



Registration of a Charge

Company name: **Carmony Energy Limited**

Company number: **NI616544**



X6IW8LQ2

Received for Electronic Filing: **10/11/2017**

Details of Charge

Date of creation: **03/11/2017**

Charge code: **NI61 6544 0001**

Persons entitled: **APIS CAPITAL II PLC**

Brief description: **THE LAND AND PROPERTY SITUATE AT AND KNOWN AS THE SITE AS GORTICROSS ROAD, EGLINTON, COUNTY LONDONDERRY AS COMPRISED IN LAND REGISTRY FOLIO LY111492L COUNTY LONDONDERRY AND OTHER PROPERTY AS MORE PARTICULARLY DESCRIBED IN CLAUSE 3.1 OF THE DEBENTURE.**

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **LYDIA HEFFRON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI616544

Charge code: NI61 6544 0001

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 3rd November 2017 and created by Carmoney Energy Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th November 2017 .

Given at Companies House, Belfast on 10th November 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

3 November

2017

(1) CARMONEY ENERGY LIMITED

(2) APIS CAPITAL II PLC

DEBENTURE

**Cleaver
Fulton
Rankin**

Certified a true copy of the
original of which it purports to
be a copy.

Cleaver Fulton Rankin

Dated: 10/11/17

Cleaver Fulton Rankin Limited
Solicitors, Belfast

LAND REGISTRY OF NORTHERN IRELAND

FOLIO(S): LY111492L COUNTY: LONDONDERRY
REGISTERED OWNER(S): CARMONEY ENERGY LIMITED

THIS DEBENTURE is made on 3 November 2017 and made between:

- (1) CARMONEY ENERGY LIMITED, a company incorporated in Northern Ireland (registered number NI616544) and having its registered office at MKB Law, Great Victoria Street, Belfast, Northern Ireland, BT2 7BA (the "Chargor"); and
- (2) APIS CAPITAL II PLC a company incorporated under the laws of Ireland (registered number 578715) and having its registered office at 11 Anglesea Street, Cork (the "Lender").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Debenture (as defined below):

"1881 Act" means the Conveyancing and Law of Property Act 1881.

"1911 Act" means the Conveyancing Act 1911.

"1989 Order" means the Insolvency (Northern Ireland) Order 1989.

"Account" means each bank account of the Chargor located in Northern Ireland and maintained by it with any bank or financial institution other than the Lender and (to the extent of its interest) all balances now or in the future standing to the credit of or accrued, or accruing on such account, details of which are set out in Schedule 5.

"Assigned Account" means any Account that may from time to time be designated in writing as an Assigned Account by the Lender and the Chargor.

"Charged Property" means all the assets and undertaking of the Chargor which from time to time are the subject of the Security Interest created or expressed to be created in favour of the Lender by or pursuant to this Debenture.

"Collateral Rights" means all rights, powers and remedies of the Lender provided by or pursuant to this Debenture or by law.

"Criminal Damage Compensation Claim" means a claim by or in the name of the Chargor under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in relation to the Real Property.

"Delegate" means any delegate, agent, attorney or trustee appointed by the Lender.

"Facility Agreement" means the facility agreement dated on or about the date hereof between the Chargor, Galley Energy Limited and the Lender, each as defined in such agreement as amended, varied, novated or supplemented from time to time.

"Insurance Policy" means any policy of insurance in which the Chargor may from time to time have an interest, any other contracts or policies of insurance or reinsurance taken out by or on behalf of the Chargor or which the Chargor has the benefit of from time to time and

any renewal or replacement of any such policy whether with the same or a different insurer or insurers and whether on the same or different terms.

"Intellectual Property" means:

- (a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets and all Related Rights.

"Investments" means:

- (a) the Shares;
- (b) any stocks, shares, debentures, securities and certificates of deposit;
- (c) all interests in collective investment schemes; and
- (d) all warrants, options and other rights to subscribe or acquire any of the investments described in (a) and (b),

in each case whether held directly by or to the order of the Chargor or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system).

"Land Registry" means the Land Registry of Northern Ireland.

"Monetary Claims" means any book and other debts and monetary claims owing to the Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which the Chargor is a party and any other assets, property, rights or undertaking of the Chargor).

"Mortgaged Property" means all freehold, leasehold or immovable property specified in Schedule 2.

"Notice of Assignment" means a notice of assignment in substantially the form set out in Schedule 1 (*Forms of Notice of Assignment*) or part 5 of schedule 4 (*Form of Notice to Insurers*) to the Facility Agreement (as appropriate).

"Party" means a party to this Debenture.

"Project" means the financing and refinancing, development, management, ownership, operation and maintenance by the Chargor of the Ballymagerney Wind Farm.

"Real Property" means:

- (a) the Mortgaged Property;
- (b) any present or future freehold, leasehold or immovable property and any other interest in land or buildings and all rights relating thereto in which the Chargor has an interest; and
- (c) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property to which the Chargor has title.

and includes all Related Rights.

"**Receiver**" means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment.

"**Regulations**" has the meaning given to it in Clause 14.3 (*Right of Appropriation*).

"**Related Rights**" means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

"**Secured Obligations**" means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by an Obligor or by some other person) of the Obligors to the Lender under the Finance Documents.

"**Shares**" means all shares specified in Schedule 3 (*Shares*).

"**Specific Contracts**" means those contracts (if any) brief particulars of which are set out in Schedule 4 (*Specific Contracts*) together with any and each other agreement or instrument supplementing or amending any such agreement or contract or any other agreement, instrument or contract entered into by the Chargor in relation to or in connection with the Project from time to time.

"**Tangible Moveable Property**" means any plant, machinery, office equipment, computers, vehicles and other chattels of the Chargor (excluding any for the time being forming part of the Chargor's stock in trade or work in progress) and all Related Rights.

1.2 Terms defined in other Finance Documents

Unless defined in this Debenture, or the context otherwise requires, a term defined in the Facility Agreement or in any other Finance Document has the same meaning in this Debenture, or any notice given under or in connection with this Debenture, as if all references in those defined terms to the Facility Agreement or other Finance Documents were a reference to this Debenture or that notice. In the event of any inconsistency or conflict between terms defined in the Finance Documents (other than terms expressly defined in this Debenture), the definitions contained in clause 1.1 (*Definitions*) of the Facility Agreement shall prevail.

1.3 Construction

In this Debenture or, as applicable, the rules of interpretation contained in clause 1.2 (*Construction*) of the Facility Agreement shall apply to the construction of this Debenture or any notice given under or in connection with this Debenture.

1.4 Third Party Rights

A person who is not a party to this Debenture has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Debenture.

1.5 Disposition of Property

The terms of the other Finance Documents are incorporated into this Debenture and each other Finance Document to the extent required for any purported disposition of the Real Property contained in any Finance Document to be a valid disposition in accordance with the Statute of Frauds (Ireland) 1695.

1.6 Present and future assets

1.6.1 A reference in this Debenture to any Mortgaged Property or other asset includes, unless the contrary intention appears, present and future Mortgaged Property and other assets.

1.6.2 Incomplete details of any Charged Property in any Schedule shall not affect the validity or enforceability of any Security Interest under this Debenture.

1.7 Fixed Security

Clauses 3.1 (*Fixed Charges*) and 3.2 (*Assignments*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment by way of security over each relevant asset within any particular class of assets defined under this Debenture and the failure to create an effective mortgage, fixed charge or assignment by way of security (whether arising out of this Debenture or any act or omission by any party) on any one asset shall not affect the nature of any mortgage, fixed charge or assignment imposed on any other asset whether within that same class of assets or not.

1.8 No obligation

The Lender shall not be under any obligation in relation to the Charged Property as a consequence of this Debenture and the Chargor shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Charged Property for so long as the Chargor is the owner of such property.

2. PAYMENT OF SECURED OBLIGATIONS

2.1 Covenant to Pay

The Chargor covenants with the Lender that it shall discharge all Secured Obligations on their due date in accordance with their respective terms and the Chargor shall pay to the Lender when due and payable every sum at any time owing, due or incurred by the Chargor to the Lender in respect of any such Secured Obligations Provided That neither such covenant nor the Security Interest constituted by this Debenture shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or Security Interest to be unlawful or prohibited by any applicable law.

2.2 Interest on Demands

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with the provisions of clause 8.4 (*Default Interest*) of the Facility Agreement.

3. FIXED CHARGES, ASSIGNMENTS AND FLOATING CHARGE

3.1 Fixed charges

3.1.1 The Chargor as beneficial owner and as continuing security for payment and discharge of the Secured Obligations:

3.1.1.1 by way of first legal mortgage GRANTS AND DEMISES to the Lender all of the Real Property that is not registered at the Land Registry TO HOLD so much of the same as is of freehold tenure to the Lender for a term of 10,000 years from the date of this Debenture and TO HOLD so much of the same as is of leasehold tenure to the Lender for the residue of the respective term or terms of years for which the Chargor now holds the same less the last ten days of each such term or terms; and

3.1.1.2 by way of a first legal charge CHARGES all of the Real Property as is registered or is to be registered in the Land Registry and assents to the registration of the charge as a burden on the Folio(s).

3.1.2 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Tangible Moveable Property.

3.1.3 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Intellectual Property.

3.1.4 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) any goodwill and rights in relation to the uncalled capital of the Chargor.

3.1.5 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Investments.

3.1.6 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to this Debenture.

3.1.7 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the benefit of all Related Rights.

3.1.8 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all

the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Accounts.

- 3.1.9 The Chargor charges as beneficial owner in favour of the Lender with the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party) the Wind Turbines and the Works (as defined in the Facility Agreement).

3.2 Assignments

- 3.2.1 The Chargor, to the extent permitted by applicable law, assigns and agrees to assign absolutely as legal and beneficial owner to the Lender as security for the payment and discharge of the Secured Obligations all the Chargor's right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary prior consent to that assignment from any third party):

- 3.2.1.1 the proceeds of any Insurance Policy and all Related Rights;
- 3.2.1.2 all Criminal Damage Compensation Claims and all proceeds of any Criminal Damage Compensation Claim;
- 3.2.1.3 all rights and claims in relation to any Account; and
- 3.2.1.4 the Specific Contracts, all proceeds paid or payable thereunder and all Related Rights;

subject to the right of the Chargor to redeem such assignment upon the full payment or discharge of the Secured Obligations.

- 3.2.2 For the avoidance of doubt, prior to the occurrence of an Event of Default (which is continuing) the Chargor shall be permitted to continue to exercise its rights, powers and discretions in relation to the Specific Contracts and retain payments of receivables assigned hereunder, subject always to the provisions of the Finance Documents and this Debenture.

3.3 Floating Charge

- 3.3.1 The Chargor as legal and beneficial owner charges in favour of the Lender with the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of the Chargor.
- 3.3.2 The floating charge created by Clause 3.3.1 above shall be deferred in point of priority to all fixed Security Interests and assignments validly and effectively created by the Chargor under the Finance Documents in favour of the Lender as security for the Secured Obligations.
- 3.3.3 Paragraph 15 of Schedule B1 to the 1989 Order applies to the floating charge created pursuant to this Clause 3.3 (*Floating Charge*).

4. CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation: By Notice

The Lender may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:

- 4.1.1 an Event of Default has occurred and is continuing; or

4.1.2 the Lender reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or

4.1.3 the Lender reasonably considers that it is necessary in order to protect the priority of the Security Interest constituted hereunder.

4.2 **Crystallisation: Automatic**

Notwithstanding Clause 4.1 (*Crystallisation: By Notice*) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge as regards all the assets subject to the floating charge if:

4.2.1 the Chargor creates or attempts to create any Security Interest (other than any Security Interest permitted under the terms of the Finance Documents), over any of the Charged Property;

4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property;

4.2.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed to the Chargor; or

4.2.4 any person (who is entitled to do so) other than the Lender gives notice of its intention to appoint an administrator to the Chargor or files such a notice with the court.

5. **PERFECTION OF SECURITY**

5.1 **Notices of Assignment**

The Chargor shall deliver to the Lender (or procure delivery of) Notices of Assignment duly executed by, or on behalf of, the Chargor:

5.1.1 in respect of each Assigned Account, on the date of this Debenture in the form set out in Part I of Schedule 1 (*Forms of Notice of Assignment*) or in respect of each Account which is not an Assigned Account promptly upon the designation at any time by the Lender and the Chargor of that Account as an Assigned Account;

5.1.2 in respect of each Specific Contract in the form set out in Part II of Schedule 1 (*Forms of Notice of Assignment*) or Insurance Policy entered into on or prior to the date of this Debenture in the form set out in part 5 of schedule 4 (*Form of Notice to Insurers*) of the Facility Agreement, promptly after the date of this Debenture;

5.1.3 in respect of any Specific Contract or Insurance Policy entered into after the date of this Debenture, within five (5) Business Days of the date of such Specific Contract or Insurance Policy being designated a Specific Contract or Insurance Policy; and

5.1.4 in respect of any other asset which is the subject of an assignment pursuant to Clause 3.2 (*Assignments*) promptly upon the request of the Lender from time to time,

and in each case shall use reasonable endeavours to procure that each such notice delivered is acknowledged by the relevant counterparty specified in the notice and shall retain and, if requested by the Lender (acting reasonably) to do so, promptly deliver to the Lender written evidence of the delivery of such Notices of Assignment to the relevant

counterparties specified in such Notices of Assignment, provided that the obligation under this Clause 5.1 (*Notices of Assignment*) shall not apply if such notices and acknowledgements have been incorporated into:

5.1.5 In the case of a Specific Contract, the relevant Direct Agreement entered into between, amongst others, the Lender and the counterparty to the relevant Specific Contract; or

5.1.6 in the case of any Insurance Policy, the endorsements contained in such policy.

5.2 Real Property: Delivery of Documents of Title

The Chargor shall:

5.2.1 promptly upon the execution of this Debenture (and upon the acquisition by it of any interest in any Real Property at any time) deposit (or procure the deposit) with the Lender all deeds, certificates and other documents constituting or evidencing title to the Real Property (other than the Investments in relation to which Clause 8.2 (*Investments: Delivery of Documents of Title*) shall apply) or shall procure that the Chargor's solicitor delivers appropriate undertakings satisfactory to the Lender (acting reasonably) to hold such deeds, certificates and other documents of title to the order of the Lender; and

5.2.2 deposit with the Lender at any time thereafter any further such deeds, certificates and other documents, promptly upon coming into possession of any of those items or shall procure that the Chargor's solicitor delivers appropriate undertakings satisfactory to the Lender (acting reasonably) to hold such deeds, certificates and other documents of title to the order of the Lender.

5.3 Registration of Intellectual Property

The Chargor shall, if requested by the Lender, execute all such documents and do all acts that the Lender may reasonably require to record the interest of the Lender in any registers relating to any registered Intellectual Property.

5.4 The Land Registry

5.4.1 The Chargor shall apply to the Registrar (and consents to such an application being made by or on behalf of the Lender) for an inhibition in the following terms to be registered on the Folio(s) relating to any Real Property registered at the Land Registry (or any unregistered land subject to first registration):

"Except under an order of the Registrar, no disposition of the folio by the registered owner of the folio is to be registered without the written consent of the registered owner for the time being of a charge dated [●][●] 20[●] in favour of APIS Capital II Public Limited Company (as Lender)."

5.4.2 The Chargor shall promptly make all applications and filings with the Land Registry which are necessary or desirable under the Land Registration Rules (Northern Ireland) 1977 (as amended) to protect the security created or evidenced by or pursuant to this Debenture.

6. FURTHER ASSURANCE

6.1 Further Assurance: General

6.1.1 The 1881 Act shall extend to include the obligations set out in Clause 6.1.2 below:

6.1.2 The Chargor shall promptly at its own cost enter into a mortgage over any Real Property and do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions relevant to that mortgage) as the Lender (acting reasonably) may specify in writing:

6.1.2.1 to create, perfect, protect and maintain the Security created or intended to be created in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Charged Property) or for the exercise of the Collateral Rights; and/or

6.1.2.2 to facilitate the realisation of the Charged Property.

6.2 Consents

Subject to the terms of the Facility Agreement, the Chargor shall use reasonable endeavours to obtain (in form and content reasonably satisfactory to the Lender) as soon as possible any consents necessary (including any consent necessary for any mortgage) to enable the assets of the Chargor to be the subject of an effective fixed charge or assignment pursuant to Clause 3 (*Fixed Charges, Assignments and Floating Charge*) and, immediately upon obtaining any such consent, the asset concerned shall become subject to such Security Interest and the Chargor shall promptly deliver a copy of each consent to the Lender.

6.3 Implied Covenants for Title

The obligations of the Chargor under this Debenture shall be in addition to the covenants for title deemed to be included in this Debenture by virtue of the 1881 Act.

7. NEGATIVE PLEDGE AND DISPOSALS

7.1 Negative Pledge

The Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security Interest over all or any part of the Charged Property other than any Security Interest permitted pursuant to the Finance Documents.

7.2 No Disposal of Interests

The Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture, except with the consent of the Lender or as otherwise permitted pursuant to the Finance Documents or by this Clause 7 (*Negative Pledge and Disposals*):

7.2.1 execute any conveyance, transfer, lease or assignment of, or other right to use or occupy, all or any part of the Charged Property;

7.2.2 create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property;

7.2.3 grant or vary, or accept any surrender, or cancellation or disposal of, any lease, tenancy, licence, consent or other right to occupy in relation to any of the Charged Property or allow any person any right to use or occupy or to become entitled to assert any proprietary interest in, or right over, the Charged Property, which may, in each case, adversely affect the value of any of the Charged Property or the ability of the Lender to exercise any of the Collateral Rights; or

7.2.4 assign or otherwise dispose of any interest in any Account or the Assigned Account.

8. INVESTMENTS

8.1 Investments: Payment of Calls

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Investments, and in any case of default by the Chargor in such payment, the Lender may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate and in accordance with Clause 2.2 (*Interest on Demands*).

8.2 Investments: Delivery of Documents of Title

Promptly following the execution of this Debenture (and within five (5) Business Days of the date of acquisition by the Chargor of any interest in any Investments at any time following the date of this Debenture), the Chargor shall deliver to the Lender (or as it shall direct) all bearer instruments, share certificates and other documents of title or evidence of ownership of such Investments owned by the Chargor or in which the Chargor has an interest together with (in the case of shares, other than bearer instruments, held in certificated form) instrument of transfer in respect of the shares executed in blank (except for the number and class of shares and the name of the transferor) and left undated.

8.3 Investments: Exercise of Rights

The Chargor shall not exercise any of its rights and powers in relation to any of the Investments in any manner which, in the opinion of the Lender (acting reasonably), would prejudice the value of, or the ability of the Lender to realise, the Security Interest created by this Debenture.

9. ACCOUNTS

9.1 Accounts: Notification and Variation

The Chargor, during the subsistence of this Debenture:

9.1.1 shall promptly deliver to the Lender on the date of this Debenture (and, if any change occurs thereafter, on the date of such change), details of each Account and details of any change in respect of such Account on the date of such change; and

9.1.2 shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or the Assigned Account) or close any Account or the Assigned Account.

9.2 Assigned Account

9.2.1 The Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Assigned Account except as permitted pursuant to the terms of the Facility Agreement.

9.2.2 The Lender shall, upon the occurrence of an Event of Default (which is continuing), be entitled without prior notice to exercise from time to time all rights, powers and remedies held by it as assignee of the Assigned Account and to:

9.2.2.1 demand and receive all and any monies due under or arising out of each Assigned Account; and

9.2.2.2 exercise all such rights as the Chargor was then entitled to exercise in relation to such Assigned Account or might, but for the terms of this Debenture, exercise.

9.3 Accounts: Application of Monies

The Lender shall, upon the occurrence of an Event of Default (which is continuing), be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any account of the Chargor (including the Assigned Account) in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 18 (*Application of Monies*).

10. MONETARY CLAIMS

10.1 Dealing with Monetary Claims

The Chargor shall not at any time during the subsistence of this Debenture, except as permitted under the Finance Documents or with the prior written consent of the Lender:

- 10.1.1 deal with the Monetary Claims except in accordance with the Transaction Documents and upon realisation of the same paying the proceeds of those Monetary Claims into the relevant account specified in the Finance Documents or, following the occurrence of an Event of Default (which is continuing), as the Lender may require (and such proceeds shall be held upon trust by the Chargor for the Lender prior to such payment in); or
- 10.1.2 factor or discount any of the Monetary Claims or enter into any agreement for such factoring or discounting; or
- 10.1.3 be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Monetary Claims standing to the credit of any account unless otherwise permitted under the Finance Documents.

10.2 Release of Monetary Claims: Before Event of Default

Prior to the occurrence of an Event of Default (which is continuing), the proceeds of the realisation of the Monetary Claims shall (subject to any restriction on the application of such proceeds contained in this Debenture or in the Facility Agreement), upon such proceeds being credited to an account of the Chargor, be applied in accordance with the terms of the Facility Agreement.

10.3 Release of Monetary Claims: After Event of Default

After the occurrence of an Event of Default (which is continuing) the Chargor shall not, except with the prior written consent of the Lender, be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Monetary Claims standing to the credit of any of its account (including the Assigned Account).

11. INSURANCES

11.1 Insurance: Undertakings

The Chargor shall at all times during the subsistence of this Debenture:

- 11.1.1 keep the Charged Property insured in accordance with the terms of the Facility Agreement;
- 11.1.2 if required by the Lender, cause each insurance policy or policies relating to the Charged Property other than any Insurance Policy which has been the subject of a Notice of Assignment pursuant to Clause 5 (*Perfection of Security*) to contain (in form and substance reasonably satisfactory to the Lender) an endorsement naming the Lender as sole loss payee in respect of all claims until such time as the Lender notifies the insurer(s) to the contrary; and

- 11.1.3 if required by the Lender (but subject to the provisions of any lease of the Charged Property), deposit all Insurance Policies relating to the Charged Property with the Lender.

11.2 Insurance: Default

If the Chargor defaults in complying with clause 19.1.4 (*Insurance*) of the Facility Agreement, the Lender may effect or renew any such insurance on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies expended by the Lender in doing so shall be reimbursed by the Chargor to the Lender within 3 Business Days of demand and shall carry interest from the date of demand by the Lender until reimbursed at the rate specified in Clause 2.2 (*Interest on Demands*).

11.3 Application of Insurance Proceeds

All monies received under any Insurance Policies relating to the Charged Property shall be applied in accordance with the terms of the Facility Agreement.

12. REAL PROPERTY

12.1 Property: Notification

The Chargor shall promptly notify the Lender of any contract, conveyance, transfer or other disposition for the acquisition by the Chargor (or its nominee(s)) of any Real Property.

12.2 Lease Covenants

The Chargor shall, in relation to any lease, agreement for lease or other right to occupy to which all or any part of the Charged Property is at any time subject:

- 12.2.1 pay the rents (if the lessee) and observe and perform in all material respects the covenants, conditions and obligations imposed (if the lessor) on the lessor or, (if the lessee) on the lessee; and
- 12.2.2 not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Charged Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term.

12.3 General Property Undertakings

The Chargor shall:

- 12.3.1 repair and keep in good and substantial repair and condition to the reasonable satisfaction of the Lender all the Real Property, plant, machinery, fixtures (including trade fixtures), fittings, vehicles, computers and other equipment at any time forming part of the Charged Property;
- 12.3.2 not at any time without the prior written consent of the Lender sever or remove any of the fixtures forming part of the Real Property or any of the plant or machinery (other than stock in trade or work in progress) on or in the Charged Property (except for the purpose of any necessary repairs, general maintenance, renewal, upgrade or replacement of it);
- 12.3.3 comply with and observe and perform:
- 12.3.3.1 all applicable requirements of all planning and environmental legislation, regulations and bye-laws relating to the Real Property;

- 12.3.3.2 any conditions attaching to any planning permissions relating to or affecting the Real Property; and
- 12.3.3.3 any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Real Property;
- 12.3.4 not grant any lease, tenancy, contractual licence or right to occupy in respect of the whole or any part of the Real Property or otherwise part with possession of the whole or any part of the Real Property except as permitted by the Transaction Documents or with the prior written consent of the Lender; and
- 12.3.5 give prompt notice to the Lender if it receives any notice under section 14 of the 1881 Act or any proceedings are commenced against it for the forfeiture of any lease comprised in any Real Property.

12.4 Entitlement to Remedy

If the Chargor fails to comply with any of the undertakings contained in this Clause 12 (*Real Property*), the Lender shall be entitled (with such agents, contractors and others as it sees fit), to do such things as may in the reasonable opinion of the Lender be required to remedy such failure and all monies incurred by the Lender in doing so shall be reimbursed by the Chargor within three Business Days* of demand with interest from the date of demand by the Lender until reimbursed in accordance with Clause 2.2 (*Interest on Demands*).

13. GENERAL UNDERTAKINGS

13.1 Intellectual Property

The Chargor shall during the subsistence of this Debenture in respect of any Intellectual Property which is material to or required in connection with its business:

- 13.1.1 take all such steps and do all such acts as may be reasonably necessary to preserve and maintain the subsistence and the validity of any such Intellectual Property; and
- 13.1.2 not use or permit any such Intellectual Property to be used in any way which may materially and adversely affect its value.

13.2 Information and Access

The Chargor shall from time to time on request of the Lender, furnish the Lender with such information as the Lender may reasonably require about the Chargor's business and affairs, the Charged Property and its compliance with the terms of this Debenture and the Chargor shall permit the Lender, its representatives, professional advisers and contractors, access at all reasonable times and on reasonable notice to (a) inspect and take copies and extracts from the books, accounts and records of the Chargor and (b) to view the Charged Property (without becoming liable as mortgagee in possession).

13.3 Amendments

The Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, agree to or acquiesce in any material variation, amendment or waiver of any provision of, or grant any material consent under, any of the Specific Contracts save as permitted under the Finance Documents or with the prior written consent of the Lender.

14. ENFORCEMENT OF SECURITY

14.1 Enforcement

At any time after the occurrence of an Event of Default (which is continuing) or if the Chargor requests the Lender to exercise any of its powers under this Debenture or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court, the Security Interest created by or pursuant to this Debenture is immediately enforceable and the Lender may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- 14.1.1 enforce all or any part of that Security Interest (at the times, in the manner and on the terms it thinks fit) and take possession of and hold, sell or otherwise dispose of all or any part of the Charged Property (at the time, in the manner and on the terms it thinks fit);
- 14.1.2 deliver Notices of Assignment duly executed on behalf of, the Chargor (and the Chargor irrevocably authorises the Lender to sign such Notices of Assignment on behalf of the Chargor pursuant to the power of attorney granted under Clause 20 (*Power of Attorney*) below); and
- 14.1.3 whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the 1881 Act and the 1911 Act (as varied or extended by this Debenture) on mortgagees and by this Debenture on any Receiver or otherwise conferred by law on mortgagees or Receivers.

14.2 No Liability as Mortgagee in Possession

Neither the Lender nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission of any nature whatsoever in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable.

14.3 Right of Appropriation

To the extent that any of the Charged Property constitutes "**financial collateral**" and this Debenture and the obligations of the Chargor hereunder constitute a "**security financial collateral arrangement**" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended, (the "**Regulations**")) the Lender shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the Parties agree that the value of such financial collateral so appropriated shall be:

- 14.3.1 in the case of cash, the amount standing to the credit of each relevant account, together with any accrued but unposted interest, at the time the right of appropriation is exercised; and
- 14.3.2 in the case of Investments, the market price of such Investments determined by the Lender by reference to a public index or by such other independent and impartial process as the Lender may select, including independent valuation.

In each case, the Parties agree that the method of valuation provided for in this Debenture shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

14.4 Effect of Moratorium

The Lender shall not be entitled to exercise its rights under Clause 14.1 (*Enforcement*) or Clause 4.2 (*Crystallisation: Automatic*) where the right arises as a result of an Event of Default occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the 1989 Order.

15. EXTENSION AND VARIATION OF THE CONVEYANCING AND LAW OF PROPERTY ACT 1881 AND THE CONVEYANCING ACT 1911

15.1 Extension of Powers

The power of sale or other disposal conferred on the Lender and on any Receiver by this Debenture shall operate as a variation and extension of the statutory power of sale under section 19 of the 1881 Act and section 4 of the 1911 Act and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Debenture.

15.2 Restrictions

The restrictions contained in sections 17 and 20 of the 1881 Act shall not apply to this Debenture or to the exercise by the Lender of its right to consolidate all or any of the Security Interest created by or pursuant to this Debenture with any other Security Interest in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to the Chargor on or at any time after the occurrence of an Event of Default (which is continuing).

15.3 Power of leasing

15.3.1 The statutory powers of leasing may be exercised by the Lender at any time on or after this Debenture has become enforceable in accordance with Clause 14 (*Enforcement of Security*) and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with section 18 of the 1881 Act and section 3 of the 1911 Act.

15.3.2 For the purposes of section 18 of the 1881 Act and section 3 of the 1911 Act, the expression "**Mortgagor**" will include any incumbrancer deriving title under the Chargor and section 3(10) of the 1911 Act will not apply.

15.3.3 The Chargor shall not have, at any time prior to the full payment or discharge of the Secured Obligations, the power pursuant to section 18 of the 1881 Act, to make any lease in respect of any Real Property without the prior written consent of the Lender or as permitted pursuant to the terms of the Finance Documents.

16. APPOINTMENT OF RECEIVER OR ADMINISTRATOR

16.1 Appointment and Removal

After the occurrence of an Event of Default (which is continuing) or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if requested to do so by the Chargor, the Lender may by deed or otherwise (acting through an authorised officer of the Lender), without prior notice to the Chargor:

16.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Charged Property;

16.1.2 appoint two or more Receivers of separate parts of the Charged Property;

- 16.1.3 remove (so far as it is lawfully able) any Receiver so appointed;
- 16.1.4 appoint another person(s) as an additional or replacement Receiver(s); or
- 16.1.5 appoint one or more persons to be an administrator of the Chargor,

and, except as provided hereunder, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 24(1) of the 1881 Act) does not apply to this Debenture.

16.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 16.1 (*Appointment and Removal*) shall be:

- 16.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 16.2.2 for all purposes deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Lender; and
- 16.2.3 entitled to remuneration for his services at a rate to be fixed by the Lender (acting reasonably) from time to time (without being limited to the maximum rate specified by the 1881 Act).

16.3 Statutory Powers of Appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Lender under the 1881 Act, the 1911 Act and the 1989 Order (as extended by this Debenture) or otherwise and such powers shall remain exercisable from time to time by the Lender in respect of any part of the Charged Property.

17. POWERS OF RECEIVER

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Property (and any assets of the Chargor which, when got in, would be Charged Property) in respect of which he was appointed, and as varied and extended by the provisions of this Debenture (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- 17.1.1 all the powers conferred by the 1881 Act and the 1911 Act on mortgagors and on mortgagees in possession and on receivers appointed under those Acts;
- 17.1.2 all the powers of an administrative receiver set out in Schedule 1 to the 1989 Order (whether or not the Receiver is an administrative receiver);
- 17.1.3 all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 17.1.4 the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
 - 17.1.4.1 any of the functions, powers, authorities or discretions conferred on or vested in him;
 - 17.1.4.2 the exercise of the Collateral Rights (including realisation of all or any part of the Charged Property); or

- 17.1.4.3 bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Property.

18. APPLICATION OF MONIES

All monies received or recovered by the Lender or any Receiver pursuant to this Debenture or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the 1881 Act and the 1911 Act) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Lender (notwithstanding any purported appropriation by the Chargor) in accordance with the Facility Agreement.

19. PROTECTION OF PURCHASERS

19.1 Consideration

The receipt of the Lender or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Lender or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

19.2 Protection of Purchasers

No purchaser or other person dealing with the Lender or any Receiver shall be bound to inquire whether the right of the Lender or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Receiver in such dealings.

20. POWER OF ATTORNEY

20.1 Appointment and Powers

The Chargor by way of security irrevocably appoints, until the full payment or discharge of the Secured Obligations, the Lender and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required for:

20.1.1 carrying out any obligation imposed on the Chargor by this Debenture or any other agreement binding on the Chargor to which the Lender is party and which the Chargor has failed to do (including the execution and delivery of any mortgages, deeds, charges, assignments or other Security Interest and any transfers of the Charged Property); and

20.1.2 enabling the Lender and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Debenture or by law (including, after the occurrence of an Event of Default (which is continuing), the exercise of any right of a legal or beneficial owner of the Charged Property).

20.2 Ratification

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers pursuant to Clause 20.1 (*Appointment and Powers*).

21. EFFECTIVENESS OF SECURITY

21.1 Continuing Security

21.1.1 The Security Interest created by or pursuant to this Debenture shall remain in full force and effect as a continuing Security Interest for the Secured Obligations unless and until discharged by the Lender.

21.1.2 No part of the Security Interest from time to time intended to be constituted by this Debenture will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

21.2 Tacking

Subject to the terms of the Facility Agreement, if the Lender is under an obligation to make further advances to the Chargor and that obligation is a Secured Obligation under this Debenture.

21.3 Cumulative Rights

The Security Interest created by or pursuant to this Debenture and the Collateral Rights shall be cumulative, in addition to and independent of every other Security Interest which the Lender may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior Security Interest held by the Lender over the whole or any part of the Charged Property shall merge into the Security Interest constituted by this Debenture.

21.4 No Prejudice

The Security Interest created by or pursuant to this Debenture and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person, or the Lender or by any variation of the terms of the trust upon which the Lender holds the Security Interest or by any other thing which might otherwise prejudice that Security Interest or any Collateral Right.

21.5 Remedies and Waivers

No failure on the part of the Lender to exercise, nor any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right or constitute an election to affirm this Debenture. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

21.6 No Liability

None of the Lender, its nominee(s) or any Receiver shall be liable by reason of:

21.6.1 taking any action permitted by this Debenture;

21.6.2 any neglect or default in connection with the Charged Property; or

21.6.3 taking possession of or realising all or any part of the Charged Property,

except in each case of gross negligence or wilful default upon its part.

21.7 Partial Invalidity

If, at any time, any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Debenture nor of such provision under the laws of any

other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security Interest intended to be created by or pursuant to this Debenture is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security Interest.

21.8 Waiver of defences

The obligations of the Chargor under this Debenture, the Security Interest created pursuant to this Debenture and the Collateral Rights will not be affected by an act, omission, matter or thing which, but for this Clause 21.8 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Debenture (without limitation and whether or not known to it) including:

- 21.8.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 21.8.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- 21.8.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentment or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
- 21.8.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 21.8.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Finance Document or any other document or Security Interest or of the Secured Obligations (including, without limitation, any change in the purpose of, any extension of, or any variation or increase in any facility or the addition of any new facility under any Finance Document or other document);
- 21.8.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest or of the Secured Obligations; or
- 21.8.7 any insolvency or similar proceedings.

21.9 Immediate recourse

The Chargor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or Security Interest or claim payment from any person before claiming from the Chargor under this Debenture. This waiver applies irrespective of any provision of this Debenture to the contrary.

21.10 Deferral of Rights

Until such time as the Secured Obligations have been discharged in full, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Debenture:

- 21.10.1 to be indemnified by any Obligor; or
- 21.10.2 to claim any contribution from any guarantor of any Obligor's obligations under this Debenture, or any other Finance Document; or

- 21.10.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under this Debenture or the Lender under any other guarantee or other Finance Document or Security Interest taken pursuant to, or in connection with, this Debenture or any other Finance Document by the Lender; or
- 21.10.4 bring legal or other proceedings for an order requiring any Obligor to make any payment or perform any obligation, in respect of which the Chargor has given an undertaking under Clause 2.1 (*Covenant to pay*); or
- 21.10.5 exercise any right of set-off against any Obligor; or
- 21.10.6 claim, rank, prove or vote as a creditor of any Obligor in competition with the Lender.

21.11 Turnover Trust

- 21.11.1 The Chargor shall not accept or permit to subsist any collateral from any Obligor or any other person in respect of any rights the Chargor may have arising out of this Debenture; if, despite this provision, any such collateral shall be accepted or subsisting the Chargor acknowledges that the Chargor's rights under such collateral shall be held on trust for the Lender, to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Finance Documents to be repaid in full, and the Chargor shall if requested promptly transfer the same to the Lender or as it may direct for application in accordance with clause 16 (*Application of Recoveries*) of the Security Trust and Intercreditor Deed and clause 37.6 (*Partial Payments*) of the Facility Agreement.
- 21.11.2 If the Chargor receives any benefit, payment or distribution relating to the rights mentioned in Clause 21.10 (*Deferral of Rights*) above, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Lender by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as it may direct for application in accordance with clause 16 (*Application of Recoveries*) of the Security Trust and Intercreditor Deed and clause 37.6 (*Partial Payments*) of the Facility Agreement.

21.12 Trust of Reversion

The Chargor hereby attorns tenant to the Lender of any part of the Real Property mortgaged by clause 3 above at the yearly rent of five pence (if demanded) provided always that the Lender may at any time without notice to the Chargor determine the tenancy hereby created and enter upon such Mortgaged Property but so that neither the receipt of the said rent nor the said tenancy shall render the Lender liable to account to any person as mortgagee in possession.

21.13 Attornment

It is hereby agreed and declared that the Chargor shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the Real Property mortgaged by clause 3 above in trust for the Lender and to assign, convey or dispose of the same as the Lender may direct (subject to the proviso for redemption hereinbefore contained) and the Lender may at any time during the continuance of the security hereby created remove the Chargor or any other person, persons or body corporate from being a trustee of the trust declared by this clause and on the death or removal of the Chargor or such other person, persons or body corporate appoint a new trustee or trustees in his, their or its place.

22. RELEASE OF SECURITY

22.1 Redemption of Security

Upon the Secured Obligations being discharged in full being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under any of the Finance Documents, the Lender shall, at the request and reasonable cost of the Chargor, release and cancel the Security Interest constituted by this Debenture and procure the reassignment to the Chargor of the property and assets assigned to the Lender pursuant to this Debenture, in each case subject to Clause 22.2 (*Avoidance of Payments*) and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

22.2 Avoidance of Payments

If the Lender (acting reasonably) considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Debenture and the Security Interest constituted by those documents shall continue and such amount shall not be considered to have been irrevocably paid.

23. RETENTION OF DEBENTURE

The Lender may retain this Debenture and copies of all documents relating to or evidencing ownership of all or any part of the Charged Property for a period of seven months after any discharge in full of the Secured Obligations provided that if at any time during that seven month period a petition or application is presented for an order for the winding-up of, or the making of an administration order in respect of, the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or the Chargor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Lender may continue to retain such documents or copy documents for such further period as the Lender may determine.

24. SET-OFF

The Chargor authorises the Lender (but the Lender shall not be obliged to exercise such right), after the occurrence of an Event of Default (which is continuing), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Lender to the Chargor and apply any credit balance to which the Chargor is entitled on any account with the Lender in accordance with Clause 18 (*Application of Monies*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

25. SUBSEQUENT SECURITY INTERESTS

If the Lender at any time receives or is deemed to have received notice of any subsequent Security Interest affecting all or any part of the Charged Property or any assignment or transfer of the Charged Property which is prohibited by the terms of this Debenture or the Facility Agreement, all payments thereafter by or on behalf of the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Lender received such notice.

26. SUSPENSE ACCOUNTS AND CURRENCY CONVERSION

26.1 Suspense Accounts

All monies received, recovered or realised by the Lender under this Debenture (including the proceeds of any conversion of currency) may in the discretion of the Lender be credited to any interest bearing suspense or impersonal account maintained with the Lender or any

bank, building society or financial institution as it considers appropriate and may be held in such account for so long as the Lender may think fit pending their application from time to time (as the Lender is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

26.2 Currency of payment

No payment to the Lender (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Lender shall have received payment in full in the relevant currency specified in the Facility Agreement. To the extent that the amount of any such payment shall, on actual conversion into such currency, fall short of such obligation or liability expressed in that currency, the Lender shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security Interest created by this Debenture to recover the amount of the shortfall.

26.3 Currency conversion

All amounts received by the Lender or any Receiver under this Debenture in a currency other than the currency in which that amount is payable under this Debenture (the "First Currency") may be converted into the currency in which that amount is payable (the "Second Currency") at the Lender's spot rate of exchange then prevailing for purchasing the Second Currency with the First Currency.

27. ASSIGNMENT

27.1 The Chargor may not assign or transfer all or part of its rights or obligations under this Debenture.

27.2 The Lender may assign and transfer all or any of its rights and obligations under this Debenture to any person to whom it transfers its rights and/or obligations under the Facility Agreement. The Lender shall be entitled to disclose such information concerning the Chargor (or any other person) and this Debenture as the Lender (acting reasonably) considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

28. NOTICES

Each communication to be made under or in connection with this Debenture shall be made in writing and in accordance with clause 39 (*Notices*) of the Facility Agreement.

29. COSTS, EXPENSES, STAMP TAXES AND INDEMNITY

29.1 Costs and Expenses

Without double-counting, clause 26.3 (*Expenses*) of the Facility Agreement shall apply to this Debenture, mutatis mutandis, as if set out in full herein and therein.

29.2 Stamp Taxes

The Chargor shall pay all stamp, registration and other taxes to which this Debenture, the Security contemplated in this Debenture or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Lender on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

29.3 Indemnity

The Chargor shall, notwithstanding any release or discharge of all or any part of the Security, indemnify the Lender, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Debenture, the lawful exercise or purported exercise of any of the rights and powers conferred on them by this Debenture or otherwise relating to the Charged Property.

30. DISCRETION AND DELEGATION

30.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Debenture by the Lender or any Receiver may, subject to the terms and conditions of the Facility Agreement or except as otherwise provided under this Debenture, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

30.2 Delegation

Each of the Lender and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Debenture (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Lender or the Receiver itself.

31. WAIVERS AND COUNTERPARTS

31.1 Waivers

No waiver by the Lender of any of its rights under this Debenture shall be effective unless given in writing.

31.2 Counterparts

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

32. GOVERNING LAW

This Debenture and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

33. JURISDICTION AND ENFORCEMENT

33.1 The courts of Northern Ireland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute relating to the existence, validity or termination of this Debenture, the consequences of their nullity or any non-contractual obligations arising out of or in connection with this Debenture) (a "Dispute").

33.2 The Parties agree that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

33.3 This Clause 33 (*Jurisdiction and Enforcement*) is for the benefit of the Lender only. As a result, and notwithstanding Clause 33.1, it does not prevent the Lender from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

THIS DEBENTURE is executed as a deed and delivered on the date stated at the beginning of this Debenture.

SCHEDULE 1

Forms of Notice of Assignments

Part I

Form of Notice of Assignment of Assigned Account

[On the letterhead of Chargor]

_____ 2017

To: []

[•]

Attention: [•]

Dear Sirs,

[•] (the "Company") hereby give notice to [•] (the "Bank") that by a debenture dated 2017, the Company assigned to APIS Capital II Public Limited Company as Lender by way of an absolute assignment in security all the Company's rights, title, interest and benefit in and to the following account held with the Bank and all amounts standing to the credit of such account from time to time:

Company Name - [•]

Account Name - [•]

Sort Code - [•]

Account No - [•]

(including any renewal or redesignation or renumbering of such account) and all monies standing to the credit of that account from time to time (the "**Secured Account[s]**").

Please acknowledge receipt of this letter by returning a copy of the attached letter on the Bank's headed notepaper with a receipted copy of this notice forthwith to APIS Capital II Public Limited Company at [•] Attention: [•], and to the Company at the address given above, Attention: [•].

The attached acknowledgement letter constitutes our irrevocable instruction to you. Without prejudice to the generality thereof, we hereby agree in your favour to be bound by (a) the limitations on your responsibility under paragraph 10.1 of the acknowledgment letter, and (b) the provisions of paragraph 10.2 of the acknowledgment letter, in each case as if we had signed it in your favour.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Northern Ireland and all parties hereby submit to the jurisdiction of the courts of Northern Ireland.

Yours faithfully

.....
for and on behalf of

[•]

By countersigning this notice the Lender confirms that the Company may make withdrawals from the Secured Account[s] until such time as the Lender shall notify you (with a copy to the Company) in writing that such consent is withdrawn. Such consent may be withdrawn or modified by the Lender in its absolute discretion at any time.

.....
for and on behalf of

APIS CAPITAL II PUBLIC LIMITED COMPANY

acting in its capacity as Lender

_____ 2017

To: **APIS Capital II Public Limited Company**
(the "Lender")

Attention: [•]

[•]
(the "Company")

Attention: [•]

Dear Sirs,

Notice of Assignment of Assigned Account(s)

1. We, [•] (the "Bank"), refer to the notice dated _____ 2017 from the Company with respect to the fixed charge which it has granted to the Lender over the Secured Account (the "Notice").
2. Terms not defined in this letter shall have the meanings given to them in the Notice.
3. The Bank hereby acknowledges that the Company has assigned by way of an absolute assignment in security to the Lender all of its rights, title, interest and benefit in and to the Secured Account.
4. The Bank hereby irrevocably undertakes to the Lender that until receipt by us of notice from the Lender confirming that the Lender no longer has any interest in the Secured Account we shall:
 - 4.1 not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Secured Account save for fees and charges payable to us for the operation of the Secured Account;
 - 4.2 continue to comply with the terms of the Notice, notwithstanding any renewal, renumbering or re-designation of the Secured Account;
 - 4.3 permit the Company to make any withdrawal from the Secured Account until the Lender notifies us to the contrary; and
 - 4.4 promptly upon request by the Lender send to the Lender copies with respect to the Secured Account of all statements, credits, debits and notices given or made by us in connection with such account.
5. In the event that the Lender serves notice that the Company is no longer permitted to give instructions in relation to the Secured Account, and that they, the Lender are now to be solely permitted to operate the Secured Account, we shall:
 - 5.1 comply with all instructions received by the Bank from the Lender from time to time with respect to the conduct of the Secured Account provided that such instructions are given in accordance with the terms of this letter and terms of any Bank account operating mandate;

5.2. comply with all instructions received by the Bank from the Lender from time to time with respect to the movement of funds from the Secured Account provided that:

5.2.1. all instructions are received in writing or in accordance with the relevant electronic banking system;

5.2.2. all instructions must be received by 1 pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied with on the next Business Day following such receipt; and

5.2.3. to the extent that an instruction is given which would in our opinion cause the Secured Account to become overdrawn we will transfer the cleared balance in the account only;

5.3. not be obliged to comply with any instructions received from the Lender where:

5.3.1. due to circumstances not within our direct control we are unable to comply with such instructions; and

5.3.2. that to comply with such instructions will breach a Court Order or be contrary to applicable law;

in each case we shall use reasonable endeavours to give notice thereof to the Company and the Lender as well as reasons why we cannot comply with such instructions.

6. In the event that the Bank is unable to comply with any instructions due to circumstances set out in paragraph 5.3, we shall not be responsible for any loss caused to the Lender or to the Company and in any event the Bank shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused).

7. The Bank acknowledges that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the assignment granted to the Lender by the Company other than as set out in the Notice and this letter. The Bank further acknowledges that subject to the terms of this letter we shall not be liable to the Lender in any respect if the Company operates the Secured Account in breach of any agreement entered into by the Company with the Lender.

8. The Company irrevocably authorises the Bank to follow any instructions received from the Lender in relation to the Secured Account from any person that we reasonably believe to be an authorised officer of the Lender without further inquiry as to the Lender's right or authority to give such instructions and we shall be fully protected in acting in accordance with such instructions.

9. We note that, for the purposes of this letter, all notices, copy notices, advices and correspondence to be delivered to the Lender shall be effectively delivered if sent to the Lender at number [•] or by post at the address at the top of this letter, in both cases marked for the attention of the [•].

10. Our acknowledgement of the notice is subject to the following conditions:

10.1. We shall not be bound to enquire whether the right of any person (including, but not limited to, the Lender) to withdraw any monies from the Secured Account has arisen or be concerned with:

10.1.1. the propriety or regularity of the exercise of that right; or

10.1.2. notice to the contrary; or

- 10.1.3 to be responsible for the application of any monies received by such person (including, but not limited to, the Lender); and
- 10.2 We shall have no liability for having acted on instructions from any person (including, but not limited to, the Lender) which on their face appear to be genuine, and which comply with the latest bank mandate held by us or relevant electronic banking system procedures in the case of an electronic instruction; and
- 10.3 We shall not be deemed to be a trustee for the Company or the Lender of the Secured Account.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of Northern Ireland and all parties hereby submit to the jurisdiction of the courts of Northern Ireland.

We hereby acknowledge and accept the terms of this letter

Yours faithfully

.....
for and on behalf of

[name and address of Account Bank]

Dated: [date]

Part II

Form of Notice of Assignment of Specific Contract

To: [●]

Date: [●]

Dear Sirs,

We hereby give you notice that we have assigned by way of security to APIS Capital II Public Limited Company (the "**Lender**") pursuant to a debenture (the "**Debenture**") entered into by us in favour of the Lender dated [●] all our right, title and interest in and to [details of Specific Contract] (the "**Contract**") including all monies which may be payable in respect of the Contract and all related rights.

With effect from your receipt of this notice:

1. all remedies provided for in the Contract (including in respect of relevant warranties and indemnities) or available at law or in equity are exercisable by the Lender although the Chargor may continue to exercise all rights and remedies granted to it under the Contract, subject to a further notice from the Lender indicating otherwise;
2. we shall remain entitled to exercise all rights, powers and discretions under the Contract and you should give notices under the Contract to us, in each case, unless and until you receive a further notice from the Lender indicating otherwise following which all rights to compel performance of the Contract (including in respect of relevant warranties and indemnities) are exercisable by the Lender, although we shall continue to remain liable to perform all the obligations assumed by it under the Contract;
3. until such time as you receive a further notice from the Lender indicating otherwise, no changes may be made to the terms of the Contract nor may the Contract be terminated without the Lender's consent (save to the extent required in order to ensure compliance with applicable law);
4. all payments by you to us under or arising from the Contract should be made to the following account:

[insert account details]

and following notice from the Lender, to the Lender or to its order as it may specify in writing from time to time; and

5. you are authorised and instructed, without requiring further approval from us, to provide the Lender with such information relating to the Contract as it may from time to time request and to send it copies of all notices issued by you under the Contract to the Lender as well as to us.

These instructions may not be revoked, nor may the terms of the Contract be amended, varied or waived without the prior written consent of the Lender.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Lender at [●] marked for the attention of [●].

Yours faithfully,

for and on behalf of

[•]

On copy only: [•]

To: **APIS Capital II Public Limited Company (the "Lender")**

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, interests and benefits in and to the Contract and that we will comply with the terms of that notice.

We confirm that no amendment, waiver or release of any of such rights, interests and benefits shall be effective without the prior written consent of the Lender.

For and on behalf of [relevant contract counterparty]

By:

Dated:

SCHEDULE 2

Details of Real Property

The land and property situate at and known as the site at Gorticross Road, Eglinton, County Londonderry as comprised in Land Registry Folio LY111492L County Londonderry.

SCHEDULE 3

The Shares

NOT USED

SCHEDULE 4

Specific Contracts

	Brief description of Specific Contract	Date of Specific Contract	Parties to Specific Contract (Include addresses for service of notices of those parties as required by the Lender)
1.	Power Purchase Agreement	12 January 2017	(1) Carmoney Energy Limited (2) Power NI Energy Limited (Company Number NI027394), Greenwood House, 64 Newforge Lane, Belfast, BT9 5NF
2.	Operation & Maintenance Agreement	24 January 2017	(1) Carmoney Energy Limited (2) Silverford Limited (Company Number NI063032), Silverford House, Bush, Dungannon, BT71 6QG
3.	Generation LV Connection Agreement	14 November 2016	(1) Carmoney Energy Limited (2) Northern Ireland Electricity Networks Limited (Company Number NI026041), 120 Malone Road, Belfast, BT9 5HT
4.	Onshore Wind Turbine Insurance	18 November 2016	(1) Carmoney Energy Limited (2) Allianz Insurance plc (Company Number 84638), 57 Ladymead, Guildford, Surrey, GU1 1DB, United Kingdom
5.	Turbine Supply Agreement	16 October 2015 (subsequently assigned to Carmoney Energy Limited on 16 November 2016)	(1) Arena Capital Partners Limited (subsequently assigned to Carmoney Energy Limited on 16 November 2016) (2) Endurance Energy MFTG (UK) Ltd (Company Number 08490031) Grant Thornton UK LLP, 4 Hardman Square, Spinningfields, Manchester, UK, M3 3EB
6.	Lease	18 February 2015	(1) Carmoney Energy Limited (2) William Mark Montgomery and Stephen James Montgomery, 28 Blackhill Road, Eglinton, County Londonderry.

SCHEDULE 5

Accounts

Account Bank	Account Number	Sort Code	Account Name
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

EXECUTION PAGES

THE CHARGOR

EXECUTED and DELIVERED as a DEED by
CARMONEY ENERGY LIMITED
(Company Number: NI616544)
acting by
in the presence of:



Director

Witness Signature: _____

Witness Name: _____

Witness Address: _____

Witness Occupation: _____

Witness Signature: 

Witness Name: _____

Witness Address: 



Witness Occupation: 

THE LENDER

PRESENT when the COMMON SEAL
of APIS CAPITAL II PLC
was affixed to this Deed
and this Deed was delivered:

Director / Authorised Signatory

Director / Secretary / Authorised Signatory