



**Registration of a Charge**

Company name: **GAS GENERATION OLDHAM LIMITED**

Company number: **10334181**

Received for Electronic Filing: **21/04/2017**



X64T5Y8H

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**Details of Charge**

Date of creation: **11/04/2017**

Charge code: **1033 4181 0001**

Persons entitled: **LOAN NOTE DEBENTURES LIMITED (CRN:08994502)**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

**Chargor acting as a bare trustee for the property.**

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**Authentication of Form**

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

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**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:

**RAPHAEL STEELE**



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

Company number: 10334181

Charge code: 1033 4181 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th April 2017 and created by GAS GENERATION OLDHAM LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st April 2017 .

Given at Companies House, Cardiff on 24th April 2017

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 11 April 2017

Gas Generation Oldham Limited

in favour of

Loan Note Debentures Limited

SERIES A LOAN NOTE DEBENTURE

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

RONALD FLETCHER BAKER LLP  
326 OLD STREET  
LONDON EC1V 9DR  
DX:137773 FINSBURY 5



Raphael Steele  
13/4/17

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## **DEBENTURE**

Dated: 2017

made by **GAS GENERATION OLDHAM LIMITED** (company number 10334181) whose registered office is at Delta Place, 27 Bath Road, Cheltenham, England, GL53 7TH (the "Company");

in favour of **LOAN NOTE DEBENTURES LIMITED** (company number 08994502) whose registered office is at Delta Place, 27 Bath Road, Cheltenham, Gloucestershire, GL53 7TH (the "Mortgagee").

### **1. INTERPRETATION**

1.1 In this deed the following expressions have the following meanings:-

"Administrator"	an administrator appointed under the Insolvency Act 1986;
"Business"	the business or businesses and operations carried on by the Company from time to time;
"Business Day"	a day (not being a Saturday or a Sunday) on which clearing banks are open for general banking business in London;
"Charged Property"	the assets and undertaking charged or assigned by clause 4;
"Encumbrance"	includes any mortgage, charge (fixed or floating), pledge, lien and any other arrangement or interest (whether by way of assignment, trust, title retention or otherwise) which has the effect of creating security or payment priority;
"Interest"	interest at the rate or rates agreed between the Noteholders and the Company under the Series A Loan Note Instrument;
"Lease"	any letting, underlease or sub-lease and any tenancy, licence or other agreement for possession or occupation;
"Licences"	all licences, consents, certificates, registrations, permits or other similar matters required in connection with the Company's property, assets, undertaking and the Business;
"Loan Notes"	the loan notes created by the Series A Loan Note Instrument;
"Series A Loan Note Instrument"	the instrument of even date creating the Loan Notes;
"Noteholders"	the noteholders as defined in the Series A Loan Note Instrument;
"Noteholder Majority"	such amount of the Noteholders holding between them more than 50% of the value of the Loan Notes;
"Obligations"	the obligations and liabilities covenanted to be discharged or paid under clause 3;
"Planning Acts"	any legislation, directions, notices, bye-laws from time to time in force relating to town and country planning, building and

	construction;
"Property"	any freehold and/or leasehold land and buildings from time to time owned or occupied by the Company;
"Receiver"	any person appointed as receiver, administrative receiver, manager or receiver and manager;
"Rents"	all rents, profits, income, fees and other sums at any time payable to the Company by any lessee, tenant, licensee or other occupier of the Charged Property except any sums payable in respect of services or insurance provided by the Company;
"Tax"	any form of taxation, levy, duty, charge, contribution or impost (including any applicable fine, penalty, surcharge or interest) imposed by any local, municipal, governmental, state, federal or other fiscal, revenue, customs and/or excise authority, body or official anywhere in the world; and
"VAT"	value added tax or any other tax on added value or on turnover for the time being in force.

1.2 In this deed, each reference to:-

- 1.2.1 "Charged Property", "Obligations" or "Property" includes a reference to any part of them or it;
- 1.2.2 "Company" includes a reference to any person deriving title through the Company;
- 1.2.3 "Mortgagee" includes a reference to any person who claims any title or interest through the Mortgagee or any person to whom the business of the Mortgagee is transferred;
- 1.2.4 any document (including the Series A Loan Note Instruments and this deed) or a provision of such document includes a reference to such document or provision as supplemented, varied or replaced from time to time;
- 1.2.5 "freehold" property includes a reference to property registered (or in the process of registration) as a freehold estate in commonhold land (whether in commonhold units or common parts);
- 1.2.6 a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, order or regulations made under it;
- 1.2.7 the singular includes the plural and vice versa;
- 1.2.8 a person includes a body corporate, unincorporated association, government, state, partnership or trust (in each case, whether or not having separate legal personality); and
- 1.2.9 "dispose" includes charging, selling, leasing, assigning or transferring or agreeing to do any of the same, granting an option or similar right, creating a

trust or other equitable interest or sharing or parting with possession or occupation.

- 1.3 General words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.
- 1.4 Headings in this deed are for convenience only and shall not affect its interpretation.
- 1.5 If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **2. SECURITY TRUSTEE**

- 2.1 The Mortgagee is acting as agent and security trustee for the Noteholders.
- 2.2 Any moneys recovered by the Mortgagee following enforcement of its rights under or otherwise pursuant to this deed shall (subject to clause 10.3) be distributed to the Noteholders in the Series A Loan Note Instrument and (subject thereto) as nearly as may be according to their respective holdings of the Loan Notes and as otherwise provided in the Series A Loan Note Instrument.
- 2.3 This deed shall be granted to the Mortgagee as security trustee and agent for the Noteholders. They shall be entitled to rely on the instructions of a Noteholder Majority in relation to all matters arising in connection with this deed save that any monies recovered by them on enforcement of or otherwise pursuant to this deed shall (subject to deductions permitted under this deed) be distributed as nearly as may be according to their respective holdings of the Loan Notes or as otherwise agreed by the Noteholders. □

## **3. SECURED LIABILITIES**

- 3.1 The Company covenants to:-
  - 3.1.1 discharge on demand from time to time all its obligations and liabilities to the Noteholders under the Loan Notes and Loan Note Instrument (whether present or future, actual or contingent);
  - 3.1.2 pay to the Mortgagee on demand from time to time Interest on any amount payable to it under clause 3.1.1 from the date of demand.

In the case of any of the Obligations which is not (but for this clause 3) due for discharge on demand, the Mortgagee shall not make demand before the due date.

## **4. SECURITY**

As a continuing security for the discharge and payment of the Obligations and with full title guarantee, the Company:-

- 4.1 charges to the Mortgagee by way of legal mortgage all the Property now vested in or charged to the Company;
- 4.2 charges to the Mortgagee by way of fixed charge all estates and interests in any other Property now and in the future vested in or charged to the Company;



- 4.3 assigns to the Mortgagee the benefit of all covenants, rights, claims and guarantees relating to the Company's present and future Property or that Property's construction, use or title and the benefits of all easements serving or relating to such property, subject to reassignment on the discharge of the Obligations;
- 4.4 charges to the Mortgagee by way of fixed charge all rights and interests in and claims under all policies of insurance and assurance now or in the future held, to be held or insuring to the Company's benefit and all rights and claims to which the Company is now or may in the future be entitled under any contracts;
- 4.5 charges to the Mortgagee by way of fixed charge all the plant, machinery, fixtures, fittings, vehicles, computers and equipment now and in the future belonging to the Company and assigns to the Mortgagee all right, title and interest of the Company under any agreements (present or future) relating to the purchase, lease or hire purchase of the same, subject to reassignment on the discharge of the Obligations;
- 4.6 charges to the Mortgagee by way of fixed charge all the goodwill and uncalled capital of the Company present and future;
- 4.7 charges to the Mortgagee by way of fixed charge all shares, stock and other securities (whether certificated or uncertificated, represented as units or balance in an account within any clearing or settlement system) now and in the future belonging to the Company;
- 4.8 charges to the Mortgagee by way of fixed charge all intellectual property rights now and in the future belonging to the Company;
- 4.9 charges to the Mortgagee by way of fixed charge all book and other debts now and in the future owing to the Company and the benefit of all the Company's present and future rights and claims against third parties relating to them and capable of being satisfied by the payment of money (except as charged by clause 4.4);
- 4.10 charges to the Mortgagee by way of fixed charge all present and future bank accounts, cash at bank and credit balances of the Company with the Mortgagee, any bank or any other person and all rights relating to or attaching to them;
- 4.11 charges to the Mortgagee by way of floating charge all the undertaking and all property, assets and rights of the Company present and future wherever situate not from time to time subject to a mortgage, fixed charge or assignment under this deed; and
- 4.12 subject to a proviso for reassignment on irrevocable discharge in full of the Obligations, assigns:
  - 4.12.1 all its rights in each insurance policy, including all claims, the proceeds of all claims and all returns of premium in connection with each insurance policy; and
  - 4.12.2 the benefit of all agreements, instruments and rights relating to the Obligations.

## **5. FLOATING CHARGE**

- 5.1 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by this deed.

- 5.2 The Mortgagee may at any time by written notice to the Company convert the floating charge created by this deed into a fixed charge as regards any of the Charged Property specified in the notice if:
- 5.2.1 the Company fails to comply with the Obligations and such failure is continuing (providing that if capable of remedy, such breach is not remedied to the satisfaction of the Mortgagee (acting reasonably) within 10 Business Days of the date of the Company's receipt of a notice specifying the breach and requiring its remedy); or
  - 5.2.2 the Mortgagee reasonably considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- 5.3 The floating charge created by this deed will, without notice from the Mortgagee, automatically be converted with immediate effect into a fixed charge:-
- 5.3.1 in respect of any Charged Property which becomes subject to a fixed charge in favour of any other person other than with the prior written consent of the Mortgagee;
  - 5.3.2 in respect of any Charged Property charged under clause 4.11 if and when the Company ceases to carry on business as a going concern;
  - 5.3.3 in respect of any Charged Property which is subject to any step by any third party to levy any distress, attachment, execution or other legal process on it; and
  - 5.3.4 in respect of all the Charged Property on the making of an order for the compulsory winding up of the Company, on the convening of a meeting for the passing of a resolution for the voluntary winding up of the Company or taking of any step (including the making of an application or the giving of any notice) by the Company or any other person for the appointment of an administrator in respect of the Company.
- 5.4 Any mortgage, fixed charge or other fixed security created by the Company in favour of the Mortgagee will have priority over the floating charge created by clause 4.11, unless the Mortgagee states otherwise on or after its creation.

## 6. **RESTRICTIONS**

- 6.1 The Company will not without the Mortgagee's prior written consent:-
- 6.1.1 create or permit to arise or continue any Encumbrance affecting the Charged Property or increase or extend any liability of the Company secured on any of the Charged Property;
  - 6.1.2 dispose of the Charged Property charged by clauses 4.1 to 4.10 inclusive or, following crystallisation of the floating charge created by clause 4.11, the Charged Property charged by clause 4.11;
  - 6.1.3 dispose of the Charged Property charged by clause 4.11 other than in the ordinary course of, and for the purposes of, carrying on its business while the floating charge remains uncrystallised; or

6.1.4 grant or accept a surrender of any Lease, or part with or share possession or occupation of, its Property nor vary any Lease or reduce any sum payable under any such Lease nor enter into any onerous or restrictive obligations affecting its Property.

6.2 The Company consents to the application to the Chief Land Registrar to enter a restriction on the Register of Title of all present and future Property in the following terms: "no disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of Loan Note Debentures Limited (company number 08994502) referred to in the charges register or their conveyancer".

## **7. INSURANCE**

7.1 The Company will keep insured for not less than its replacement value all of the Charged Property which is of an insurable nature.

7.2 Subject to the provisions of any Lease of the Charged Property (and without prejudice to any obligation in the policy of insurance or to any other obligation having priority to the obligation imposed by this deed), the Company shall hold in trust for the Mortgagee all monies received by it under any insurance of the Charged Property and at the Mortgagee's option will apply the same in making good the relevant loss or damage or, if any of the Obligations shall have become due and payable, in or towards discharge of such Obligations and in the meantime will pay all such monies into such account as the Mortgagee may specify.

7.3 The Company shall use its best endeavours:-

7.3.1 to comply with the recommendations and requirements of the insurers; and

7.3.2 not to do or allow to be done anything on the Charged Property which might prejudicially affect any insurance policy.

7.4 If the Company defaults in its obligations under this clause 7 or at any time after the Mortgagee has demanded repayment of the Obligations or if the Company does not ensure that any landlord insures the Charged Property (where agreed between the parties), the Mortgagee or any Receiver may effect insurance as specified in this clause 7 without becoming liable to account as mortgagee in possession and the cost of so doing shall be an expense which shall be reimbursed by the Company (to the extent that it is reasonably and properly incurred).

7.5 The Company shall notify the Mortgagee as soon as possible after an event has occurred which is likely to lead to a claim in excess of £25,000 being made under any insurance policy relating to the Charged Property.

## **8. WARRANTIES BY THE COMPANY**

The Company warrants with the Mortgagee:-

8.1 punctually to pay all rents, rates, Taxes, duties, assessments and other outgoings payable in respect of the Company's assets and property;

8.2 to observe and perform all covenants (positive and restrictive), conditions, permissions and stipulations from time to time affecting its Property in all material respects;

- 8.3 to keep all buildings, gates, fences, drains, roads, pathways and other works on its property in good and substantial repair and all fixtures and fixed plant and equipment in working order in all material respects and not to permit its property to suffer any material depreciation by neglect;
- 8.4 to permit the Mortgagee and its representatives to enter and view the state and condition of the Charged Property and on default by the Company to effect repairs (without the Mortgagee becoming liable to account as mortgagee in possession);
- 8.5 to comply with all applicable laws and regulations (including, without limitation, all environmental laws, legislation relating to public health, control and handling of hazardous substances or waste, fire precautions, health and safety at work, product safety and the Planning Acts) in all material respects;
- 8.6 not to remove or sever any fixed plant or fixture (except for the purpose of renewal or replacement by a fixture of equal or greater value);
- 8.7 not to make any change of use or carry out any structural or material alteration to any of its Property or do or permit to be done anything which is a "development" within the meaning of the Planning Acts without the prior written consent of the Mortgagee;
- 8.8 where the Charged Property comprises or is or becomes subject to any Lease, observe and comply in all material respects with its obligations under and enforce the due observance and performance of all other persons under such Lease and promptly (as landlord) implement all rent reviews;
- 8.9 within 14 days of receiving any order, notice, proposal, demand or other requirement affecting the Charged Property from any competent authority (including any landlord) to give full particulars to the Mortgagee and deliver to the Mortgagee copies of such documents as it may require;
- 8.10 to collect in the ordinary course of business and in a proper and efficient manner all monies which it receives in respect of any policies of insurance, fees, royalties, income or book or other debts or any other of the rights and claims charged or assigned under clause 4;
- 8.11 to enforce the prompt payment of Rents and to ensure that any tenant, licensee or occupier of any of its property complies with all the terms of any Lease;
- 8.12 to promptly serve all notices and take all action reasonably necessary to ensure that all rent reviews imposed by any Lease relating to its property are quickly resolved;
- 8.13 upon written request of the Mortgagee from time to time to inform the Mortgagee in writing who is in occupation of each part of its property and upon what terms;
- 8.14 if any Charged Property is leasehold, immediately upon acquiring any extended Lease or the freehold or an interest in the freehold, if reasonably required by the Mortgagee, to execute as a deed at the Company's cost a legal charge in favour of the Mortgagee in such form as the Mortgagee may require over such additional interest as security for the Obligations;
- 8.15 to take out, renew and maintain all Licences;
- 8.16 to notify the Mortgagee as soon as practicable after the Company becomes aware of any of the following:-

- 8.16.1 any creditor executes diligence against the Company or if any distress or execution is levied or enforced against the Company or any third party debt order or freezing order is made or served on the Company; or
- 8.16.2 any steps (including the making of any application or the giving of any notice) are taken by any person (including the Company) in relation to the administration, receivership, winding up or dissolution of the Company;
- 8.17 to not allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of any of its properties (or any part of its properties) or create or permit to arise any overriding interest as specified in Schedule 1 or Schedule 3 to the Land Registration Act 2002 affecting any such properties;
- 8.18 generally not to do or cause or permit to be done anything to unreasonably and materially lessen the value or marketability of the Charged Property.

## 9. **POWERS OF THE MORTGAGEE**

- 9.1 Section 103 of the Law of Property Act 1925 shall not apply and the Mortgagee may exercise its power of sale and other powers under that or any other Act or this deed at any time after the date of this deed provided that the Mortgagee will not exercise any of such powers until payment of all or any part of the Obligations has been demanded or a Receiver has been appointed in accordance with the terms of this deed, but this proviso will not affect a purchaser or put a purchaser upon inquiry whether such demand or appointment has been validly made.
- 9.2 At any time after:-
  - 9.2.1 any of the Loan Notes shall have become due and repayable to the Noteholders in accordance with the terms of the Series A Loan Note Instruments;
  - 9.2.2 any step or proceeding has been taken for the appointment of an Administrator, liquidator or provisional liquidator or with a view to seeking a moratorium or a voluntary arrangement in respect of the Company;
  - 9.2.3 if requested by the Company; or
  - 9.2.4 breach or non-compliance by the Company of or with any of the provisions of this deed and which, if capable of remedy, is not remedied to the satisfaction of the Mortgagee (acting reasonably) within 10 Business Days of the date of the Company's receipt of a notice specifying the breach and requiring its remedy

the Mortgagee may appoint by writing, insofar as permitted by law, any person or persons to be a Receiver of all or any of the Charged Property or an Administrator or Administrators and the security created by this deed shall in any of such events become immediately enforceable.

- 9.3 The Mortgagee may, to the extent permitted by law, remove a Receiver or Receivers from all or any of the Charged Property of which they are the Receivers, fix and pay the fees of a Receiver and substitute any Receiver, but any Receiver shall be the agent of the Company and the Company shall be solely responsible for the Receiver's acts, defaults and remuneration.

- 9.4 Once a Receiver is appointed, the Mortgagee will not be precluded from making any subsequent appointment of a Receiver over any Charged Property, whether or not any Receiver previously appointed continues to act.
- 9.5 At any time after the security created by this deed shall have become enforceable in accordance with clause 9.2, all or any of the powers conferred by clause 10.1 may be exercised by the Mortgagee, whether as the Company's attorney or not, without first appointing a Receiver or notwithstanding any such appointment.
- 9.6 The Mortgagee will not be liable to account to the Company as mortgagee in possession for any money not actually received by the Mortgagee and if the Mortgagee or any Receiver takes possession of the Charged Property it or he may at any time relinquish such possession (whether it or he relinquishes such possession in whole or in part).
- 9.7 If the Company is in default of any of its obligations under this deed, the Mortgagee or any Receiver may perform such obligation and take such action as is necessary to make good the default without becoming liable to account as a mortgagee in possession and the cost of so doing shall be an expense which shall be reimbursed by the Company (to the extent that it is reasonably and properly incurred).
- 9.8 Section 93(1) of the Law of Property Act 1925 shall not apply to this deed.

#### **10. RECEIVERS AND ADMINISTRATORS**

- 10.1 Any Receiver appointed by the Mortgagee shall be a receiver and manager and shall, to the maximum extent possible, have the powers specified in Schedule 1 to the Insolvency Act 1986 and the following powers exercisable upon such terms and conditions as he thinks fit:-
- 10.1.1 to take possession of and generally to manage the Charged Property;
- 10.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract or arrangement to which the Company is or is to be a party;
- 10.1.3 to carry out on any Property or on any other property which it may in his opinion be necessary or desirable to work upon, any new works or complete any unfinished works of building, reconstruction, maintenance, furnishing of equipment and to apply for and obtain all planning permissions, building regulation approvals and other permissions, consents or licences as may be necessary or desirable for such purposes and to effect and/or carry out any development, building or other works;
- 10.1.4 to purchase or acquire any land or other property and purchase, acquire, grant or release any interest in or right over land or other property and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Property;
- 10.1.5 to sell, lease, licence, surrender or accept surrenders of any Leases deal with or dispose of the Charged Property without restriction including power to dispose of any fixtures separately from the land;
- 10.1.6 to complete any transaction by executing deeds or documents in the name of or on behalf of the Company;

- 10.1.7 to insure the Charged Property and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees, indemnities and security;
  - 10.1.8 to call up any uncalled capital of the Company with all the powers conferred by the Articles of Association of the Company in relation to calls;
  - 10.1.9 to engage, rely on the advice of and dismiss advisers, consultants, officers, managers, agents, workmen and others;
  - 10.1.10 to purchase materials, tools, equipment, goods or supplies;
  - 10.1.11 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise;
  - 10.1.12 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
  - 10.1.13 to make any elections for VAT purposes; and
  - 10.1.14 to do any other acts which he may consider to be incidental or conducive to any of his powers or to the realisation of the Charged Property.
- 10.2 In the case of joint Receivers and Administrators any power may be exercised jointly or severally.
- 10.3 Any moneys received under the powers conferred by this deed will, subject to the payment or repayment of any prior claims, be paid or applied in the following order of priority:-
- 10.3.1 in or towards satisfaction of all costs, charges and expenses properly incurred and payments made by the Mortgagee and/or the Receiver or Administrator including the remuneration of any Receiver or Administrator;
  - 10.3.2 in or towards satisfaction of the Obligations as provided for in the Series A Loan Note Instruments in whatever order the Mortgagee may require; and
  - 10.3.3 as to the surplus (if any) to the person(s) entitled to it;

provided that the Receiver or Administrator may retain any moneys in his hands for so long as he thinks fit and the Mortgagee 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 the Mortgagee may think fit any moneys received, recovered or realised under or by virtue of this deed to or at a separate or suspense account to the credit either of the Company or of the Mortgagee as the Mortgagee thinks fit without any intermediate obligation on the Mortgagee's part to apply such moneys or any part of such moneys in or towards the discharge of the Obligations.

## **11. PROTECTION OF PURCHASERS AND POWER OF ATTORNEY**

- 11.1 No purchaser or other person shall be obliged or concerned to see or enquire whether the right of the Mortgagee, any Receiver or any Administrator to exercise any of the powers conferred by this deed has arisen or become exercisable nor be concerned with



notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

11.2 The receipt of the Mortgagee, any Receiver or any Administrator shall be an absolute discharge and the payer shall not be obliged to see the application of the monies paid to either of them.

11.3 The Company by way of security irrevocably appoints the Mortgagee and any Receiver or Administrator severally to be the attorney for the Company (with full power of substitution and delegation) in the Company's name and on the Company's behalf and as the Company's act and deed to sign or execute all such deeds, instruments and documents and do all such acts and things as may be required by the Mortgagee or any Receiver or Administrator pursuant to this deed or the exercise of any of their powers.

## **12. APPROPRIATION, SET-OFF AND RESTRICTION**

12.1 Subject to clause 12.2, the Mortgagee may apply all payments received in respect of the Obligations in or towards discharge of such part of the Obligations as provided for in the Series A Loan Note Instruments as the Mortgagee decides.

12.2 The Mortgagee may open a new account upon the Mortgagee receiving actual or constructive notice of any charge or interest affecting the Charged Property and whether or not the Mortgagee opens any such account no payment received by the Mortgagee after receiving such notice shall (if followed by any payment out of or debit to the relevant account) be appropriated towards or have the effect of discharging the Obligations outstanding at the time of receiving such notice.

## **13. PROTECTION OF SECURITY**

13.1 This deed shall be a continuing security and shall extend to cover the ultimate balance due from the Company to the Mortgagee and/or the Noteholders notwithstanding that there may have been at any time a balance to the credit of the Company on any account of the Company or any other matter or thing.

13.2 This deed is in addition to any other rights or security, present or future, held by the Mortgagee from the Company or any other person for the Obligations and shall not merge with or prejudice or be prejudiced by any such rights or security or any other contractual or legal rights of the Mortgagee.

13.3 No security or payment which may be avoided or adjusted under any law relating to insolvency or similar legislation binding on the Company in whatever jurisdiction and no release, settlement or discharge given or made by the Mortgagee on the faith of any such security or payment shall prejudice or affect the right of the Mortgagee to recover from the Company (including the right to recover any monies refunded under the Insolvency Act 1986 and any costs payable by it or incurred in connection with any such process) or to enforce the security created by or pursuant to this deed to the full extent of the Obligations. Any such release, settlement or discharge will be deemed to have been made upon the condition that it will become entirely void if the security or payment on the faith of which it was made or given is at any time avoided (in whole or in part).

## **14. FURTHER ASSURANCE**

The Company will at its own cost at the Mortgagee's or any Receiver's request execute any deed or document and take any action required by the Mortgagee or any Receiver to perfect or protect this security or its priority or further to secure on the Charged Property the Obligations



or for facilitating the realisation of the Charged Property or the exercise of any rights or powers of the Mortgagee or any Receiver or for establishing the nature or extent of the Charged Property to the extent set out in this deed.

#### **15. ARRANGEMENTS WITH THE COMPANY AND OTHERS**

The Mortgagee and the Noteholders may without releasing or affecting the security created by this deed do any of the following:-

- 15.1 allow to the Company or any other person any time or indulgence;
- 15.2 grant to the Company or any other person any new or increased facility or loan and increase any rate of interest or charge;
- 15.3 enter into, renew, vary or end any agreement or arrangement with or liability of the Company or any other person;
- 15.4 renew, vary, refrain from enforcing or release any present or future security or guarantee which the Mortgagee holds from the Company or any other person; and
- 15.5 compound with the Company or any other person.

#### **16. CURRENCY**

- 16.1 For the purpose of, or pending the discharge of, any of the Obligations, the Mortgagee may convert any monies received, recovered or realised by it under this deed from its existing currencies of denomination into any other currencies of denomination that the Mortgagee may think fit.
- 16.2 Any such conversion shall be effected at Handelsbanken's then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 16.3 Each reference in this deed to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **17. PAYMENTS TO BE MADE WITHOUT DEDUCTION**

All sums payable by the Company under this deed shall be paid in immediately available funds and shall be paid to the credit of such account as the Mortgagee may designate.

#### **18. NOTICES**

- 18.1 All notices or demands must be in writing.
- 18.2 Any notice or demand to the Company may be sent by prepaid post, facsimile transmission or delivered to the Company at its registered office or the Company's last known place of business (or, if more than one, any one of such places). Notices or demands to the Company may also be delivered to one of its officers.
- 18.3 Any notice to the Mortgagee must be sent by prepaid post or delivered to the Mortgagee at its address as set out in this deed unless it has communicated another address to the Company in which case it must be sent to the last address so communicated.

- 18.4 A notice or demand by the Mortgagee sent by post will be deemed served on the day after posting (but, if to another country, three days after posting) and if sent by facsimile transmission shall be deemed to have been given when sent provided a transmission report is received and if delivered, when delivered.

## **19. FURTHER WARRANTIES**

The Company warrants to the Mortgagee that:-

- 19.1 it has the appropriate power and authority to carry on the Business, own its assets and property and enter into and comply with the Obligations;
- 19.2 it is duly constituted and validly existing under the laws of the country in which it is incorporated;
- 19.3 the obligations expressed as being assumed by it under this deed are and will remain legal and valid obligations which are enforceable against it;
- 19.4 none of the provisions, covenants and obligations contained in this deed contravenes any of the provisions of its Articles of Association or other constitutional documents nor will this deed or its performance infringe any law or obligation binding upon it;
- 19.5 it has complied in all material respects with every formality and obtained every licence or consent and satisfied every other requirement (statutory or otherwise) which may be necessary to procure the effectiveness of this deed;
- 19.6 the Charged Property is not subject to any Encumbrance other than the charges contained in this deed; and
- 19.7 all information given by the Company to the Mortgagee in connection with the Charged Property was when given true, accurate and comprehensive in all material respects.

## **20. LAW AND JURISDICTION**

- 20.1 This deed is governed by and will be construed in accordance with English law.
- 20.2 The Company irrevocably submits to the non-exclusive jurisdiction of the English courts.

## **21. ASSIGNMENT AND TRANSFER**

- 21.1 The successors in title of the parties shall have the benefit of and be subject to this deed.
- 21.2 The Mortgagee shall not dispose of or deal in any manner all or any part of its rights, beneficial interests or benefits under this deed without the consent of the Company (such consent not to be unreasonably withheld or delayed).
- 21.3 The Company shall not dispose of any one or more of its rights, beneficial interests and/or obligations under this deed.
- 21.4 The Mortgagee may give such information relating to the Company, its affairs or this deed as it thinks fit to any of the Noteholders, and to any third party proposing to take an assignment and/or transfer from the Mortgagee and/or to enter into contractual relations with the Mortgagee with respect to this deed.

## **22. INDEMNITY**

The Company will indemnify the Mortgagee on demand against any loss or expense (including legal fees) sustained or incurred as a result either of a failure by the Company to perform any of its obligations under this deed or of any representation or warranty made in this deed having been incorrect when made.

## **23. WAIVER**

23.1 No failure to exercise or any delay in exercising any right or remedy under this deed shall operate as a waiver of it or of any other right or remedy under it. No single or partial exercise of any such right or remedy shall prevent any further or other exercise of it or the exercise of any other right or remedy.

23.2 Any waiver given by the Mortgagee must be in writing and expressly stated by the Mortgagee to be a waiver. Such waiver will only apply to the specific events or circumstances to which it is stated to relate, and not to any other events or circumstances, past or future.

## **24. SEVERANCE**

24.1 If any provision of this deed shall be found by any court or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of this deed which remain in full force and effect to the extent permitted by law.

24.2 If any provision of this deed is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were reduced in application, the provision in question shall apply with such modification as may be necessary to make it valid.

## **25. MISCELLANEOUS**

25.1 Interest will be calculated both before and after judgment on the basis agreed with the Company, or if none has been agreed, on a daily basis and on the basis of a 365 day year and be compounded quarterly.

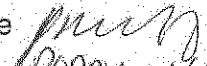
25.2 Except as expressly provided in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25.3 The terms of the Series A Loan Note Instruments are incorporated into this deed to the extent required for any purported disposition of the Charged Property (or any part of it) contained in this deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

IN WITNESS whereof this deed was duly signed as a deed and delivered on the date which first appears on page 1.


EXECUTED as a Deed by  
GAS GENERATION OLDHAM LIMITED  
acting by, Steve Mahon  
a director, in the presence of:-

S. Mahon

Witness Signature   
Witness Name POPPY McGRADY  
Witness Address 141-145 CURTAIN ROAD  
LONDON EC2A 3BX

EXECUTED as a Deed by  
LOAN NOTE DEBENTURES LIMITED  
acting by, Alan Yazdabadi  
a director, in the presence of:-

A. Yazdabadi

Witness Signature   
Witness Name LOUISE MEECHING  
Witness Address 141-145 CURTAIN ROAD, LONDON EC2A 3BX

