



Registration of a Charge

Company name: **EPR SCOTLAND LIMITED**

Company number: **SC147994**

Received for Electronic Filing: **02/08/2018**



X7BHD43F

Details of Charge

Date of creation: **23/07/2018**

Charge code: **SC14 7994 0024**

Persons entitled: **NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY (AS SECURITY TRUSTEE)**

Brief description:

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

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 SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

BRODIES LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 147994

Charge code: SC14 7994 0024

The Registrar of Companies for Scotland hereby certifies that a charge dated 23rd July 2018 and created by EPR SCOTLAND LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd August 2018 .

Given at Companies House, Edinburgh on 3rd August 2018

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**

BOND AND FLOATING CHARGE

GRANTED BY

EPR SCOTLAND LIMITED

(as CHARGOR)

IN FAVOUR OF

NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY

(as SECURITY TRUSTEE)

CERTIFIED A TRUE
COPY SAVE FOR THE
MATERIAL REDACTED
PURSUANT TO S859G
OF THE COMPANIES
ACT 2006

CDeir

BRODIES LLP
Solicitors

31/07 20 *18*

Ref: *ASH42-53*

Brodie LLP
15 Atholl Crescent
Edinburgh EH3 8HA
T: 0131 228 3777
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Ref: MPST.ASH42.53

BOND AND FLOATING CHARGE by

- (1) **EPR SCOTLAND LIMITED**, a limited liability company incorporated in Scotland under the Companies Acts (registered number SC147994) and having its registered office at 1 West Regent Street, Glasgow, G2 1AP (the "**Chargor**");

In favour of

- (2) **NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY**, a limited liability company incorporated in England & Wales under the Companies Acts (registered number 00929027) and having its registered office at 135 Bishopsgate, London, EC2M 3UR, as security trustee for the Secured Parties (the "**Security Trustee**").

IT IS AGREED:

1 Definitions and Interpretations

1.1 Definitions: In this Floating Charge:

"**Administrative Receiver**" means one or more administrative receivers appointed, or to be appointed, under this Floating Charge;

"**Administrator**" means one or more administrators appointed, or to be appointed, under Schedule B1 to the Insolvency Act 1986 to manage the Chargor's affairs, business and property;

"**Charged Assets**" means the assets charged to the Security Trustee by this Floating Charge;

"**Collateral Rights**" means all rights, powers and remedies of the Security Trustee provided by or pursuant to this Floating Charge or by law;

"**Debenture**" means the English law Blomass ProjectCo Debenture dated on or about the date hereof between (amongst others) the Chargor and the Security Trustee;

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

"**Event of Default**" means an Event of Default under the Senior Facilities Agreement;

"**Fixed Security**" has the meaning given to it in section 486 of the Companies Act 1985;

"**Floating Charge**" means this bond and floating charge;

"**Insolvency Legislation**" means:

- (a) the Insolvency Act 1986 and secondary legislation made under it; and
- (b) any other primary or secondary legislation in Scotland from time to time relating to insolvency or reorganisation;

"Receiver" means an Administrative Receiver or a Specific Receiver;

"Right" means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary;

"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 the Borrower or the Chargor or by some other person) of the Borrower or the Chargor to the Secured Parties (or any of them) under the Finance Documents;

"Secured Parties" means each Finance Party from time to time and any Receiver or Delegate;

"Senior Facilities Agreement" means the Senior Facilities Agreement dated on or about the date hereof and made between, amongst others, the Borrower, the Mandated Lead Arrangers, the Original Lenders, the Facility Agent and the Security Trustee, each as defined in such agreement, as amended, varied, novated or supplemented from time to time; and

"Specific Receiver" means one or more receivers or managers appointed, or to be appointed, under this Floating Charge who is not an Administrative Receiver.

1.2 Construction:

In this Floating Charge:

- 1.2.1 words and expressions defined in the Senior Facilities Agreement or in any other Finance Document have the same meanings when used in this Floating Charge or in any notice given under or in connection with this Floating Charge, unless they are otherwise defined in this Floating Charge or the context otherwise requires; and
- 1.2.2 the principles of construction contained in clause 1.2 (*Construction*) of the Senior Facilities Agreement shall apply to the construction of this Floating Charge and any notice given under or in connection with this Floating Charge, except that references to the Senior Facilities Agreement will be construed as references to this Floating Charge and any such notice, unless a contrary indication appears.

1.3 Security Trust provisions

The Chargor agrees that the terms of Clause 22 (*Security Trustee*) of the Intercreditor Agreement are incorporated into this Floating Charge as if those terms were set out in full in this Floating Charge, and that the Security Trustee holds the benefit of this Floating Charge on trust for the Secured Parties in accordance with such terms.

1.4 Third Party Rights

The terms of this Floating Charge may be enforced only by a party to it and the operation of the Contract (Third Party Rights) (Scotland) Act 2017 is modified accordingly.

1.5 **Effective Date**

The date of delivery of this Floating Charge is the date of delivery stated below the signature of the Chargor. The Chargor hereby authorises the Security Trustee or its agent to insert the date of delivery of the Floating Charge in the execution box at the foot of this Floating Charge. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Chargor.

2 **Covenant to pay**

The Chargor covenants with the Security Trustee as trustee for the Secured Parties that it shall discharge all Secured Obligations on their due date in accordance with their respective terms and the Chargor shall pay to the Security Trustee when due and payable every sum at any time owing, due or incurred by the Borrower, Chargor and/or each other Biomass Projectco to the Security Trustee (whether for its own account or as trustee for the Secured Parties) or any of the other Secured Parties in respect of any such Secured Obligations. Provided that neither such covenant nor the Security constituted by this Floating Charge shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or Security to be unlawful or prohibited by any applicable law.

3 **Common provisions**

3.1 The Security Interests constituted by or pursuant to this Floating Charge :

- 3.1.1 are made with full title guarantee;
- 3.1.2 are created in favour of the Security Trustee; and
- 3.1.3 secure the payment and discharge of the Secured Obligations.

3.2 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 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 Clause 8.3 of the Senior Facilities Agreement

4 **Floating Charge**

4.1 **Grant of Floating Charge:**

- 4.1.1 The Chargor charges by way of first floating charge in favour of the Security Trustee all its present and future assets and undertaking.
- 4.1.2 The floating charge hereby created is a qualifying charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

4.2 Priority of Floating Charge

The floating charge hereby created shall

- 4.2.1 be deferred in point of priority to all Fixed Security validly and effectively created by the Chargor under the Finance Documents in favour of the Security Trustee as trustee for the Secured Parties as security for the Secured Obligations; and
- 4.2.2 rank in priority to any other floating charge except for the floating charge under English law granted by the Chargor in favour of the Security Trustee on or about the date hereof under the Debenture which shall rank equally with the floating charge hereby created.

5 Restrictions

5.1 Negative pledge and restriction on dealings

- 5.1.1 The Chargor may not create or agree to create or permit to subsist any Security over all or any part of the Charged Assets other than Security permitted pursuant to the Senior Facilities Agreement.
- 5.1.2 The Chargor may not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of all or any part of the Charged Assets except as permitted pursuant to the Senior Facilities Agreement.

6 Further assurance

- 6.1 The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, charges, notices and instructions) as the Security Trustee may specify (and in such form as the Security Trustee may require in favour of the Security Trustee or its nominee(s)):
 - 6.1.1 to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Floating Charge or for the exercise of any of the Collateral Rights; and/or
 - 6.1.2 to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this Floating Charge.

7 Enforcement of Security

7.1 Time for enforcement

At any time after the occurrence of an Event of Default (which is continuing), or if the Chargor requests the Security Trustee to exercise any of its powers under this Floating Charge, 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,:

- 7.1.1 the security created by or pursuant to this Floating Charge is immediately enforceable; and
- 7.1.2 the Security Trustee may, without notice to the Chargor and in its absolute discretion, enforce all or any part of the security and take possession of and hold, sell or otherwise dispose and/or deal with all or any part of the Charged Assets.

7.2 Methods of enforcement

- 7.2.1 Upon or following this Floating Charge being or becoming enforceable in accordance with Clause 7.2, the Security Trustee may enforce all or part of the security created by or pursuant to this Floating Charge by:
 - 7.2.1.1 appointing an Administrator of the Chargor in accordance with the Insolvency Legislation;
 - 7.2.1.2 appointing one or more Receiver by an instrument in writing and otherwise in accordance with Insolvency Legislation;
 - 7.2.1.3 going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide; or
 - 7.2.1.4 taking any other action it may decide in any jurisdiction other than Scotland.
- 7.2.2 To the extent that any of the Charged Assets constitutes "financial collateral" and this Floating Charge 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 (Amendment) Regulations 2009 (SI 2009/2462) (the "**Regulations**")) the Security Trustee may, by giving written notice to the Chargor, appropriate such financial collateral. On receipt of that notice by the Chargor, the Security Trustee will automatically become the absolute owner of that financial collateral, and the Chargor will have no further interest in it. The value of the financial collateral will, as soon as practicable after it has been established, be applied in discharge of the equivalent amount of the Secured Obligations in accordance with Clause 8.1.1 (*Application of Monies*). For this purpose, the Security Trustee will value the financial collateral as follows:
 - 7.2.2.1 in the case of cash, by reference to its face value received by the Security Trustee;

7.2.2.2 in the case of credit claims, by reference to the amount actually recovered by the Security Trustee; and

7.2.2.3 in the case of financial instruments, by reference to such public indices, independent valuations or other matters as the Security Trustee may decide.

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

7.2.3 The appointment of a Receiver may be made subject to such limitations as are specified by the Security Trustee in the appointment.

7.2.4 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Security Trustee may specify to the contrary in the appointment.

7.2.5 Subject to the Insolvency Legislation, the Security Trustee may remove or replace any Receiver.

7.2.6 An Administrator or Receiver must be a person qualified to act as such under the Insolvency Legislation.

7.3 Powers on enforcement

7.3.1 An Administrator will have the powers given to him by the Insolvency Legislation.

7.3.2 An Administrative Receiver of the Chargor will have:

7.3.2.1 the powers given to him by the Insolvency Legislation; and

7.3.2.2 the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor itself could have done, or omitted to do, if its assets were not the subject of Security Interests and the Chargor were not in insolvency proceedings.

7.3.3 A Specific Receiver will have the same powers as an Administrative Receiver in respect of the assets over which he is appointed.

7.3.4 Except to the extent provided by law, none of the powers described in this clause 7.3 will be affected by an Insolvency Event in relation to the Chargor.

7.4 Status and remuneration of Receiver

- 7.4.1 A Receiver of the Chargor will be the agent of the Chargor until the Chargor goes into liquidation. He will have no authority to act as agent for the Security Trustee, even in the liquidation of the Chargor.
- 7.4.2 The Security Trustee may from time to time determine the remuneration of any Receiver.

7.5 Third parties

- 7.5.1 All the protections for purchasers contained in section 42(3) of the Insolvency Act 1986 or in any other applicable law or regulation shall apply to any person purchasing from or dealing with the Security Trustee or any Receiver.
- 7.5.2 A person dealing with the Security Trustee or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:
 - 7.5.2.1 the Security Trustee or any Receiver has the power to do the things it is purporting to do; and
 - 7.5.2.2 the Security Trustee or any Receiver is exercising its powers properly.

8 Incorporation of provisions from the Debenture

- 8.1 The provisions of the following clauses of the Debenture shall be deemed to be incorporated herein and to form a part of this Floating Charge, namely
 - 8.1.1 Clause 18.1 (*Application of Monies*);
 - 8.1.2 Clause 19 (*Protection of Purchasers*);
 - 8.1.3 Clause 21 (*Effectiveness of Security*);
 - 8.1.4 Clause 22 (*Release of Security*); and
 - 8.1.5 Clause 23 (*Retention of Debenture*) ,
 - 8.1.6 Clause 24 (*Set-Off*);
 - 8.1.7 Clause 25 (*Subsequent Security Interests*);
 - 8.1.8 Clause 26 (*Suspense Accounts and Currency Conversion*);
 - 8.1.9 Clause 27 (*Assignment*);
 - 8.1.10 Clause 29 (*Costs, Expenses, Stamp Taxes and Indemnity*); and

8.1.11 Clause 30 (*Discretion and Delegation*),

subject to Clause 8.2 below.

8.2 For the purposes of the incorporation herein of the clauses referred to in Clause 8.1 above, references to

8.2.1 a "deed" or to "this Debenture or any Mortgage" shall be construed as references to this Floating Charge;

8.2.2 the "Chargors" and the "Secured Obligations" shall be construed as references to the Chargor and to the Secured Obligations each as defined in this Floating Charge; and

8.2.3 "Charged Property" shall be construed as references to the Charged Assets.

9 Power of Attorney

9.1 The Chargor, by way of security, irrevocably appoints each of the Security Trustee and any Receiver severally to be its mandatory and attorney to do anything:

9.1.1 which the Chargor is obliged to do under the Finance Documents; and

9.1.2 which the attorney may require to exercise any of the Rights conferred on it by the Finance Documents or by law.

9.2 The power given under Clause 9.1 above may be exercised any time:

9.2.1 upon or following this Floating Charge being or becoming enforceable in accordance with Clause 7.1; or

9.2.2 an Event of Default which is continuing arising from a failure to comply with any further assurance or perfection obligation..

9.3 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.

10 Notices

Each communication to be made under or in connection with this Floating Charge shall be made in writing and in accordance with clause 34 (*Notices*) of the Senior Facilities Agreement except that in such clause 34, reference to a "Party" or "Parties" shall be construed as reference to a party to this Floating Charge, and the address for the Chargor shall be inserted (for the purposes of this Floating Charge only) into clause 34.2 (*Addresses*) of the Senior Facilities Agreement as:

EPR Scotland Limited

Address: 1 West Regent Street, Glasgow, G2 1AP

Attention: Edwin Wilkinson

11 Counterparts and delivery

11.1 This Floating Charge may be executed in any number of counterparts and by each of the parties on separate counterparts.

11.2 Where executed in counterparts:

11.2.1 this Floating Charge will not take effect until each of the counterparts has been delivered;

11.2.2 where any counterpart is being held as undelivered, delivery will take place only when the date of delivery is agreed between the parties after execution of this Floating Charge.

12 Governing law and jurisdiction

12.1 This Floating Charge and any non-contractual obligations arising out of or in connection with it are governed by and construed in accordance with Scots law.

12.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Floating Charge (including a dispute regarding the existence, validity or termination of this Floating Charge or any non-contractual obligation arising out of or in connection with this Floating Charge) (a "Dispute").

12.3 The parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

12.4 Clause 12.2 is for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof these presents consisting of this and the preceding 9 pages are executed as follows:

Chargor

For and on behalf of **EPR SCOTLAND LIMITED** by:

signature of
director/secretary/authorised signatory/witness

ESI ADDAE
full name of above (print)



Address of witness

Date of delivery 23 July 2018

Security Trustee

For and on behalf of **NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY** as security trustee for the Secured Parties:

signature of authorised signatory/witness

full name of above (print)

date of signing

Address of witness

signature of
director/secretary/authorised signatory

SARAH GRANT
full name of above (print)

23 JULY 2018
date of signing

LONDON
place of signing

signature of authorised signatory

full name of above (print)

date of signing

place of signing

- 12.4 Clause 12.2 is for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof these presents consisting of this and the preceding 9 pages are executed as follows:

Chargor

For and on behalf of **EPR SCOTLAND LIMITED** by:

signature of
director/secretary/authorised signatory/witness

full name of above (print)

Address of witness

Date of delivery

Security Trustee

For and on behalf of **NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY** as security trustee for the Secured Parties:

signature of authorised signatory/witness

CRYSTAL YVEN
full name of above (print)

Ashurst LLP
Broadwalk House
5 Appold Street
Address of witness
London EC2A 2HA

signature of
director/secretary/authorised signatory

full name of above (print)

date of signing

place of signing

signature of authorised signatory

ASHLEIGH GRANT
full name of above (print)

23 July 2018
date of signing

London
place of signing