

# M

CHWP000

COMPANIES FORM No. 466(Scot)

## Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

# 466

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

Please do not  
write in  
this margin

Pursuant to section 410 and 466 of the Companies Act 1985

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number



SC301188

Name of company

\* Spark Energy Limited

\* insert full name  
of company

Date of creation of the charge (note 1)

24 December 2015

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered (note 1)

Bond and Floating Charge

Names of the persons entitled to the charge

Macquarie Bank Limited

Short particulars of all the property charged

the liabilities of any of the Spark Group to MBL under or pursuant to the WETA (as defined pursuant to the Bond and Floating Charge) and each Finance Document (as defined pursuant to the Bond and Floating Charge) including any other present and future monies, obligations and liabilities owed by any of the Spark Group to MBL, together with all interest (including without limitation, default interest) accruing in respect of those monies, obligations or liabilities, as well as any fees, costs and expenses.

Presenter's name address and  
reference (if any):

Brodies LLP  
15 Atholl Crescent  
Edinburgh  
EH3 8HA  
ADD.PZA.MAC1553.5

For official use (02/06)

Charges Section

Post room



SCT

11/01/2016

#185

COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

HSBC Bank PLC, registered in the UK with number 00014259 whose registered office is 8 Canada Square, London, E14 5HQ (the "Bank")  
Spark Energy Limited, registered in the UK with number SC301188 whose registered office is at 5th Floor, 125 Princes Street, Edinburgh, EH2 4AD ("SEL")  
Macquarie Bank Limited, London Branch, a company incorporated in Australia, and registered in England and Wales with company number FC018220, acting through its London Branch with registered number BR002678, whose registered office is at Ropemaker Place, 28 Ropemaker Street, London EC2Y 9HD ("MBL").

*Please do not  
write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

Date(s) of execution of the instrument of alteration

24 December 2015

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

SEL undertakes to the Bank and MBL that it shall not grant any further fixed or floating charges over all or any of its assets including its heritable, real or leasehold property (and whether or not such security is in favour of the Bank or MBL) without the written consent of the Bank and MBL.

Short particulars of any property released from the floating charge

None

The amount, if any, by which the amount secured by the floating charge has been increased

None

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not  
write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

MBL and the Bank with the consent of SEL, agree that the Securities shall rank inter se in point of security in the following order of priority:

- 1 firstly, the Bank's Floating Charge to the extent of the Bank Priority Sum;
- 2 secondly, MBL Assignment to the extent of the MBL Priority Sum;
- 3 thirdly, the MBL Floating Charge and the MBL Debenture pari passu to the extent of the MBL Priority Sum not satisfied under 2;
- 4 fourthly, the Bank's Floating Charge for the remainder of all sums secured thereby; then
- 5 finally, the MBL Securities for the remainder of all sums secured thereby.

**Definitions:**

"Securities" means the Bank's Floating Charge and MBL Securities.

"Bank's Floating Charge" means the floating charge dated 26 July 2007 and registered with the Registrar of Companies on 14 August 2007, granted by SEL to the Bank;

"Bank Priority Sum" means (a) an amount equal to the aggregate of (i) £500,000; plus (ii) one year's interest on such amount together with all commission, charges, expenses, fees, legal and other costs (on a full indemnity basis) charged or incurred by the Bank in respect of such aggregate amount, or (b) such other sum(s) as may be agreed in writing between the Bank and MBL in substitution for that amount.

"MBL Assignment" means the assignment in security in respect of accounts dated 24 December 2015 granted by SEL to MBL.

"MBL Priority Sum" means (a) all amounts owed to MBL under the WETA and the ISDA (as defined pursuant to the Bond and Floating Charge); plus (b) all outgoing costs, charges, expenses and liabilities incurred by MBL on enforcement or on exercising its rights in relation to an Enforcement Action (as defined pursuant to the Bond and Floating Charge).

"MBL Floating Charge" means the floating charge dated 24 December 2015 granted by SEL to MBL.

"MBL Debenture" means a debenture dated 24 December 2015 granted by SEL to MBL.

"MBL Securities" means the MBL Debenture, the MBL Assignment and the MBL Floating Charge.

"Spark Group" shall be a collective reference to Spark Energy Limited, Spark Gas Shipping Limited, Spark Energy Supply Limited and Spark Generation Limited.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not write in this margin*

*Please complete legibly, preferably in black type, or bold block lettering*

Signed

*Bruce Steptoe for Buddies LLP* Date *11/01/2016*

On behalf of ~~[company]~~ [chargee]

*A fee is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)*

#### Notes

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. For the date of creation of a charge see section 410(5) of the Companies Act. ☐ delete as appropriate
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge. Cheques and Postal Orders are to be made payable to **Companies House**.
6. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF  
DX 235 Edinburgh or LP - 4 Edinburgh 2



**FILE COPY**

**CERTIFICATE OF THE REGISTRATION  
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 301188

CHARGE CODE SC30 1188 0007

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 24 DECEMBER 2015 WERE  
DELIVERED PURSUANT TO SECTION 466 OF THE COMPANIES  
ACT 1985

ON 11 JANUARY 2016

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 24  
DECEMBER 2015

BY SPARK ENERGY LIMITED

IN FAVOUR OF  
MACQUARIE BANK LIMITED

GIVEN AT COMPANIES HOUSE, EDINBURGH 22 JANUARY 2016



Companies House

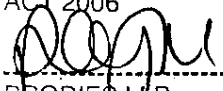


THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

**DEED OF PRIORITY BETWEEN CHARGES**

**DATED** 24 **DECEMBER 2015**

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

  
BRODIES LLP  
Solicitors

11 January 2016

Ref: MC1173-5

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this deed of priority, the following definitions apply:

<b>Bank</b>	means <b>HSBC Bank PLC</b> , registered in the UK, with number 00014259 whose registered office is 8 Canada Square, London, E14 5HQ;
<b>Bank Priority Sum</b>	means (a) an amount equal to the aggregate of (i) £500,000; plus (ii) one year's interest on such amount together with all commission, charges, expenses, fees, legal and other costs (on a full indemnity basis) charged or incurred by the Bank in respect of such aggregate amount, or (b) such other sum(s) as may be agreed in writing between the Bank and MBL in substitution for that amount;
<b>Bank's Floating Charge</b>	means the floating charge dated 26 July 2007 and registered with the Registrar of Companies on 14 August 2007, granted by the Debtor to the Bank and creating, <i>inter alia</i> , a floating charge on the Charged Property;
<b>Charged Property</b>	means all the undertaking property assets and rights of the Debtor both present and future, including any uncalled capital;
<b>Creditor</b>	means the Bank and MBL;
<b>Debtor</b>	means <b>Spark Energy Limited</b> , registered in the UK with number SC301188 whose registered office is at 5th Floor, 125 Princes Street, Edinburgh, EH2 4AD (also referred to as "SEL");
<b>Debtor's Obligations</b>	means all the Debtor's liabilities of any kind (whether present or future actual or contingent and whether incurred alone or jointly with another) including commission banking charges interest and expenses;
<b>Deed of Priority</b>	means this deed of priority;
<b>Enforcement Action</b>	means the taking of any of the following actions: (1) appointing a receiver or administrator pursuant to or in respect of any of the Securities; (2) exercising a power of sale or otherwise utilising the rights given to a creditor under any of the Securities; (3) suing for or instituting any creditor's process (whether before or after judgement) against the Debtor in respect of payment of any of the Secured Liabilities; (4) petitioning for (or voting in favour of any resolution for) or initiating or supporting or taking any steps with a view to insolvency, liquidation, reorganisation, administration, receivership or dissolution proceedings or any

voluntary arrangement or assignment for the benefit of creditors or any similar proceedings involving the Debtor, whether by petitioning, convening a meeting, voting for a resolution or otherwise; (5) the exercising of any rights of set-off, retention, combination of accounts or similar right in respect of the Secured Liabilities; (6) enforcing any guarantee or other assurance held in support of, or in respect of the Secured Liabilities or exercise any rights thereunder on default; or (7) bringing or supporting any legal proceedings against the Debtor or applying for any order for an injunction or specific performance in respect of the Debtor in relation to any of the Secured Liabilities;

<b>ISDA</b>	means the terms for the sale and purchase of, or financial trade in respect of, electricity and gas, based on ISDA master agreement (multicurrency - cross border) between MBL and the Debtor, dated on or about the date of this Deed of Priority;
<b>MBL</b>	means Macquarie Bank Limited, London Branch, a company incorporated in Australia, and registered in England and Wales with company number FC018220, acting through its London Branch with registered number BR002678, whose registered office is at Ropemaker Place, 28 Ropemaker Street, London EC2Y 9HD;
<b>MBL Assignment</b>	means the assignment in security in respect of accounts dated on or around the date of this Deed of priority granted by the Debtor to MBL;
<b>MBL Debenture</b>	means a debenture dated on or around the date of this Deed of Priority granted by the Debtor to MBL and creating in part fixed charges and in part a floating charge on the Charged Property;
<b>MBL Floating Charge</b>	means the floating charge dated on or around the date of this Deed of Priority granted by the Debtor to MBL;
<b>MBL Priority Sum</b>	means (a) all amounts owed to MBL under the WETA and the ISDA; plus (b) all outgoing costs, charges, expenses and liabilities incurred by MBL on enforcement or on exercising its rights in relation to an Enforcement Action;
<b>MBL Securities</b>	means the MBL Debenture, the MBL Assignment and the MBL Floating Charge;
<b>Secured Liabilities</b>	means the respective liabilities secured by the Securities;
<b>Securities</b>	means the Bank's Floating Charge and MBL Securities; and
<b>WETA</b>	means the Wholesale Energy Trading Agreement between MBL, the Debtor, Spark Energy Supply Limited, Spark Gas Shipping Limited, Spark Energy Finance Plc and Spark Generation Ltd.,

dated on or around the date of this Deed of Priority, as amended from time to time.

1.2 The expressions "Bank", "MBL", "Debtor" and "MBL" where the context admits include their respective successors in title and assigns.

1.3 The expressions "Bank's Floating Charge" and "MBL Securities" include any substituted or further security taken at any time by the Bank or MBL respectively from the Debtor but do not include any security which the Bank or MBL may take from any third party.

## 2. PRIORITY AGREEMENT

2.1 MBL and the Bank with the consent of the Debtor, agree that the Securities shall rank *inter se* in point of security in the following order of priority:

2.1.1 firstly, the Bank's Floating Charge to the extent of the Bank Priority Sum;

2.1.2 secondly, MBL Assignment to the extent of the MBL Priority Sum;

2.1.3 thirdly, the MBL Floating Charge and the MBL Debenture *pari passu* to the extent of the MBL Priority Sum not satisfied under 2.1.2;

2.1.4 fourthly, the Bank's Floating Charge for the remainder of all sums secured thereby; then

2.1.5 finally, the MBL Securities for the remainder of all sums secured thereby.

2.2 The ranking and priority set out in Clause 2.1 shall take effect notwithstanding any of the following:

2.2.1 the nature of, and any provision contained in any of, the securities created by the Securities and the dates of execution and registration of any of them;

2.2.2 the date or dates on which monies have been or may be advanced or become due, owing or payable under the Securities and any fluctuation from time to time in the amounts secured by the Securities including any reduction of those amounts to nil;

2.2.3 the appointment of a liquidator, administrative receiver, receiver, administrator or other similar officer in respect of the Debtor or over all or any part of its assets;

2.2.4 the granting of time or any other indulgence to the Debtor or any other person or the release, compounding or otherwise dealing with the Debtor or any other person or the receipt of moneys whether arising from a voluntary sale of any assets subject to any of the Securities or in respect of any security or guarantee held by the Bank in respect of sums owing thereto, or MBL in respect of sums owing thereto, or otherwise prior to taking any Enforcement Action;

2.2.5 the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or take any Enforcement Action against the Debtor or any other person by any Creditor;



- 2.2.6 the sale or other disposal of any land or buildings or any interest in any land or buildings prior to taking any Enforcement Action;
- 2.2.7 any present or future mortgage or other charge granted by the Debtor to any Creditor (other than the Securities) (unless otherwise agreed in writing by the Creditors); and/or
- 2.2.8 the provisions of Sections 464 and 466 of the Companies Act 1985 or any other rule of law which might operate to the contrary.
- 2.3 The Bank and MBL agree to hold in trust any money received pursuant to the Bank's Floating Charge or the MBL Securities (as applicable) to give effect to the priorities declared by this Deed of Priority.
- 2.4 Notwithstanding the provisions of sections 464 and 466 of the Companies Act 1985 or any other rule of law which might operate to the contrary effect, the foregoing provisions as to ranking shall be valid and effective irrespective of the date or dates on which sums advanced or to be advanced by any of the Creditors to the Debtor or have been or shall be drawn out by or debited to the Debtor, the Creditors having no concern over the composition of or fluctuations in the sum or sums due by the Debtor to any of the other parties hereto.
- 2.5 Each of the Securities shall rank as provided in this Deed of Priority as a continuing security for repayment of the amounts owing to the respective Creditor from time to time by the Debtor or by any person or company whose obligations to such Creditor are guaranteed by the Debtor.
- 2.6 In so far as necessary to give effect to the provisions of this Deed of Priority, the Securities are hereby varied and this Deed of Priority shall constitute an instrument of alteration for the purposes of section 466 of the Companies Act 1985.
- 2.7 For the avoidance of doubt, the parties acknowledge and agree that (1) the ranking of the Securities shall not be prejudiced or affected in any way by any right competent to any of the parties hereto to recover all or any part of the sums secured by the Securities from any third party, cautioner or guarantor and (2) the terms of this Deed of Priority will apply notwithstanding the terms of any ranking provisions contained in the Securities.
- 2.8 The Debtor undertakes to the Creditors that it shall not grant any further fixed or floating charges over all or any of its assets including its heritable, real or leasehold property (and whether or not such security is in favour of any Creditor) without the written consent of the Creditors.

### **3. ASSIGNMENT**

MBL undertakes not to assign or transfer its Securities (as applicable) or their rights or obligations under this Deed of Priority to any other person without first procuring that such person enters into a deed with (i) the Bank and (ii) MBL, upon the same terms as this Deed of Priority.

### **4. BOOK DEBTS OR OTHER DEBTS AND DEPOSITS**

- 4.1 Notwithstanding the terms of any charge on book debts or other debts contained in MBL's Debenture and any covenant in MBL's Debenture by the Debtor to pay any book debts or other debts into the Debtor's account with MBL or with the Bank or some other bank, MBL and the Debtor agree that, to the extent that there is any conflict between the terms of MBL's Debenture and the Bank's Floating Charge in relation to such terms:
  - 4.1.1 the Debtor shall comply with its covenant in relation to the payment of book debts and other debts contained in the Bank's Floating Charge and shall not be in breach of its covenant in the MBL Debenture by reason of its so complying; and
  - 4.1.2 the Bank shall be entitled to credit any payments received in respect of book debts and other debts to any account of the Debtor with the Bank.
- 4.2 In respect of any credit balance from time to time on any current account of the Debtor with the Bank, the Bank may notwithstanding any charge over such credit balance contained in the MBL Debenture:
  - 4.2.1 at any time prior to MBL giving to the Bank written notice that it has appointed a receiver or taken any other formal step to enforce its security, permit the Debtor to draw upon any such credit balance; and
  - 4.2.2 at any time set off the whole or any part of the Debtor's Obligations to the Bank against any such credit balance and the Bank shall not be subject to any limit in this respect whether by reference to the Bank Priority Sum or otherwise.
- 4.3 In respect of any credit balance from time to time on any current account of the Debtor with MBL, MBL may:
  - 4.3.1 permit the Debtor to draw upon any such credit balance; and
  - 4.3.2 at any time set off the whole or any part of the Debtor's Obligations to MBL pursuant to the WETA and the ISDA and/or MBL Securities against any such credit balance and MBL shall not be subject to any limit in this respect.

## **5. ENFORCEMENT**

- 5.1 The Bank and MBL shall be entitled to take such Enforcement Action as they see fit but shall:
  - 5.1.1 provide prior written notice of their intention to do so to the other; and
  - 5.1.2 consult with the other in relation to the appointment of a suitable person as receiver or administrator pursuant to the relevant Security,  
  
except where it is not practicable to do so.
- 5.2 If the Bank or MBL takes Enforcement Action without first providing prior written notice to the other in accordance with clause 5.1.1, it shall provide notice to the other of such Enforcement Action as soon as reasonably practicable thereafter.

- 5.3 The Creditors hereby undertake to each other that, in the event of a liquidator of the Debtor, an administrator of the Debtor or a receiver of all or any part of the assets of the Debtor distributing the proceeds of sale of those assets otherwise than in accordance with the terms of this Deed of Priority and one or any of the others being prejudiced thereby, they will compensate the party or parties so prejudiced to the extent to which it is *lucratus* by such prejudice but no further.

## 6. WAIVER OF CONFIDENTIALITY

The Debtor agrees that the Bank and MBL may disclose to each other from time to time such information as they possess concerning the business property liabilities affairs and accounts of the Debtor.

## 7. TITLE DEEDS AND DOCUMENTS

The Debtor and MBL agree that MBL shall hold all title deeds and documents relating to any heritable or other property charged by the Bank's Floating Charge.

## 8. NOTICES

- 8.1 Any notice hereunder may be sent by post or fax or delivered to:

8.1.1 MBL at:

Address: Ropemaker Place, 28 Ropemaker Street, London, EC2Y 9HD  
Attention: Legal Risk Management, Fixed Income, Currencies and  
Commodities  
Fax: (+44 20) 3037 5700  
Tel: (+44 20) 3037 2000  
Email: [ficc.notices@macquarie.com](mailto:ficc.notices@macquarie.com)

With a copy to:

Address: 50 Martin Place, Sydney NSW 2000, Australia  
Attention: Executive Director, Legal Risk Management Division, Fixed  
Income, Currencies and Commodities  
Fax.: (+61 2) 8232 4540  
Tel.: (+61 2) 8232 3333

8.1.2 the Bank at:

Address: East of Scotland Commercial Centre 1<sup>st</sup> Floor, Hobart House,  
80 Hannover Street, Edinburgh, EH2 1EL  
Attention: Donald Rankine  
Fax: 08455 878461

8.1.3 the Debtor at:

Address: 5<sup>th</sup> Floor, 125 Princes Street, Edinburgh, EH2 4AD  
Attention: the Directors  
Fax: 0131 226 8240

With a copy to:

- (i) The Chairman and Chief Financial Officer  
Spark Energy Limited  
Ettrick Riverside Business Centre  
Dunsdale Road  
Selkirk  
Scotland  
TD7 5EB; and

- (ii) by email to each of the following addresses: tim@noblesathome.co.uk; and hamish.osborn@sparkenergy.co.uk.

8.1.4 Or, in each case, any alternative address or fax number provided in writing by the relevant party to the other parties.

8.2 All notices or other communications to be made or given under this Deed of Priority shall be in writing and shall be by first-class pre-paid post or by fax.

8.3 Receipt shall be deemed to have occurred forty-eight hours after posting (unless hand delivered and then at the time of delivery) and if by fax when sent provided a transmission report is received.

8.4 No delivery shall be deemed to be ineffective where it has been sent to MBL, the Bank, or the Debtor in accordance with the provisions above on the grounds only that it has not been copied to any relevant parties.

## **9. PRE-ENFORCEMENT RECEIPTS**

Receipts by the Bank or MBL arising other than from the exercise of the powers of enforcement under the Bank's Floating Charge or the MBL Securities shall not be taken into account for the purposes of this deed and shall not be considered to be a payment towards or in reduction of the Bank Priority Sum or the MBL Priority Sum.

## **10. COUNTERPARTS**

This Deed of Priority may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original but all the counterparts shall together constitute the one Deed of Priority. No counterpart shall be effective until each party has executed at least one counterpart.

**11. GOVERNING LAW**

This Deed of Priority shall be construed and receive effect in accordance with the law of England and Wales, save that where the Securities are governed by the law of Scotland the applicable provisions of this Deed of Priority and any non-contractual obligations arising out of or in connection with this Deed of Priority are governed by Scots law and any terms particular to the law of England and Wales shall be construed in accordance with Scots law and, insofar as not already subject thereto, the parties submit to the non-exclusive jurisdiction of the English courts.

These presents, consisting of this and the preceding 4 pages are executed as a deed and delivered on the date appearing at the beginning of this Deed of Priority.

Signed as a deed by  
**MACQUARIE BANK LIMITED**  
London Branch

)  
) **Jerry Korczak**  
) Managing Director  
)

Signature of witness:

)

) 

**Paul Weston**  
Associate Director

Name of witness:

)

) **JESSIE STAPLEY**

Occupation:

)

Address:

)

) Macquarie Bank Limited  
) Ropemaker Place  
) 28 Ropemaker Street  
) London  
) EC2Y 9HD  
) UK

Place:

Date of signing:

)

) 23/12/2015

Signed in London, POA Ref: #2090  
dated 26 Nov 2015

Signed as a deed by  
**SPARK ENERGY LIMITED**

)

)

)

Signature of witness:

)

Name of witness:

)

)

Occupation:

)

)

Address:

)

) \_\_\_\_\_

Place:

Date of signing:

## 11. GOVERNING LAW

This Deed of Priority shall be construed and receive effect in accordance with the law of England and Wales, save that where the Securities are governed by the law of Scotland the applicable provisions of this Deed of Priority and any non-contractual obligations arising out of or in connection with this Deed of Priority are governed by Scots law and any terms particular to the law of England and Wales shall be construed in accordance with Scots law and, insofar as not already subject thereto, the parties submit to the non-exclusive jurisdiction of the English courts.

These presents, consisting of this and the preceding 6 pages are executed as a deed and delivered on the date appearing at the beginning of this Deed of Priority.

Signed as a deed by )  
MACQUARIE BANK LIMITED )  
London Branch )

\_\_\_\_\_

Signature of witness: )

Name of witness: )

Occupation: )

Address: )

\_\_\_\_\_

Place:

Date of signing:

Signed as a deed by )  
SPARK ENERGY LIMITED )



Signature of witness: )



Name of witness: )

DEBBIE HARDING

Occupation: )

SOLICITOR

Address: )



Place:

Date of signing:

23/12/2025

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