references to any rate of interest shall be construed as meaning that rate as from time to time in force, calculated from day to day, and compounded on the last days of March, June, September and December in each year, both before and after judgment;
- 1.2.6 references to a base lending rate shall, if there is no such published or determinable rate at the appropriate time, be construed as meaning such reasonably equivalent rate as the Lender shall select;
- 1.2.7 any reference to any statute or statutory instrument or any section or part of one includes any enactment (present or future) replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.2.8 headings are for reference purposes only and shall not affect the construction of anything in this Agreement.

2 LIMITED RECOURSE OF ELGIN

- 2.1 The obligations of Elgin under this Deed are strictly limited to its interests in the Securities and Related Rights and no action shall lie in debt against Elgin for any amount in respect of this Deed provided however that the Lender may apply for (but not enforce against Elgin personally) any judgement or declaratory order for an amount equal to the net value of the Securities and Related Rights.
- 2.2 The total amount recoverable against Elgin under this Deed shall be limited to the net proceeds received from realising its interests in the Securities and Related Rights. If such net proceeds are insufficient to pay and discharge all amounts owing by the Issuer to the Lender, the Lender acknowledges and agrees that the other assets of Elgin shall not be available for

payment of any shortfall arising and no action, proceedings, claim, levy, judgement or other process shall be taken or levied against Elgin.

3 ELGIN'S OBLIGATIONS

- 3.1 Subject to clause 2, Elgin covenants that it shall, on demand by the Lender, pay or otherwise discharge all Secured Liabilities from time to time due by the Issuer, or Elgin under this Deed, to the Lender, in each case when they become due for payment or discharge in accordance with their respective terms and the Subscription Agreement.
- 3.2 For the avoidance of doubt the Secured Liabilities covenanted to be paid by Elgin under this clause 3 will, subject to clause 2, include all amounts whether in respect of principal, interest, costs, fees, expenses and charges and all amounts payable or to be paid by the Issuer and Elgin under any provision of any Finance Document.

4 CHARGES

As a continuing security for payment and discharge of the Secured Liabilities Elgin (with full title guarantee) charges by way of first fixed charge, the Securities and all Related Rights to the Lender.

5 REDEMPTION

On the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding the Lender shall, at the request and cost of Elgin, (i) take whatever action is necessary to release the Securities from the security constituted by this Charge and (ii) reassign the Securities to Elgin.

6 PROTECTION OF THE LENDER'S RIGHTS

- 6.1 Elgin covenants not, without the prior written consent of the Lender or as permitted by and in accordance with the Subscription Agreement, to:
- 6.1.1 create (otherwise than in favour of the Lender) any Encumbrance, or to allow any Encumbrance to arise or continue, on or over any of the Securities; or
- 6.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in the Securities charged by way of fixed charge or mortgage.
- 6.2 For the avoidance of doubt, Elgin may create a floating charge over its assets and undertaking provided always that such Encumbrance shall not include the Securities and that the Lender shall be notified in writing at least 14 days in advance of the creation of such floating charge.
- 6.3 This Charge:
- 6.3.1 shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of

account or other matter or thing whatsoever, and shall be without prejudice and in addition to any other right, remedy or security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Liabilities.

- 6.3.2 is in addition to, and shall not merge with, or otherwise prejudice or affect, any contractual or other right or remedy or any guarantee, lien, pledge, encumbrance, bill, note, mortgage or other security (whether created by the deposit of documents or otherwise) now or hereafter held by, or available to, the Lender for or in respect of the Secured Liabilities or any other obligations whatsoever;
- 6.3.3 shall not be in any way prejudiced or affected by any act, omission, matter or thing which, but for this clause 6.3, would reduce, release or prejudice any of its obligations under this Charge including:
- (a) any time, waiver, consent, indulgence or concession granted to, or composition with, Elgin or any other person;
 - (b) the exchange, variation or release of, or refusal or neglect to perfect or enforce, this security or any rights which the Lender may now or hereafter have or any failure to realise the full value of any of the Securities;
 - (c) any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status or constitution of, Elgin or any other person;
 - (d) any amendment, extension, restatement (in each case, however fundamental and whatsoever nature) or replacement of any document or security including any change in the purpose of, any extension of, or any increase in, any facility or the addition of any new facility under any document or security;
 - (e) any unenforceability, illegality or invalidity of:
 - (i) the Secured Liabilities; and
 - (ii) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender;
 - (f) any insolvency or similar proceedings; or
 - (g) any act, event or omission which, but for this clause 6.3 would or might have discharged, or otherwise prejudiced or affected, the liability of Elgin.
- 6.4 Until the Secured Liabilities have been paid in full or the Securities have been released in accordance with the terms of this Charge, Elgin:
- (a) waives all rights of subrogation and indemnity against the Issuer;
 - (b) waives any right it might have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Charge against Elgin; and

(c) agrees not to:

- (i) demand or accept or to negotiate, assign, charge or otherwise dispose of any monies, obligations or liabilities now or hereafter due or owing to it by the Issuer;
- (ii) take any step to enforce any right against the Issuer for the same;
- (iii) claim any set-off or counter claim against the Issuer or Lender;
- (iv) claim or prove in competition with the Lender in the insolvency, bankruptcy or liquidation, examination or administration of the Issuer; or
- (v) have the benefit of, or share in, any payment or composition from the same or in any other security now or hereafter held by the Lender for any monies, obligations or liabilities of the Issuer.

If Elgin acts in breach of this clause, anything so received and any benefit derived directly or indirectly by it therefrom shall be held in trust for the Lender as a continuing security for the Secured Liabilities. This clause 6.4 is without prejudice to the rights of the Promoters (as defined in the Subscription Agreement) to the repayment of Loan Notes in accordance with clause 21 of the Subscription Agreement).

7 THE SECURITIES

7.1 Elgin shall:

- 7.1.1 on the execution of this Charge, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to the Securities; and
- 7.1.2 on the issue to it of Securities in the Issuer after the date of this Charge, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Securities.

7.2 At the same time as depositing documents with the Lender, or as the Lender may direct, in accordance with clause 7.1, Elgin shall also deposit with the Lender, or as the Lender may direct:

- 7.2.1 all stock transfer forms relating to the Securities duly completed and executed by or on behalf of Elgin, but with the name of the transferee, the consideration and the date left blank; and
- 7.2.2 any other documents (in each case duly completed and executed by or on behalf of Elgin) that the Lender, acting reasonably, may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the Securities,

so that the Lender may, after this Charge has become enforceable in accordance with clause 9.1, complete and present those stock transfer forms and other documents to the Issuer for registration.

7.3 Elgin shall:

- 7.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of the Issuer, for the transfer of the Securities to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this Charge; and
- 7.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of the Issuer in any manner that the Lender may require in order to permit the transfer of the Securities to the Lender or its nominee following the date on which this Charge has become enforceable in accordance with clause 9.1, or to a purchaser on enforcement of the security constituted by this Charge.

7.4 Before the security constituted by this Charge has become enforceable in accordance with clause 9.1:

- 7.4.1 Elgin may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Securities and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for Elgin and will pay them to Elgin promptly on request;
- 7.4.2 Elgin may exercise all voting and other rights and powers in respect of the Securities or, if any of the same are exercisable by the Lender or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
 - 7.4.2.1 it shall not do so in any way that would breach any provision of the Transaction Documents or for any purpose inconsistent with the Transaction Documents; and
 - 7.4.2.2 the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender opinion, have an adverse effect on the value of the Securities or otherwise prejudice the Lender's security under this Charge;
- 7.4.3 Elgin shall indemnify and keep indemnified the Lender against any loss, liability, costs or expenses incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Securities at the direction of Elgin; and
- 7.4.4 the Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Securities that the Lender considers prejudicial to, or impairing the value of, the security created by this Charge.

- 7.5 After the security constituted by this Charge has become enforceable in accordance with clause 9.1:
- 7.5.1 all dividends and other distributions paid in respect of the Securities and received by Elgin shall be held by Elgin on trust for the Lender and immediately paid into such account as the Lender shall direct; and
 - 7.5.2 all voting and other rights and powers attaching to the Securities may be exercised by, or at the direction of, the Lender and Elgin shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers.
- 7.6 Notwithstanding the security created by this Charge, Elgin shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Securities. Elgin acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other payments.

8 REPRESENTATIONS AND WARRANTIES

- 8.1 Elgin represents and warrants to the Lender as follows, and such representations and warranties are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition, that:
- 8.1.1 Elgin is the sole legal and beneficial owner of the Securities;
 - 8.1.2 the Securities are free from any Encumbrance;
 - 8.1.3 Elgin has not received or acknowledged notice of any adverse claim by any person in respect of the Securities or any interest in the whole or any part of same;
 - 8.1.4 there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which materially adversely affect the Securities;
 - 8.1.5 no charge expressed to be created under this Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of Elgin or otherwise;
 - 8.1.6 this Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of Elgin, and is, and will continue to be, effective security over all and every part of the Securities in accordance with its terms;
 - 8.1.7 no constitutional document of an issuer of a Securities, nor any other agreement restricts or inhibits any transfer of the Securities on creation or enforcement of the security constituted by this Deed.
 - 8.1.8 Elgin has complied with all notices relating to all or any of the Securities received by it pursuant to sections 790D and 790E of the Companies Act 2006;
 - 8.1.9 no warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph

1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Securities; and

8.1.10 the entry into this Charge by Elgin does not and will not constitute a breach of any agreement or instrument binding on Elgin or its assets.

8.2 Elgin shall, promptly on becoming aware of any of the same, notify the Lender in writing of any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and any breach of any covenant set out in this Deed.

9 DEMAND AND ENFORCEMENT

9.1 This Charge shall become immediately enforceable:

9.1.1 upon a breach of any representation or warranty contained in this Deed;

9.1.2 following a Default Event, whether by the Issuer or Elgin or otherwise, upon any demand being made by the Lender for payment of any of the Secured Liabilities;

9.1.3 upon the passing of any resolution, or the presentation of a petition for winding up in relation to the Issuer;

9.1.4 upon the passing of any resolution, or the presentation of a petition for winding up in relation to Elgin (save for the purposes of a solvent reconstruction or reorganisation);

9.1.5 upon any request being made by the Issuer to the Lender for the appointment of an Administrator or a Receiver or for the Lender to exercise any other power or right available to it;

9.1.6 upon the Issuer going into administration, or any application being made for an administration order, or any notice being given (by any person to any person) of an intention to appoint an Administrator, in relation to the Issuer;

9.1.7 upon Elgin going into administration, or any application being made for an administration order, or any notice being given (by any person to any person) of an intention to appoint an Administrator, in relation to Elgin;

9.1.8 upon any moratorium coming into effect in respect of all or any of the Issuer's debts, or the Issuer taking any step with a view to obtaining such a moratorium; or

9.1.9 upon any moratorium coming into effect in respect of all or any of Elgin's debts, or Elgin taking any step with a view to obtaining such a moratorium.

9.2 Elgin waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against Elgin.

- 9.3 Any demand for payment, and any other notice to be given by the Lender under this Charge, shall be in writing and may be signed by any official of the Lender, and may be made or given at any place of business of Elgin or at its registered office:
- 9.3.1 by delivering it to any such place; or
 - 9.3.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00 am on the next business day after posting, and proof of posting shall be proof of delivery); or
 - 9.3.3 by sending it by fax to any of Elgin's fax numbers (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).
- 9.4 At any time after this Charge has become enforceable the Lender may exercise, in respect of any Securities, the power of sale given to mortgagees by the Law of Property Act 1925. The restrictions imposed by Section 103 of that Act shall not apply, and the Lender may delegate the exercise of its power of sale to any Receiver or other person.
- 10 RECEIVERS**
- 10.1 At any time after this Charge has become enforceable the Lender may (subject as provided below) appoint any person or persons to be a receiver or receivers (the **Receiver**) of the Securities.
- 10.2 The appointment of a Receiver shall be in writing, and may be signed by any director or employee on behalf of the Lender. Where more than one person is acting at any time as Receiver, the Lender may in the same manner stipulate whether and to what extent they may act jointly or separately.
- 10.3 The Lender may not 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 1986 Section 1A.
- 10.4 The Lender may from time to time fix the remuneration of the Receiver (which shall not be subject to the limit in the Law of Property Act 1925 Section 109(6)) and may (subject to the application of the Insolvency Act 1986 Section 45) remove any person from office in relation to all or any part of the Securities of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of the Securities) appoint a further or other receiver or receivers over all or any part of the Securities.
- 10.5 The Receiver shall be the agent of Elgin (which shall be solely liable for his acts, defaults and remuneration) unless and until Elgin goes into liquidation, whereafter he shall act as principal and shall not become the agent of the Lender, and the Receiver shall have and be entitled to exercise in relation to Elgin all the powers set out in the Insolvency Act 1986 Schedule 1 (whether or not he is an administrative receiver) and in applying that Schedule:
- 10.5.1 the words **he** and **him** refer to the Receiver; and

- 10.5.2 references to the **property of the company** are to the Securities over which the Receiver is appointed,
- 10.6 A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lender may prescribe or agree with.
- 10.7 A Receiver may do all or any of the following:
- 10.7.1 take possession of, collect and get in all or any of the Securities;
 - 10.7.2 sell, exchange, convert into money and realise all or any of the Securities in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale maybe for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Securities to be sold;
 - 10.7.3 transfer all or any part of the Securities to any other company or body corporate, whether or not formed or acquired for that purpose;
 - 10.7.4 exercise in respect of the Securities all voting or other powers or rights available to a registered holder thereof in such manner as he may think fit;
 - 10.7.5 take any and all steps or other action (including legal proceedings) for the purposes of enforcing, protecting or preserving any contractual rights forming part of the Securities;
- 10.8 A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Securities as he thinks fit.
- 11 PAYMENT OF MONEYS**
- 11.1 Any moneys received by the Receiver or the Lender shall, subject to the payment as far as necessary of any claims having priority to this Charge, be paid or applied in the following order of priority:
- 11.1.1 in satisfaction of all costs, charges and expenses properly incurred and payments properly made by the Receiver and of the remuneration of the Receiver;
 - 11.1.2 in or towards satisfaction of the Secured Liabilities in such order as the Lender may at its discretion require; and
 - 11.1.3 as to the surplus (if any) to the person or persons entitled thereto.
- 11.2 The Lender may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Charge on a separate or suspense account to the credit either of Elgin or of the Lender as the Lender shall think fit, without any intermediate obligation on the Lender's part to apply the same or any part of them in or towards the discharge of the Secured Liabilities.

12 PROTECTION OF THIRD PARTIES

- 12.1 No purchaser from or other person dealing with the Lender, nor any person to whom it has delegated any of its powers, nor the Receiver, shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, nor whether the Secured Liabilities remain outstanding, nor whether any event has happened to authorise the Receiver or the Lender to act or as to the propriety or validity of the exercise of any such power; and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.
- 12.2 The receipt of the Lender or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other such person and shall relieve him of any obligation to see the application of any moneys paid to or by the direction of the Lender or the Receiver.

13 PROTECTION OF THE LENDER AND THE RECEIVER

- 13.1 Neither the Lender nor any Receiver shall be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective powers under this Charge.
- 13.2 Without prejudice to any other provision of this Charge, entry into possession of the Securities shall not render the Lender or the Receiver liable to account as mortgagee in possession, or to be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable, and if and whenever the Lender or the Receiver enters into possession of the Securities it shall be entitled at any time it or he thinks fit to go out of such possession.

14 MISCELLANEOUS PROVISIONS

- 14.1 The rights powers and discretions given to the Lender in this Charge:
- 14.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;
 - 14.1.2 are cumulative, and are not exclusive of any of its rights under the general law;
 - 14.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right is not a waiver of it.
- 14.2 If any provision of this Charge is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
- 14.2.1 the validity or enforceability of any other provision, in any jurisdiction; or
 - 14.2.2 the validity or enforceability of that particular provision, in any other jurisdiction.
- 14.3 All costs, charges and expenses incurred or paid by the Lender or by the Receiver in the exercise of any power or right given by this Charge, or in relation to any consent requested by Elgin, and of all proceedings for the enforcement of this Charge or for obtaining payment of any moneys secured by it, shall, subject to clause 2, be recoverable from Elgin on demand as debts.

- 14.4 Elgin shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:
- 14.4.1 creating, perfecting or protecting the security created or intended to be created by this Deed;
 - 14.4.2 facilitating the realisation of any Securities; or
 - 14.4.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Securities,
- including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the securities forming part of (or intended to form part of) the Securities (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.
- 14.5 By way of security, Elgin irrevocably appoints the Lender, every Receiver and every delegate of either of them, separately to be the attorney of Elgin and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:
- 14.5.1 Elgin is required to execute and do under this Deed; or
 - 14.5.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed on any Receiver or any delegate of such Receiver or the Lender.
- 14.6 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one Deed.
- 14.7 Transmission of the executed signature page of a counterpart of this Deed by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 14.8 The Lender may assign this Charge to any successor in title to any of the Secured Liabilities, and may disclose any information in its possession relating to the Issuer, its affairs or the Secured Liabilities to any actual or prospective assignee.
- 14.9 This Charge shall be governed by and construed in accordance with English Law, and Elgin submits to the jurisdiction of the English Courts for the purposes of any dispute in relation to it.

EXECUTED AS A DEED by Elgin and the Lender on the date first herein appearing

Executed as a Deed by **Elgin Energy Holdings Limited** acting by a director in the presence of:



Signature

Name:

Address:

Occupation:

Watten Kemnay
Legal Executive

MKB Law
14 Great Victoria Street
Belfast BT2 7BA
Tel: 028 9024 2450
Fax: 028 9024 2448

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Director

Present when the **Common Seal of Quest Capital Nominees Limited** was affixed hereto:

Director

Director/Secretary